

RESOLUTION NO. 2215

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONGVIEW, WASHINGTON, PROVIDING FOR RIGHT-OF-WAY ACQUISITION AND RELOCATION ASSISTANCE FOR PUBLIC RIGHT-OF-WAY NECESSARY IN PUBLIC WORKS PROJECTS OR PROGRAMS WITHIN THE CITY.

WHEREAS, the City of Longview from time to time utilizes Federal funding programs to develop streets and public works projects within the City; and

WHEREAS, such funds are only available where the City has followed approved right-of-way acquisition and relocation assistance procedures.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Longview that the following right-of-way acquisition and relocation assistance procedure shall be followed in any right-of-way acquisition or relocation assistance for Federally funded projects.

Section 1. The following Right of Way acquisition procedures are hereby adopted:

CITY OF LONGVIEW PROCEDURES FOR RIGHT-OF-WAY ACQUISITION AND RELOCATION ASSISTANCE

Right-of-way for City of Longview public works programs is acquired generally as follows:

- A. Acquisition – Purchase
- B. Acquisition – Donation
- C. Acquisition – Eminent Domain
- D. Dedication in accordance with applicable City of Longview Ordinances.
- E. Transfer from another governmental agency.

The determination of the manner of acquisition of rights-of-way is made on a project by project basis by the City Engineer, under the direction of the Public Works Director. These procedures will be followed for acquisition of City right-of-way for projects funded in whole or in part by Federal funds at current or future stages of development. These procedures are in accordance with current State and Federal laws regarding uniform relocation assistance and real property acquisition policies as they pertain to the

purchase of right-of-way for public works projects. The intent of the procedures set forth herein is to acquire right-of-way in compliance with the Federal Highway Administration's "Federal Aid Reminder Check List" which by reference is incorporated herein.

I. PURPOSES

- A. To establish a uniform policy for the fair and equitable treatment of persons displaced as a result of public works programs of the City in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole; and
- B. To encourage and expedite the acquisition of real property for public works programs by agreements with owners to reduce litigation and relieve congestion in the courts; to assure consistent treatment for owners affected by public works programs; and to promote public confidence in local property acquisition practices.

II. PRELIMINARY ACTIVITIES

- A. The City Engineer shall prepare and present to the Longview City Council for approval:
 - 1. The necessary and required right-of-way documents.
 - 2. Preliminary right-of-way cost estimate.
 - 3. Proposed method of right-of-way acquisition.
- B. The City Engineer shall submit an approved right-of-way plan to the Washington State Department of Transportation and obtain authorization to proceed.
- C. No owner will be intentionally required to institute legal proceedings to prove the fact of the taking of the owner's real property.

III. APPRAISAL

- A. Appraisals will be undertaken prior to initiation of negotiations for those parcels to be acquired by purchase, by one of the following methods:
 - 1. Under the supervision of the City Engineer for minimal acquisitions.
 - 2. By other government agency appraisers upon mutual agreement.
 - 3. By qualified fee appraisers.

B.

1. When the City employs fee appraisers, the amount paid for the appraisal shall not be based upon or determined as a percentage of the appraised value or assessed value.
2. A record copy of all appraisal reports shall be retained in the file of the City Engineer's Office.
3. The appraiser must give the owner or a designated representative the opportunity to accompany the appraiser during inspection of the property. This offer to accompany the appraiser must be documented in the City's files.
4. No increase or decrease in fair market value due to the project, except physical deterioration, is to be considered in the valuation of the property.
5. Appraisals are not to give consideration nor include any allowance for relocation assistance benefits.

IV. APPRAISAL REVIEW (In the case of acquisition by other than donation.)

- A. Following completion of the City's appraisals and before the initiation of monetary negotiations for the real property with the property owner, it is the responsibility of the City Engineer to designate a qualified person to function independently to review appraisal reports and to establish an amount believed to be just compensation.
- B. The purpose of reviewing the appraisal reports is to determine that the appraisals:
 1. Are complete and contain the minimum information required for an appraisal report.
 2. Follow accepted appraisal principles and techniques in the valuation of real property in accordance with State Law.
 3. Contain or make reference to the information necessary to explain, substantiate, and thereby document the conclusions and estimates of value and/or just compensation contained therein.
 4. Contain the estimate of just compensation for the acquisition.
 5. Do not leave the owner with an uneconomic remnant that the City does not make an offer to acquire.
- C. The appraisal review and just compensation recommendation shall be transmitted to the City Engineer. Upon review of the recommendation and concurrence therein, the City Engineer shall review the recommendation with

the City Manager. After review and concurrence, the City Manager shall approve the recommendation and authorize the initiation of monetary negotiation.

V. ACQUISITION – PURCHASE

- A. Upon establishment of just compensation for all parcels that are to be purchased on any one project, the City shall appoint a negotiator who shall make a prompt offer to acquire the real property for the full amount that was established and approved as just compensation. In no event shall the amount of the offer be less than the approved appraisal of the fair market value of the property to be acquired.
- B. The City's negotiator will give to the owner at the initiation of negotiation, a written statement known as the "offer letter". That statement will be the amount of just compensation based on a review and analysis of an appraisal(s) made by a qualified appraiser with a summary thereof, showing the basis for just compensation. Included in the offer letter will be identification of the real property to be acquired, including the estate or interest being acquired. There will be, when appropriate, the identification of the improvements and fixtures considered to be part of the real property to be acquired. The fair offer letter will show that portion of the just compensation considered to be the amount of damages to the remaining property. At the initiation of the negotiation with the owner, the negotiator will give to the owner an Acquisition Brochure furnished by the Washington State Department of Transportation.
- C. The negotiator shall:
 - 1. Obtain from vested owners in possession, a written acknowledgment of receipt of the letters of just compensation.
 - 2. Arrange to acquire the parcels by negotiation in an expeditious manner provided a reasonable settlement can be negotiated. There shall be no action taken to advance eminent domain procedures or other actions coercive in nature, in order to compel an agreement on the price to be paid for the parcel.
 - 3. Complete the acquisition making certain that:
 - a. When any interest in real property is acquired, at least an equal interest will be acquired in all buildings, structures, or other improvements located upon the real property so acquired and which is required to be removed from such real property or which

will be adversely affected by the use to which such real property will be put.

- b. The City has complied with RCW 8.26.200 and has paid directly or reimbursed the owner for expenses necessarily incurred in the acquisition for: recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the City; penalty costs for full or partial prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such real property; and the pro-rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting title in the City.
4. Provide for relocation assistance when same is required due to displacement of persons, businesses, or farms as provided herein.
5. If negotiations are unsuccessful, as evidenced by documented offers and attempts to arrive at a reasonable settlement, the negotiator shall summarize the same in a written report to the City Engineer for a determination as to further steps to be taken.

D. Should the City Engineer determine that acquisition through an administrative settlement is in the best interests of the City, the City Engineer shall review the negotiation status with the City Manager and City Council and obtain authorization to take whatever actions, within current State and Federal policies, determined as necessary to obtain settlement to the satisfaction of both parties.

VI. ACQUISITION – DONATION

- A. If the opportunity to accept a donation presents itself during any stage of field work or any part of the property acquisition process, the City will accept said donation provided the property owners have been informed in writing of:
 1. Their right to receive just compensation based on fair market value.
 2. The fact that they will be required to execute a waiver of the just compensation.
- B. The City shall arrange to acquire the parcels in an expeditious manner.
- C. Acquisition through donation eliminates any need for appraisals or appraisal reviews.

VII. ACQUISTION – EMINENT DOMAIN PROCEEDINGS

- A. Should the City Engineer determine that acquisition through eminent domain proceedings is necessary to acquire one or more parcels, he shall make such recommendation to the City Manager and City Council. Action shall then be taken as deemed appropriate by the City Council.
- B. No owner shall be required to surrender possession of real property before has deposited with a court having jurisdiction of the eminent domain proceedings for such property, in accordance with applicable law and for the benefit of the owner, an amount not less than the City's approved appraisal of the fair market value of such property, or the amount of the award of compensation in the eminent domain proceedings of such property.

VIII. PROPERTY MANAGEMENT

- A. The disposition of all acquired salvageable items or of real property excess to project needs shall be accounted for by the City Engineer.

IX. RELOCATION ASSISTANCE

- A. The City, to promote uniform and effective administration of relocation assistance programs, will utilize the Washington State Department of Transportation publication "Right-Of-Way Agents' Manual" as a guideline in conducting the City's relocation programs in Federal Aid projects.
- B. The City Engineer shall review the right-of-way maps and the parcels to be acquired to determine whether or not any individual, family, business, non-profit organization or farm operation would be displaced and:
 - 1. If there are no displacements the City Engineer shall file a negative finding and report. (Negative Relocation Statement)
 - 2. If displacements will occur, the City Engineer shall:
 - a. Not proceed with any phase of property acquisition for the project until there is a relocation plan approved by the Washington State Department of Transportation and relocation payments with proper services can be provided in conformance with Chapter 8.26 RCW.
 - b. Give notice to tenants and other persons occupying such property as to the initiation of negotiations with the owner of the property to be acquired advising:
 - 1) Eligibility for relocation assistance and benefits which could become available after acquisition of the property by the City

can be lost if the owner or any tenant moves prior to receiving a written notice to vacate from the City, or otherwise fails to meet the legal requirements for such assistance or benefits; and

- 2) The City's land purchase intentions and plans are subject to change and even cancellation until the acquisition is closed; and
- 3) Neither the owner nor any tenant should move or make any financial commitment dependent on relocation assistance for replacement housing or facilities until receiving a final determination from the City concerning eligibility for relocation payments, the requirements which must be satisfied before such payments or benefits, if any, can be provided by the City, if it purchases the property; and until receipt of a written authorization or notice to vacate from the City; and
- 4) Where the owner or tenant can obtain full information concerning relocation assistance, eligibility for relocation payments, and the requirements which must be satisfied before such payments can be made; and
- 5) The procedures for obtaining review in accordance with RCW 34.05.

- c. Provide a written notice to vacate to each individual, family, business or farm operation to be displaced, and all notices shall be served personally or delivered by certified or registered first class mail. The City will not require the owner or tenant to surrender possession of the property before ninety (90) days after the agreed purchase price has been paid or the approved amount of compensation has been deposited with the court as part of eminent domain proceedings. The ninety (90) days' notice may be reduced with the approval of the owner or tenant as evidenced by an executed waiver.

- C. The rental amount charged to owners and/or tenants permitted to occupy the property subsequent to acquisition will not exceed the fair rental value to a short term occupier.
- D. A displaced person who makes proper application for a payment authorized for such person by Chapter 8.26. RCW and this resolution shall be paid promptly after a move, or in hardship cases, be paid in advance.
- E. Applications for relocation assistance benefits are to be made within eighteen (18) months of the date on which the displaced person moves from the real

property acquired or to be acquired; or the date on which the City makes final payment of all other costs of that real property acquisition, whichever is the later date. The City Engineer may extend this period upon a proper showing of good cause.

- F. Should rodent control become necessary in the project, the City will make provision to control or eradicate the rodents.

Section 2. Resolution No. 1136 is hereby repealed.

PASSED by the City Council of Longview, Washington, and approved by its Mayor this 13th day of April, 2017.

Mayor

ATTEST:

City Clerk