

**CITY OF BURIEN
AGENDA BILL**

Agenda Subject: Discussion on Right-of-Way Property Acquisition Policy for Transportation, Drainage, and Utility Work in Burien		Meeting Date: January 11, 2010
Department: Public Works	Attachments: 1) <u>Existing ROW Acquisition Policy in Burien</u> 2) <u>City of Burien Right-of-Way Administrative Settlement Procedures</u>	Fund Source: Capital Project Funds Activity Cost: Project by Project Amount Budgeted: N/A Unencumbered Budget Authority: N/A
Contact: Larry Blanchard, Public Works Director		
Telephone: (206) 248-5514		
Adopted Initiative: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Initiative Description: Describe a Right-of-Way Acquisition procedure to provide better control of on time on budget project management.	
<p>PURPOSE/REQUIRED ACTION: Provide language in the right-of-way acquisition procedures of the City of Burien for right-of-way and/or easements to construct transportation (multi-modal), drainage, and utility projects in the City of Burien for better control of on-time on-budget project delivery. No action is required at this time.</p> <p>BACKGROUND (Include prior Council action & discussion): It has come to the attention of staff that over the course of the past several years that the delivery of projects to be constructed on-time and on-budget becomes more difficult when the City of Burien does not have total control over the acquisition of property for transportation, drainage, and other utility projects especially when there is overhead utilities converted to underground facilities. By amending the Right-of-Way Property Acquisition Procedures then each capital project the City is constructing will have greater probability of being on-time and on-budget, because the City controls the process for acquiring property. Without this type of procedure being in effect prior to beginning negotiations with property owners the project schedule can be jeopardized. The City is then left @ the discretion of the Utility Companies as to when, and how aggressive they proceed with the acquisition of the necessary property.</p> <p>OPTIONS (Including fiscal impacts):</p> <ol style="list-style-type: none"> 1) Continue to rely on other utilities or agencies to acquire property or easements following our standard procedures for right-of-way acquisition; or 2) Determine all the right-of-way or easements necessary to complete any Capital Improvement, or Transportation Improvement project under the jurisdiction of the City of Burien in which there are other utility relocation(s) required as a part of the project. The City of Burien will take the lead in acquiring these properties under Burien's Right-of-Way Acquisition Procedures if so authorized to be revised. 		
Administrative Recommendation: Authorize the inclusion of the appropriate language to be inserted into Burien's Right-of-Way Acquisition Procedures to be submitted to City Council @ the next available City Council Meeting for review, consideration, and possible adoption.		
Committee Recommendation: N/A		
Advisory Board Recommendation: N/A		
Suggested Motion: None required.		
Submitted by: Administration <i>LRB</i>	Mike Martin City Manager <i>[Signature]</i>	
Today's Date: January 7, 2010	File Code: R:/CC/Agenda Bill 2010/011110pw-2 ROW ord	

Right-of-Way Procedures

AGENCY: City of Burien

The City of Burien (“AGENCY”), desiring to acquire Real Property in accordance with the state Uniform Relocation Assistance and Real Property Acquisition Act (Ch. 8.26 RCW) and state regulations (Ch. 468-100 WAC) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The Department of Public Works (“Department”) of the AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the Department of Public Works (“Department”) will acquire right-of-way in accordance with the policies set forth in the Washington State Department of Transportation *Right of Way Manual* (M 26-01) and *Local Agency Guidelines* manual (M 36-6). The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. Include the following as they relate to the AGENCY’s request.
 - a. List the functions below for which the agency has qualified staff and the responsible position. Attach a list of the individuals on the AGENCY staff who currently fill those positions and a brief summary of their qualifications. This list will need to be updated whenever staffing changes occur. An AGENCY will be approved to acquire based upon staff qualifications.
 - (1) PROGRAM ADMINISTRATION
Capital Projects Manager
Agency Position
 - (2) APPRAISAL
King County Real Property Division or Approved Consultant
Agency Position
 - (3) APPRAISAL REVIEW
King County Real Property Division or Approved Consultant
Agency Position
 - (4) ACQUISITION
Approved Consultant or Capital Projects Manager aided by City Attorney for Minor Acquisitions
Agency Position
 - (5) RELOCATION
WSDOT or Approved Consultant
Agency Position
 - (6) PROPERTY MANAGEMENT
Finance Director- City of Burien
Agency Position

- b. Any functions for which the Agency does not have staff will be contracted for with WSDOT, another local agency with approved procedures or an outside contractor. An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person negotiate who is not experienced in negotiation for FHWA funded projects the Coordinator must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
 - c. An AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued at \$10,000 or less should make their proposed waiver process a part of these procedures. The process outlined in LAG manual Appendix 25.146 has already been approved. The AGENCY may submit a process different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
 - d. Attach a copy of the Agency's administrative settlement policy showing the approving authority(s) and the process involved in making administrative settlements.
2. All projects shall be available for review by the FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages and for a three year period following acceptance of the projects by WSDOT.
 3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the Agency is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.

 Mike Martin, City Manager
 City of Burien

 Date

**WASHINGTON STATE DEPARTMENT
 OF TRANSPORTATION**

Approved By: _____
 Real Estate Services

 Date

WAIVER OF APPRAISAL

The City of Burien desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State directives and desiring to take advantage of the \$10,000.00 appraisal waver process approved by the Federal Highway Administration for Washington State, hereby agrees to follow the procedure approved for the Washington State Department of Transportation as follows:

Rules:

- A. The City may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the PFE (Project Funding Estimate) is \$10,000.00 or less including cost-to cure items.
- B. The Agency must make the property owner(s) aware that an appraisal has not been done on the property and that one will be completed if they desire.
- C. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

Procedures

- A. An Administrative Offer Summary (AOS) is prepared using data from the PFE.
- B. The AOS is submitted to Capital Projects Manager for approval.
- C. The Director of Public Works signs the AOS authorizing a first offer to the property owner(s).

APPROVED:

By:

Mike Martin, City Manager
City of Burien

Real Estate Services
Washington State Department
of Transportation

Project Funding Estimate

Rules:

- A. A Project Funding Estimate (PFE) is prepared for every project where Right-of-Way will be acquired.
- B. As a minimum, the PFE contains the following information.
 - 1. A parcel-by-parcel list of right of way costs reported on the Right-of-Way Estimate (WSDOT form 261-006).
 - 2. A total project right of way cost summary reported on the Right-of-Way Project Cost Breakdown and Summary (WSDOT Form 261-006A).
 - 3. A project data package including sales, sales map, neighborhood and project description, scope of sales search and, if applicable, damage studies, cost to cure documentation, and Assumptions and Limiting Conditions. Note: The PFE Parcel Worksheet is not a part of the data package.

Procedures:

The Agent assigned to do the PFE completes the estimate as follows:

- A. Inspect the project and become familiar with the engineering features of the plan.
- B. View individual parcels to determine the effects of acquisition.
- C. Prepares a Neighborhood and Project Description which defines existing uses, zoning, trends, transportation and utilities, economic influences, a synopsis of the project and its effect on parcels, and any changes in the aforementioned likely to be caused by the project.
- D. Gathers sufficient comparable land sales and listings for the various types of parcels and remainders within the project. All sales shall be inspected, photos taken and written up on Market Data (WSDOT Form 261-020) sheets. (If the sales are to be used exclusively on parcels where the Agency has determined to waive the appraisal, the sales need not be confirmed. In all other cases, a reasonable effort shall be made to confirm all sales. Unconfirmed sales will contain an explanation of the confirmation effort along with names and phone numbers of uncontracted parties.)
- E. Prepares project and sales vicinity map.

- F. Prepares PFE Parcel Worksheet for each parcel on the project.
- G. Includes any applicable damage studies.
- H. Includes cost-to-cure documentation for estimates and/or bids.
- I. Includes applicable Assumptions and Limiting Conditions if data Package will be referred to in the preparation of Abbreviated Appraisals.

City of Burien Right-Of-Way Administrative Settlement Procedures

The City of Burien Public Works Department follows the Washington State Department of Transportation (WSDOT) Acquisition Procedures as set forth in the WSDOT Right-Of-Way Manual and also detailed in the WSDOT Local Agency Guidelines Manual.

If during acquisition, an agreement to purchase cannot be reached based upon just compensation given on the "Summary Offer", the following parameters will serve as a guideline for an administrative settlement:

- A. The Director of Public Works or their authorized representative may authorize acquisition agents to offer up to \$1000 in excess of the amount of just compensation shown on the "Summary Offer". This authority is not to be used unless the owner refuses the City's initial offer. The first offer is always the amount of just compensation on the "Summary Offer".
- B. The Director of Public Works or their authorized representative may offer for each parcel an administrative settlement up to \$5,000 in excess of the amount of just compensation shown on the "Summary Offer".
- C. The City Manager is authorized to approve for each parcel an administrative settlement as follows:

Just Compensation as shown on the Summary Offer	Administrative Settlement (up to but not exceeding)
\$0 to \$80,000	\$8,000
\$80,000 to \$250,000	Summary Offer plus 10%
Settlements above \$250,000	Summary Offer plus \$25,000

- D. The Burien City Council shall approve administrative settlements exceeding the above maximums. The Director of Public Works/City Manager may submit proposed administrative settlements to the City Council for concurrence, even when such proposed settlement is within their approval authority.

