

**RESOLUTION NO. 06-4 URA**

**A RESOLUTION OF THE BOARD OF THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM, OREGON ADOPTING POLICIES AND PROCEDURES FOR THE ACQUISITION OF REAL PROPERTY**

**WHEREAS**, Oregon Revised Statutes (ORS) 457.170 authorizes the Urban Renewal Agency of the City of Salem, Oregon (the Agency) to acquire property within the urban renewal areas of the City of Salem, Oregon (the City) to carry out an urban renewal plan; and

**WHEREAS**, through an intergovernmental agreement with the City dated July 10, 2003, the Agency uses the City's Real Estate Section of the Urban Development Department to acquire, manage and dispose of real property;

**NOW, THEREFORE, THE BOARD OF THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM, OREGON RESOLVES AS FOLLOWS:**

**Section 1.** The Board hereby adopts the policies and procedures for the acquisition of real property, which are attached hereto as "Exhibit 1" and incorporated herein by reference.

**Section 2.** This resolution is effective upon adoption and supercedes any other resolution adopting policies and procedures of the type set forth herein for the acquisition of real property by the Urban Renewal Agency of the City of Salem, Oregon.

ADOPTED by the Board this 5th day of June, 2006.

ATTEST:

  
DEPUTY City Recorder

Approved by City Attorney: 

Checked By: C. Knox

**POLICIES AND PROCEDURES  
for the  
ACQUISITION OF REAL PROPERTY  
by  
THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM**

**SECTION 1: GENERAL**

**Introduction.** ORS 457.170 authorizes the Urban Renewal Agency of the City of Salem (the Agency) to acquire real property within urban renewal areas in order to carry out urban renewal plans. Through services provided by the City of Salem (the City) by an intergovernmental agreement, the Agency acquires, manages and disposes of real property. The Policies and Procedures established herein apply to those urban renewal plans which incorporate it by reference.

**Management Objective.** The objective of these Policies and Procedures is to establish consistent, responsible procedures to be followed when real property is acquired for the Agency. The intent of these Policies and Procedures is to ensure that real property is acquired in a manner that is responsive and consistent with the urban renewal plans, that reduces Agency risk by establishing minimum thresholds of due diligence, that aligns with principles of stewardship of public resources, and that ensures the fair treatment of sellers.

**Methods of Acquisition.** Real property identified for acquisition pursuant to an urban renewal plan may be acquired through any lawful method including:

- **Donation**, defined as a voluntarily transfer of real property to the Agency without any consideration.
- **Opportunity Purchase**, defined as the voluntary offering of real property for purchase by the Agency for consideration.
- **Negotiated Sale**, defined as a negotiated agreement between the Agency and the seller of real property that sets forth the price and terms of the sale.
- **Eminent Domain**, defined as the involuntary acquisition of private property for public use through the power of eminent domain and payment of just compensation. In instances where condemnation authority exists, the Agency shall follow condemnation procedures under ORS 35.205-35.625.

**SECTION 2: PURPOSE OF ACQUISITION**

The Urban Renewal Agency may acquire real property for the following purposes:

1. Where existing conditions do not permit practical or feasible rehabilitation of a structure and it is determined by the Agency that acquisition of such properties and demolition of the improvements thereon are necessary to remove substandard and blighting conditions;

2. Where existing conditions do not permit practical or feasible rehabilitation of a structure and the property owner is unwilling or unable to perform such rehabilitation and it is determined acquisition of such properties is necessary to remove substandard conditions;
3. Where detrimental land uses or conditions exist (such as incompatible uses, or adverse influences from noise, smoke or fumes exist, or where there exist substandard structures, over-crowding, excessive dwelling unit density or conversions to incompatible types of uses) and it is determined by the Agency that acquisition of such properties and the rehabilitation or demolition of the improvements are necessary to remove blighting influences and to achieve the objective of an urban renewal plan;
4. Where it is determined by the Agency that the property is needed to provide public improvements, facilities, or structures as follows:
  - a. Right-of-way and easement acquisition for streets, alleys, bicycle paths or pedestrian ways or for water, sewer and other utilities;
  - b. Facilities for the benefit of the public which are to be developed by the Agency, the City, or any other public entity;
  - c. Property acquisition for public use, public off-street parking facilities or for public buildings and facilities; and
  - d. Where the owner of real property within the boundaries of the urban renewal area wishes to convey title of such property by legal means, including by gift;
5. Where it is determined by the Agency that a substantial public interest or the objectives of the Plan can be furthered by assembling property for development or redevelopment by a party other than the owners of record of such property, the Agency may acquire such property;
6. Where the existing property owner is either unwilling or unable to achieve the objectives of an urban renewal plan;
7. Where acquisition will make use of a property in an urban renewal area to eliminate blight, enhance gateways, provide public amenities, encourage private investment, leverage resources and act as a catalyst for revitalization;
8. Where conditions exist that may affect the health, safety and welfare of citizens within the urban renewal area and it is determined that acquisition of such properties and demolition of the improvements thereon are necessary to remove substandard and blighting conditions; and/or
9. Any other purpose authorized under ORS Chapter 457.

### **SECTION 3: PROPERTY ACQUISITION PROCEDURES**

The following activities are required for the acquisition of real property by the Agency.

1. **Initial Screening Criteria.** Before real property is identified for acquisition, preliminary property research must be conducted to determine whether:
  - a. The real property is inside the urban renewal area boundary;
  - b. The plan identifies the real property as one that may be subject to acquisition;
  - c. Acquisition of the real property is consistent with ORS Chapter 457 and objectives of the plan; and
  - d. Agency has adequate resources to purchase the real property in a timely fashion, as identified in the Agency's budget or spending plan.

The Agency will not acquire real property that does not meet these initial screening criteria; provided, however, real property may be identified for acquisition if criteria (a), (c) and (d) are satisfied, and the Board determines that it is in the best interest of the Agency to amend the plan. If an amendment to a plan is needed to add the real property for acquisition, the Agency will follow the amendment procedures established by the applicable plan. The Executive Director of the Agency or the Director's designee (the Director) has the obligation of making the initial screening determination.

2. **Contact and Consultation.** If a real property meets the initial screening criteria, the Director shall confer in Executive Session with the Board to determine whether to proceed with the acquisition. If the Board determines that acquisition is desirable, then the Director will undertake the following activities.
  - **Property Owner.** If directed by the Board, the Director will contact the owner and notify the owner (1) that the Agency has an interest in acquiring the real property, (2) of the Agency's interest in beginning negotiations and rights of property owners in the process, and (3) the purpose of the proposed acquisition.
  - **Advisory Body and Neighborhood Contact.** If directed by the Board, the Director will provide notice of the intended acquisition to the appropriate urban renewal area advisory body and the local neighborhood organization. When an urban renewal plan amendment is required to acquire the real property, the notice will be concurrent with the amendment process. If notice is required by the Board, the local neighborhood organization will be asked to participate in the Agency advisory board's decision making process.
3. **Due Diligence Activities.** If the Board determines that it wishes to proceed with the acquisition, the Director shall undertake the following due diligence activities prior to the Board's authorization to make an offer.
  - **Determination of Fair Market Value.** The Real Estate Section shall retain a certified appraiser to determine the fair market value of the real property identified for potential acquisition. The Agency will offer a price that it determines is "fair market value" based on the appraisal, provided that the appraisal is no more than one year old as of the date the Board authorizes the offer. If the appraisal is more than one year old, the Director shall provide the Board with an updated appraisal,

and the Board shall base its offer on the updated appraisal. Generally, fair market value will not be less than the appraised value of the real property unless other factors exist that support a different value, such as:

- a. Environmental condition of the property or the condition of any improvements that were not considered in the appraisal.
  - b. Information obtained from due diligence activities that reveals defects in the condition of the land, buildings, or title that were not considered in the appraisal, and which would require money and/or time to cure.
  - c. Information provided by the owner and verified by the Agency regarding the condition of the real property or improvements, or information revealed by due diligence activities which reveals conditions that may not have been taken into account in the appraisal.
  - d. Special circumstances related to the public benefit or unique public need for the real property support a determination that a price other than the appraised price should be offered.
- **Environmental Review.** If it is known that the real property was used for industrial or commercial uses that may have resulted in the presence of an environmental contamination or an environmental hazard, then a Phase One Environmental Assessment shall be performed by a qualified professional consultant. For real property in a residential area, where only previous residential use of the property is known, a Phase One ESA is not required, but may be ordered at the discretion of the Director. For properties in a mixed commercial/residential area, particularly those near or at intersections of arterial and/or collector streets, or for real property in a residential area that was used for commercial or industrial uses, a Phase One ESA is required. If the Phase One ESA indicates the possibility of the presence of environmental contamination or an environmental hazard, then a Phase Two ESA shall be performed by a qualified professional consultant.
  - **Other Activities.** In order to make informed decisions about potential acquisitions regarding the fair market value of real property and any risks associated with it, a variety of other due diligence activities may be undertaken at the Director's discretion. Such additional activities include, but are limited to, an assessment of utilities and their location, investigation into existing building or structure condition, geotechnical investigation, demolition estimates and market feasibility.
4. **Agency Consideration and Authorization.** After contact and consultation, where applicable, and due diligence activities have been completed, the Director shall proceed to consult with the Board for consideration and authorization to proceed with the acquisition of the real property.
    - **Consideration of Preliminary Findings.** The Board will meet in Executive Session to consider the results of property owner contact, advisory board and neighborhood association comment; and other due diligence activities. If the Board deems it to be in the best interests of the Agency to acquire the real property, staff will be directed to enter into negotiations with the property owner.

- **Agency Board Authorization (Willing Seller).** Prior to executing a Purchase and Sale Agreement or an Option Agreement to acquire real property, the Board shall adopt a resolution at a public meeting identifying the real property, the necessity of acquiring the real property, the public purpose for which the real property will be acquired pursuant to the applicable urban renewal plan, and, where necessary, amending the plan.

#### **SECTION 4: OFFER AND NEGOTIATION**

1. If the Board authorizes an offer on a property, the Director shall designate staff to work with legal counsel in negotiations with the property owner.
2. The Agency will encourage the seller to obtain appropriate professional advice during the acquisition process.
3. Throughout the negotiation process, adequate records must be kept and maintained to chronicle substantive issues and understandings discussed with the seller regarding price, terms, and conditions.
4. The Purchase and Sale Agreement or Option Agreement shall be provided to the Board for adoption in open session.

#### **SECTION 5: PROPERTY ACQUISITION USING EMINENT DOMAIN**

The Agency may acquire property through eminent domain only after good faith negotiations have failed to result in a voluntary sale. Prior to initiating eminent domain, the Board shall consult with the area's urban renewal advisory board and affected neighborhood association as to the necessity of acquiring the real property using eminent domain. After such consultation, the Board shall hold a public hearing on whether the property should be acquired by eminent domain, or the acquisition abandoned. Notice of the decision to refer the acquisition of the property to the advisory board and neighborhood association and the hearing shall be provided to the property owner by certified mail. The notice shall state that negotiations for a voluntary sale have not been successful, explain the process for initiating eminent domain identify opportunities to provide comment, and indicate the date, time and place of the public hearing. If, after the hearing, the Board determines the property should be acquired by eminent domain, the Board shall adopt a resolution pursuant to ORS 35.235, which shall:

- Declare the necessity of acquiring the real property;
- State the public purpose for which the property will be acquired pursuant to the applicable urban renewal plan;
- Contain findings that demonstrate the acquisition meets the objectives stated in the plan;
- Contain findings that demonstrate the acquisition meets the criteria set forth in Section 3 of these Policies and Procedures; and
- Where necessary, amend the plan.

After the adoption of such resolution, acquisition shall proceed according to ORS Chapter 35.

**RESOLUTION NO. 06- 4 URA**

## A RESOLUTION Adopting Policies and Procedures for the Acquisition of Real Property

URBAN RENEWAL AGENCY

Filed: June 1, 2006

Effective: June 5, 2006

Passed: June 5, 2006

[illegible]

\* Ab = Absent

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FOR AGENCY MEETING OF:  
AGENDA ITEM NO.: \_\_\_\_

June 5, 2006  
D.1(a)

TO: URBAN RENEWAL AGENCY BOARD  
THROUGH: ROBERT G. WELLS, EXECUTIVE DIRECTOR *Robert G. Wells*  
FROM: RICK L. SCOTT, DIRECTOR *Rick L. Scott*  
URBAN DEVELOPMENT DEPARTMENT  
SUBJECT: AGENCY REAL PROPERTY ACQUISITION POLICY

**ISSUE:**

Shall the Urban Renewal Agency Board adopt Resolution 06-4 URA, a Real Property Acquisition Policy for the Urban Renewal Agency of the City of Salem (Agency)?

**RECOMMENDATION:**

Staff recommends the Agency Board adopt Resolution 06-4 URA, a Real Property Acquisition Policy for the Agency.

**BACKGROUND:**

On May 16, 2005, the Agency initiated amendments to the Riverfront-Downtown Urban Renewal Plan (Plan). The Plan was originally adopted on May 5, 1975, and has been amended thirteen times. As a result of the recent amendment process and thorough review of the Plan, a reference to an out-of-date policy in Section 602 (Land Acquisition) was discovered.

The Board last considered the proposed policy on February 21, 2006 (Attachment A).

Agency approval of the revised Acquisition Policy is anticipated to precede City Council approval of proposed amendments to the Riverfront-Downtown Urban Renewal Area Plan (Plan). The existing reference in the Plan is being recommended for revision as part of the Plan amendments to refer to a new acquisition policy for the Agency.

**FACTS AND FINDINGS:**

**Authorization.** Oregon Revised Statutes (ORS) 457.170 authorizes the Agency to acquire property within the urban renewal areas of the City of Salem (City) to carry out an urban renewal plan. Through an intergovernmental agreement with the City, the Agency acquires, manages, and disposes of real property through the City's Real Estate Section of the Urban Development Department. Under ORS 457.085, property must be identified in an urban renewal plan before it may be acquired. If a key property in an urban renewal area is not specifically identified for acquisition, or is not directly tied to a project within the plan, the plan

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*Approved*



must first be amended prior to initiating the acquisition procedures (Attachment B) discussed in the revised Agency Acquisition Policy.

**Additional Consultation.** On the February 21, 2006, the Agency Board directed staff to confer further with Mr. Bradd Swank following his testimony. Staff coordinated a meeting on April 5, 2006, with Mr. Swank and Mr. Kris Gorsuch, an attorney representing a downtown property owner engaged in earlier discussions of the draft policy. Mr. Swank's three concerns were addressed in the discussion: (1) early property owner notification, (2) increased awareness on the part of a subsequent purchaser, and (3) development of a separate process for property acquisition through eminent domain for the purpose of public health/public improvements from properties to be acquired for redevelopment by another private entity. Subsequent to the April 5, 2006, discussion, Mr. Swank emailed a summary of his opinion regarding the Agency Acquisition Policy to a number of individuals and organizations, including Urban Development staff and City Council (Attachment C).

At this time staff is proposing no changes to the Policy and Resolution #06-4.

### **NEXT STEPS**

1. If approved, the Agency Acquisition Policy will be incorporated by reference into the Riverfront Downtown Urban Renewal Plan, if the amendments to the Plan are approved at future Council meeting.
2. Each urban renewal plan will require amendment to incorporate the new acquisition policy reference.

Attachment A: February 21, 2006 Agency Staff Report

Attachment B: Property Acquisition Flow Chart (revised April 2006)

Attachment C: April 26, 2006 Email Communication: Bradd Swank to Dan Riordan and Courtney Knox

Report Prepared By: Courtney Knox, Project Coordinator  
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FOR AGENCY MEETING OF: February 21, 2006  
AGENDA ITEM NO.: D.1 (c)

TO: URBAN RENEWAL AGENCY BOARD  
THROUGH: ROBERT G. WELLS, EXECUTIVE DIRECTOR  
FROM: RICK L. SCOTT, DIRECTOR  
URBAN DEVELOPMENT DEPARTMENT  
SUBJECT: AGENCY REAL PROPERTY ACQUISITION POLICY

**ISSUE:**

Shall the Urban Renewal Agency Board pass Resolution 06-4 URA, adopting a Real Property Acquisition Policy for the Urban Renewal Agency of the City of Salem (Agency)?

**RECOMMENDATION:**

Staff recommends the Agency Board pass Resolution 06-4 URA adopting a Real Property Acquisition Policy for the Agency.

**BACKGROUND:**

On May 16, 2005, the Agency initiated amendments to the Riverfront-Downtown Urban Renewal Plan (Plan). The Plan was originally adopted on May 5, 1975, and has been amended thirteen times. As a result of the recent amendment process and thorough review of the Plan, a reference to an out-of-date policy in Section 602 (Land Acquisition) was discovered.

The prior acquisition policy, which is incorporated into most urban renewal plans by reference, refers to the 1976 Purchasing Manual (Attachment A: Resolution No. 76-126). Chapter 3.11 of the Manual (Attachment B) addressed jurisdiction over acquisition of real property matters. The 1976 Manual was subsequently amended several times and was recently re-written. The current Purchasing Manual, approved by Agency and Council on February 28, 2005, expressly states it does not apply to the acquisition of real property.

Agency approval of the revised Acquisition Policy is anticipated to precede City Council approval of the proposed Plan amendments. The existing reference in the Plan is being recommended for revision as part of the Plan amendments to refer to a new acquisition policy for the Agency.

**FACTS AND FINDINGS:**

**Authorization.** Oregon Revised Statutes (ORS) 457.170 authorizes the Agency to acquire property within the urban renewal areas of the City of Salem (City) to carry out an urban

renewal plan. Through an intergovernmental agreement with the City, the Agency acquires, manages, and disposes of real property through the City's Real Estate Section of the Urban Development Department. Under ORS 457.085, property must be identified in an urban renewal plan before it may be acquired. If a key property in an urban renewal area is not specifically identified for acquisition, or is not directly tied to a project within the plan, the plan must first be amended prior to initiating the acquisition procedures discussed in the revised Agency Acquisition Policy.

**Policy Objective.** The revised Agency Acquisition Policy establishes consistent, legal and responsible procedures to be followed by City staff when identifying and acquiring real property at the Agency Board's direction. The policy will ensure that real property is acquired in a manner that is responsive and consistent with the goals of the urban renewal plans, reducing Agency risk, aligning with principles of stewardship of public resources, and ensuring the fair treatment of sellers.

**Policy Elements.** The proposed policy provides for the Agency to acquire property through any lawful method, including donation, opportunity purchase, negotiated sale, or eminent domain. Property that is identified for acquisition in an urban renewal plan, or is required to facilitate a project identified in the plan, may be acquired for purposes specified in the acquisition policy, which are based on purposes currently identified in all of the Agency's urban renewal plans.

Under the proposal, the Agency will be required to conduct due diligence activities, such as initial screening for consistency with ORS Chapter 457 (Urban Renewal), and the respective urban renewal plan; conduct an environmental assessment, confirm that the plan identifies the property as one subject to acquisition; and determine that the Agency has adequate resources to secure the property in a timely fashion. In addition, the proposed draft acquisition policy recognizes the Agency will consult with the property owner and appropriate advisory boards.

As a result of property owner and advisory board feedback gathered during the drafting process (Attachment C), a section on eminent domain has been added to the draft policy. The minimum required procedures for condemnation are regulated by State law and described in ORS Chapter 35, and the Agency will use those procedures. Should good faith negotiations fail, additional public process above and beyond minimum requirements of State law, are specified in the proposed policy. These public processes include additional consultation with geographically appropriate advisory boards and neighborhood associations, and an Agency public hearing on the matter proposed for eminent domain action (Attachment D).

## **NEXT STEPS**

1. If approved, the Agency Acquisition Policy will be incorporated by reference into the Riverfront Downtown Urban Renewal Plan, if the amendments to the Plan are approved at future Council meeting.
2. Each urban renewal plan will require amendment to incorporate the new acquisition policy reference.

**Attachment A: Resolution No. 76-126**  
**Attachment B: Chapter 3 of the 1976 Purchasing Manual**  
**Attachment C: Feedback on Agency Real Property Acquisition Policy from Advisory Boards  
and Salem Area Chamber of Commerce**  
**Attachment D: Property Acquisition Flow Chart**

Report Prepared By: Courtney Knox, Project Coordinator

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RESOLUTION NO. 76 126

WHEREAS, the Purchasing Agent has prepared and submitted to the Common Council a Purchasing Manual pursuant to SRC 2.195; and

WHEREAS, the Common Council has reviewed such Purchasing Manual and found it to be acceptable and in conformity with the standards set forth in SRC 2.195; and

WHEREAS, the Common Council finds and declares that compliance with the procedures therein set forth will conform to the requirements of applicable state law, city ordinance and city charter, and will promote the public interest in fostering competition, discouraging favoritism, and providing maximum cost savings and cost effectiveness in public contracts; NOW, THEREFORE

BE IT RESOLVED BY THE COMMON COUNCIL  
OF THE CITY OF SALEM, OREGON:

THAT the City of Salem Purchasing Manual, as reviewed and constituted as of May 10, 1976, one copy of which shall be kept on file by the City Recorder, is hereby adopted pursuant to SRC 2.195.

ADOPTED by the Common Council this 10th day of May, 1976.

ATTEST

  
CITY RECORDER

ATTACHMENT A

## **CHAPTER 3**

### **ACQUISITION JURISDICTION**

#### **3.1 PUBLIC IMPROVEMENT CONTRACTS**

Preparation, review and submission of plans and specifications is within the original jurisdiction of the using agency. The City Attorney and the Purchasing Supervisor may review the contract documents as to form and legal propriety. The City Attorney will prescribe the boilerplate provisions to be used. The Purchasing Division has the sole jurisdiction over bidding procedures, advertisement and prequalification. Award of the contract is within the exclusive jurisdiction of the governing body. Jurisdiction for contract administration is provided for in Chapter 6.

#### **3.2 SUPPLY CONTRACTS**

Submittal of specifications is the responsibility of the using department. Review of specifications and addition of boilerplate based thereon is within the exclusive jurisdiction of the Purchasing Supervisor, as is bid procedure. Award of supply contracts where the estimated amount exceeds \$1,000 is within the original and exclusive jurisdiction of the governing body. Award of supply contracts for lesser sums is within the jurisdiction of the City Administrator.

**EXCEPTION:** At the discretion of the Purchasing Supervisor, the Services Division Supervisor and Equipment Division Storekeeper may assist the Purchasing Division in the purchase of routine supplies and parts.

#### **3.3 PROCUREMENT OF FEDERAL SURPLUS PROPERTY**

The Purchasing Supervisor is solely responsible for the procurement of Federal surplus property. This is a vested responsibility and cannot be delegated to others without approval of the Council. All such purchases shall be coordinated through the Purchasing Division.

#### **3.4 PROCUREMENT OF STATE SURPLUS PROPERTY**

The Purchasing Supervisor shall be solely responsible for the procurement of State surplus property. All such purchases shall be coordinated through the Purchasing Division.

#### **3.5 MAJOR EMERGENCY PURCHASES (Definition 2.17)**

Major emergency purchases are emergency purchases of \$1,000 or more.

Jurisdiction for determining propriety of purchase rests, first, with the City Administrator. When he or the official acting in his place during his absence cannot be reached without delay which would materially aggravate the emergency situation, the department head of the using department is authorized to determine propriety of purchase. Such jurisdiction is both original and exclusive, and is non-delegable past the department head level. In cases where a department head is on leave and has designated one of his subordinates to act in his place during his absence, an acting department head may exercise the powers of his superior in determining propriety of purchase.

Using departments should, in making major emergency purchases, use the services of the Purchasing Supervisor and obtain a purchase order number unless the emergency makes summary action in the field critically necessary to the immediate preservation of the public health or safety. If the

Acquisition of leasehold interests is within the jurisdiction of the using department head as to initial determination to acquire, the governing body to authorize, and the City Attorney to prepare or review leasehold documents as to form and legal propriety.

Acquisition of real property in fee (this does not include easements) is within the original jurisdiction of the Central Real Estate Division; however, final approval of any purchase is the exclusive function of the governing body. Acquisition of real property by eminent domain proceeding (condemnation) is the function of the Legal Department upon direction of the governing body.

### **3.12 AWARD**

Jurisdiction for the award of any contract to acquire property or services where the cost or contract price is estimated to exceed \$1,000 rests exclusively with the governing body, except where the governing body specifically finds that competitive bids are impractical.

### **3.13 EXECUTION**

Only the Mayor may execute a contract whereby the funds of the City of Salem are or could be committed for any sum in excess of \$1,000.00. Only the Mayor may execute a contract or conveyance for the sale, lease or purchase of real property. The City Administrator may execute all other contracts on behalf of the City. The governing body of any other using agency may, by resolution, confer upon either its chief executive officer or chief administrative officer the general or special authority to execute contracts on its behalf.

### **3.14 SUBMISSION TO GOVERNING BODY**

All requests for governing body approval of public contracts and contracts for personal services shall be submitted to the governing body by the Purchasing Supervisor if for City contracts, or by the chief administrative officer after notice to the Purchasing Supervisor if for other using agency contracts.

### 3.8 MAINTENANCE SERVICES

Except as to emergency services covered by section 3.5 and 3.6, the determination as to the necessity for maintenance services shall be within the jurisdiction of the using Department Head. Preparation of the specifications shall be a joint function of the Purchasing Division and the Using Department. The Purchasing Division shall be responsible to initiate and follow through with the appropriate purchasing procedure.

### 3.9 PERSONAL SERVICES

Complete jurisdiction for the pre-award stages of the following types of personal services contracts shall be as follows:

- a) Real property services (agents and appraisers): Central Real Estate Supervisor.
- b) Legal services (attorneys, process service, etc.): City Attorney
- c) All others: Using department head in conjunction with Purchasing Supervisor. See Chapter 13.

Award of personal service contracts estimated to be more than \$1,000 is within the exclusive jurisdiction of the governing body. Contracts representing less than that amount may be administratively awarded through the officer having jurisdiction as set forth in a) through c) above. All contract forms shall have the approval of the City Attorney, and shall be executed by the chief executive officer. Screening and selection procedures set forth in Chapter 13 shall be followed.

**EXCEPTION:** Real Property services contracts do not need approval of the governing body as long as the line item for such services in the approved project budget is not exceeded.

### 3.10 INSURANCE

*what about agent of Record*  
Procurement of insurance bids for all types of insurance other than real property title insurance shall be within the exclusive jurisdiction of the Risk Management Committee. Contacts with agents regarding insurance coverage shall not be made without prior approval of the Risk Manager. The Purchasing Supervisor shall implement decisions of the committee. Insurance acquisition, irrespective of anticipated cost, may be handled either through informal bids, an RFP procedure similar to that specified in Section 13.10, negotiation, or any combination thereof as the Committee may deem most likely to produce adequate coverage at the most reasonable rate. The Committee's decision shall be consistent with the standards set forth in 1.6.4.

Jurisdiction for the acquisition of title insurance for an interest in real property rests with the City Attorney unless the grantor agrees to furnish an owner's policy of title insurance. The City Attorney shall attempt to evenly distribute title insurance among insurers maintaining offices in the City of Salem.

### 3.11 REAL PROPERTY

Acquisition of interests in real property other than leaseholds is a joint jurisdictional function involving, through the various stages, the using department, the Central Real Estate Supervisor, the City Attorney and the governing body.

Acquisition of easements by negotiation may go through Central Real Estate. Acquisition of easements by eminent domain proceeding (condemnation) is the jurisdiction of the Legal Department.



emergency purchase exceeds budget limitations, the Director of Finance must be notified (before the purchase if at all possible). In such cases the using department head shall cause a complete report of the emergency and the purchase to be filed with the Purchasing Supervisor immediately. All major emergency purchases shall be presented to the applicable governing body at its next regular meeting.

**EXCEPTION:** In cases where the President of the United States or the Governor of the State of Oregon has declared an emergency to exist, and official civil defense or disaster relief emergency procedures and systems are activated, city officers and employees are authorized to obligate the City of Salem to the purchase of necessary emergency supplies, services, materials and equipment within the framework and procedures of such civil defense or disaster relief effort.

### **3.6 MINOR EMERGENCY PURCHASES – (Definition 2.17)**

Minor emergency purchases are emergency purchases less than \$1,000.00.

Jurisdiction for determining propriety of purchase rests with the department head. When he or the person acting in his place during his absence cannot be reached without delay which would materially aggravate the emergency situation, the division head is authorized to determine propriety of purchase.

Using departments should, in making minor emergency purchases, use the services of the Purchasing Supervisor and obtain a Purchase Order number unless the emergency makes summary action in the field critically necessary to the immediate preservation of the public health or safety. In such case, the Using department head shall make a verbal report immediately to the Purchasing Supervisor who may require a report in writing.

**EXCEPTION** shall be the same as for major emergency purchases. See 3.5.

### **3.7 FIELD PURCHASES**

Propriety of purchase shall be determined by the using department head, provided that he may delegate special or general authority to make such determinations to supervisory or management personnel under his control. Normal purchasing channels shall be used whenever possible. Capital outlay or replacement equipment shall not be purchased as field purchases.

Field purchases shall not exceed <sup>250.00</sup>~~500.00~~, without specific approval of the Purchasing Division. **SPLITTING** of purchases to avoid the ~~500.00~~<sup>250.00</sup> limitation will not be permitted.

**EXCEPTIONS:** Equipment parts purchases by the Equipment Division, electronics parts by the Communications Section, signal parts by the Traffic Signal Section, and supplies by the Services Division shall not exceed \$1,000.00 per Miscellaneous Disbursement Document or per Purchase Order when regular inventory items are involved. The actual dollar limit shall be set at the discretion of the Purchasing Supervisor. All purchases shall, whenever practical, be based on three competitive bids. Each purchase over \$250.00 shall be recorded on the quote sheet and submitted with the Miscellaneous Disbursement Document or recorded on the back of the requisition and submitted to the Purchasing Division. If an item can be purchased from only one source (see proprietary supply, Section 2.24) it shall be recorded as "Sole Source." The using department shall retain the second copy of the quote sheet.

All field purchases shall be subject to review by the Purchasing Supervisor.

For field purchase procedure, see Section 9.2.

## **Feedback on Agency Real Property Acquisition Policy from Advisory Boards and Salem Area Chamber of Commerce**

A draft Real Property Acquisition Policy for the Urban Renewal Agency of the City of Salem (Agency) was shared with the urban renewal area advisory boards – West Salem, North Gateway, and Downtown Advisory Boards during the months of August and September of 2005.

The proposed Real Property Acquisition Policy (Acquisition Policy) was developed and is being considered as part of the Riverfront Downtown Urban Renewal Plan (Plan) Amendment process, initiated by the Agency in May 2005. The Acquisition Policy is linked to the amendment package because the Acquisition Policy would be incorporated into the Plan by reference, if approved.

Prior to a City Council public hearing on the amendment package in September 2005, the Agency Board referred the amendments to the DAB for further discussion and deliberation.

The Acquisition Policy has evolved during the review process, first presented in the Downtown Advisory Board's August 25<sup>th</sup> meeting packet, to include a section on eminent domain. Review of the draft Acquisition Policy culminated with the DAB recommendation to approve the policy on January 12, 2006 as recorded below. Following the January DAB meeting, staff were also invited to present the draft Acquisition Policy at the February 2, 2006 Governmental Affairs Forum at the Salem Area Chamber of Commerce.

### ***West Salem Redevelopment Advisory Board August 31, 2005***

- Appreciate the effort to establish consistency.
- Is there a way to get out of an acquisition when it looks like the environmental issues are bigger than expected?
- What are the criteria being used to define the broad terms – "underutilization" and "blight"?
- The guidelines should be somewhat flexible, given the diversity of urban renewal areas in the City. However, there is a fair amount of discretion in the terms.
- Consider a different standard for each type of zoning?
- Would like to hear what other boards think about the policy.

### ***North Gateway Revitalization Advisory Board September 1, 2005***

- The terms used in the policy are really broad. We should be sure that we're preserving the person's right to own property.
- Demonstrate "substantial public interest" – want to be sure that all the checks and balances, all the steps, are exhausted before we get to condemnation.

### ***Downtown Advisory Board January 12, 2006***

- Move the acquisition policy forward as it pertains to willing sellers with the recommendation that there be additional consideration regarding unwilling sellers and

*Updated February 2, 2006*

additional protections in the instances of eminent domain for the purposes of economic development.

***Salem Area Chamber of Commerce – Governmental Affairs Forum  
February 2, 2006***

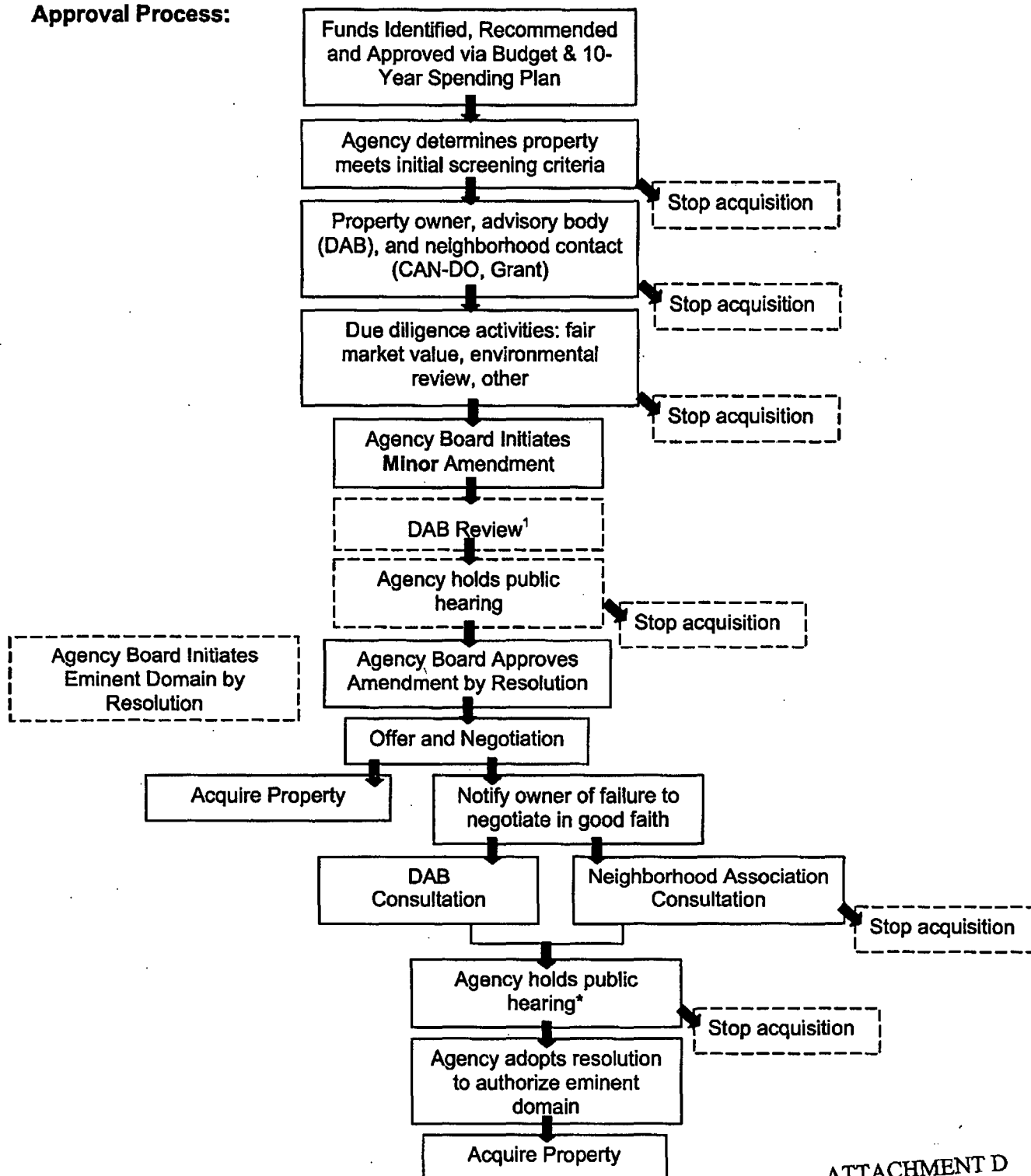
- All the barriers should be removed for property acquisition with a willing seller.
- This bureaucratic process burdens the private sector. Investments occur with each step. It's overkill for those who want to sell to spend all that money along the way, and then – at the very end, someone could stop the process.
- The public input shown is important. There must be public input if we're talking about spending public money.
- Care must be exercised to balance the expedited process needed for willing sellers with the property rights of unwilling sellers.
- Consider developing two processes: one for willing seller and one for unwilling sellers.
- Consider concurrent consultation with neighborhoods, advisory board and property owners. Meet with them all together to save staff time.

## PROPERTY ACQUISITION

### *Effect of Proposed Amendments to Riverfront Downtown Urban Renewal Plan*

**Definition:** New project (1102) for Core Area redevelopment; Section 602 references new Agency Acquisition Policy

#### **Approval Process:**



ATTACHMENT D

#### Key:

Discretionary

Required

<sup>1</sup>An alternate proposal offers a 21-day written notice of public hearing to owner, neighborhood, and area owners

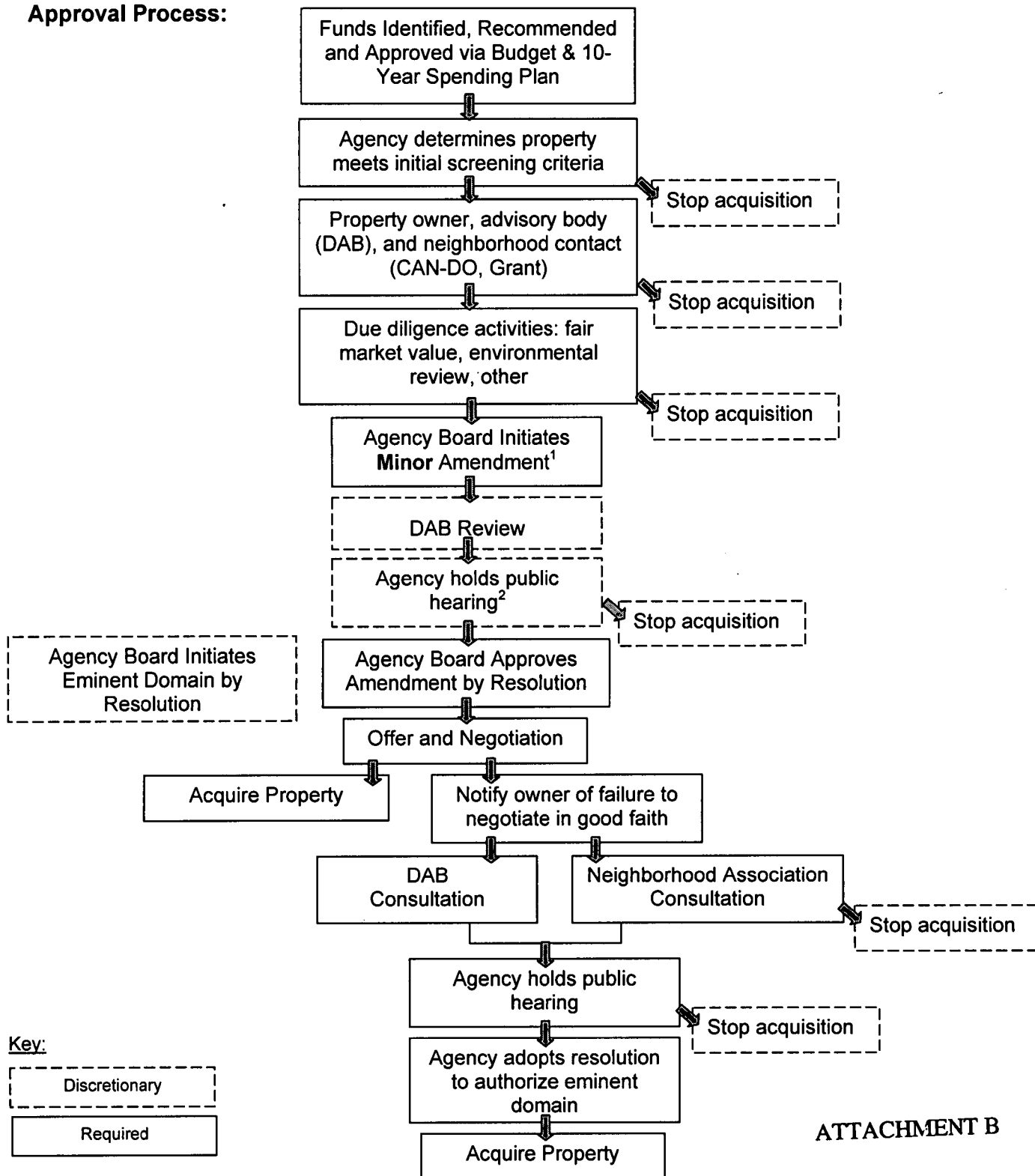
# PROPERTY ACQUISITION

Updated April 2006

## Effect of Proposed Amendments to Riverfront Downtown Urban Renewal Plan

**Definition:** New project (1102) for Core Area redevelopment; Section 602 references new Agency Acquisition Policy

### Approval Process:



### Notes:

1. A property-specific Minor Amendment is considered a quasi judicial land use action. As such, property owner is notified of discussion at DAB and public hearing, if required or requested.
2. Property owner may request a public hearing.

**From:** "Bradd Swank" <swank\_b@msn.com>  
**To:** <DRIORDAN@cityofsalem.net>, "Courtney Knox" <CKnox@cityofsalem.net>  
**Date:** 4/26/2006 11:24:03 AM  
**Subject:** Condemnation issue.

Mr. Riordan, Ms. Knox, Attached (and below) is my summary of the current status of the issue we met about on April 5, 2006, with Mr. Tosh, and Mr. Gorsuch. I still strongly believe that, as a matter of good policy, the City should more directly address standards and added protections for "public purpose takings" in its acquisition policy. However, I don't want to tilt windmills at my, and the city's, expense just for the sake of a personal belief in "good policy".

As you can see, I've posted the following on a local blog. I've also copied it to a number of locally involved citizens who expressed interest in the issue to me directly or to others I know. At this time, I plan to pursue this issue no further unless I see a strong public response.

Thank you again for taking the time to meet with and listen to me.

Yours, Bradd Swank

Using eminent domain (public condemnation) for private profit, Where is Salem?

Submitted by Bradd Swank

Should the City of Salem be able to use its power to take your home or business property and give it to a private company so the company can make money?

The answer is not as simple as you might first think. It may be one thing to take a single home so someone else can make money on yet another espresso stand . . . and quite another to take several espresso stands so land can be available for a company offering 12,000 high paying manufacturing jobs to Salem residents. At least, that's what the US Supreme Court said in June 2005.

In the recent Kelo Case, the US Supreme Court said the federal constitution DOES stop government from taking private property just to give it to another private person, but DOES NOT stop taking property for a broader "public purpose." It said allowable "public purposes" might include giving the property to private business to make local jobs or for bigger local tax revenues . . .but only if government officially adopted and followed an economic development plan for that purpose [computer search: "Kelo v. City of

ATTACHMENT C

New London", US Supreme Court, June 2005].

The court gave some examples of legal and illegal takings but did not set a clear constitutional line when takings would be either. The opinion indicated that federal, state, or local laws were the best way to make standards and landowner protections about "public purpose" takings. . . as long as they do not violate what few constitutional limits the US Court did make clear.

People understand how "public purpose" takings differ from other condemnations. Taking property to build a public road or city hall (a "public use" taking) or an abandoned drug house so it can be rehabilitated (a "public health/safety" taking) has a clear public benefit. Public benefit from "public purpose" takings are often not clear. Public purpose takings can create opportunities for special private benefits from insider dealing and cronyism when the "purpose" doesn't meet clear standards of benefits the public should receive.

The Kelo case affects Salem because, in early June, the City will consider a new acquisition policy for its downtown urban renewal area. The policy will set process for "acquiring" private property for a broad range of "public purposes." It applies to taking gifts, buying property, and condemnations (eminent domain). It will likely create precedent for City "acquisitions" in parts of the city other than downtown, as the old policy did in the past.

At a February 21, 2006, meeting of the City Council/Renewal Agency, city staff presented the proposed policy. The proposal did not distinguish "public purpose" takings from "public use" or "health/safety" takings in any way. It had the same process for all, with no standards for when or extra protections for any type. At the meeting, the City asked staff to look further into the public purpose taking issues.

Subsequent meetings with city staff appear to have not persuaded them to recommend changes to the previous proposal to address these issues. Staff appears to believe it worked out the important issues with the appropriate parties before the proposed policy was made public.

The issues about public purpose takings should be publicly worked through. And, now may be the best time for the City to commit to having special policies for eminent domain . . . ones that include standards for when to make public purpose takings and added protections for landowners when doing so. Consideration should be given to protections for historic properties, protections so parking for small businesses cannot be taken separately from the business, and protections to require neighborhood plans identifying potential takings rather than a process where owners can be isolated and picked off one at a time. Also, potential property buyers need to know clearly if property they are looking at has been tagged for possible taking. The policies should continue to allow public purpose takings and not "throw the baby out with the bathwater" by preventing economic development efforts by the city.

This article will be posted on a local web site, [www.cherry-pits.com](http://www.cherry-pits.com) (a site specifically set up for discussion of Salem issues). If you post comments on that web site about what the city should do for public purpose condemnations, you may still be able to influence the city on this issue.

City staff, elected officials, and others who are interested have been given notice of this article and the web site so they can go to the site and see how the public responds to this issue. The City is likely to further address the "public purpose" takings issue only if enough people respond on the web site to show that the public is seriously concerned about it.

City staff indicates the City will consider the proposed property acquisition policy on Monday, June 5, 2006. It will be taken up at the end of the City Council meeting which begins at approximately 6:30 PM, at the City Council Chambers at City Hall. Ordinarily the staff report showing their recommendations is released and posted on the City of Salem Internet Site [www.cityofsalem.net](http://www.cityofsalem.net) <<http://www.cityofsalem.net/>> the Friday before the meeting (in this case June 2, 2006).

**CC:** <Citycouncil@cityofsalem.net>, <evodden@SGLaw.com>, <swank\_b@msn.com>, <dcurrie@StatesmanJournal.com>, <JWales@cityofsalem.net>



**RESOLUTION NO. 06-4 URA**

**A RESOLUTION OF THE BOARD OF THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM, OREGON ADOPTING POLICIES AND PROCEDURES FOR THE ACQUISITION OF REAL PROPERTY**

**WHEREAS**, Oregon Revised Statutes (ORS) 457.170 authorizes the Urban Renewal Agency of the City of Salem, Oregon (the Agency) to acquire property within the urban renewal areas of the City of Salem, Oregon (the City) to carry out an urban renewal plan; and

**WHEREAS**, through an intergovernmental agreement with the City dated July 10, 2003, the Agency uses the City's Real Estate Section of the Urban Development Department to acquire, manage and dispose of real property;

**NOW, THEREFORE, THE BOARD OF THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM, OREGON RESOLVES AS FOLLOWS:**

**Section 1.** The Board hereby adopts the policies and procedures for the acquisition of real property, which are attached hereto as "Exhibit 1" and incorporated herein by reference.

**Section 2.** This resolution is effective upon adoption and supercedes any other resolution adopting policies and procedures of the type set forth herein for the acquisition of real property by the Urban Renewal Agency of the City of Salem, Oregon.

ADOPTED by the Board this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

ATTEST:

City Recorder

Approved by City Attorney:



Checked By: C. Knox

**POLICIES AND PROCEDURES  
for the  
ACQUISITION OF REAL PROPERTY  
by  
THE URBAN RENEWAL AGENCY OF THE CITY OF SALEM**

**SECTION 1: GENERAL**

**Introduction.** ORS 457.170 authorizes the Urban Renewal Agency of the City of Salem (the Agency) to acquire real property within urban renewal areas in order to carry out urban renewal plans. Through services provided by the City of Salem (the City) by an intergovernmental agreement, the Agency acquires, manages and disposes of real property. The Policies and Procedures established herein apply to those urban renewal plans which incorporate it by reference.

**Management Objective.** The objective of these Policies and Procedures is to establish consistent, responsible procedures to be followed when real property is acquired for the Agency. The intent of these Policies and Procedures is to ensure that real property is acquired in a manner that is responsive and consistent with the urban renewal plans, that reduces Agency risk by establishing minimum thresholds of due diligence, that aligns with principles of stewardship of public resources, and that ensures the fair treatment of sellers.

**Methods of Acquisition.** Real property identified for acquisition pursuant to an urban renewal plan may be acquired through any lawful method including:

- **Donation**, defined as a voluntarily transfer of real property to the Agency without any consideration.
- **Opportunity Purchase**, defined as the voluntary offering of real property for purchase by the Agency for consideration.
- **Negotiated Sale**, defined as a negotiated agreement between the Agency and the seller of real property that sets forth the price and terms of the sale.
- **Eminent Domain**, defined as the involuntary acquisition of private property for public use through the power of eminent domain and payment of just compensation. In instances where condemnation authority exists, the Agency shall follow condemnation procedures under ORS 35.205-35.625.

**SECTION 2: PURPOSE OF ACQUISITION**

The Urban Renewal Agency may acquire real property for the following purposes:

1. Where existing conditions do not permit practical or feasible rehabilitation of a structure and it is determined by the Agency that acquisition of such properties and demolition of the improvements thereon are necessary to remove substandard and blighting conditions;

2. Where existing conditions do not permit practical or feasible rehabilitation of a structure and the property owner is unwilling or unable to perform such rehabilitation and it is determined acquisition of such properties is necessary to remove substandard conditions;
3. Where detrimental land uses or conditions exist (such as incompatible uses, or adverse influences from noise, smoke or fumes exist, or where there exist substandard structures, over-crowding, excessive dwelling unit density or conversions to incompatible types of uses) and it is determined by the Agency that acquisition of such properties and the rehabilitation or demolition of the improvements are necessary to remove blighting influences and to achieve the objective of an urban renewal plan;
4. Where it is determined by the Agency that the property is needed to provide public improvements, facilities, or structures as follows:
  - a. Right-of-way and easement acquisition for streets, alleys, bicycle paths or pedestrian ways or for water, sewer and other utilities;
  - b. Facilities for the benefit of the public which are to be developed by the Agency, the City, or any other public entity;
  - c. Property acquisition for public use, public off-street parking facilities or for public buildings and facilities; and
  - d. Where the owner of real property within the boundaries of the urban renewal area wishes to convey title of such property by legal means, including by gift;
5. Where it is determined by the Agency that a substantial public interest or the objectives of the Plan can be furthered by assembling property for development or redevelopment by a party other than the owners of record of such property, the Agency may acquire such property;
6. Where the existing property owner is either unwilling or unable to achieve the objectives of an urban renewal plan;
7. Where acquisition will make use of a property in an urban renewal area to eliminate blight, enhance gateways, provide public amenities, encourage private investment, leverage resources and act as a catalyst for revitalization;
8. Where conditions exist that may affect the health, safety and welfare of citizens within the urban renewal area and it is determined that acquisition of such properties and demolition of the improvements thereon are necessary to remove substandard and blighting conditions; and/or
9. Any other purpose authorized under ORS Chapter 457.

### **SECTION 3: PROPERTY ACQUISITION PROCEDURES**

The following activities are required for the acquisition of real property by the Agency.

1. **Initial Screening Criteria.** Before real property is identified for acquisition, preliminary property research must be conducted to determine whether:
  - a. The real property is inside the urban renewal area boundary;
  - b. The plan identifies the real property as one that may be subject to acquisition;
  - c. Acquisition of the real property is consistent with ORS Chapter 457 and objectives of the plan; and
  - d. Agency has adequate resources to purchase the real property in a timely fashion, as identified in the Agency's budget or spending plan.

The Agency will not acquire real property that does not meet these initial screening criteria; provided, however, real property may be identified for acquisition if criteria (a), (c) and (d) are satisfied, and the Board determines that it is in the best interest of the Agency to amend the plan. If an amendment to a plan is needed to add the real property for acquisition, the Agency will follow the amendment procedures established by the applicable plan. The Executive Director of the Agency or the Director's designee (the Director) has the obligation of making the initial screening determination.

2. **Contact and Consultation.** If a real property meets the initial screening criteria, the Director shall confer in Executive Session with the Board to determine whether to proceed with the acquisition. If the Board determines that acquisition is desirable, then the Director will undertake the following activities.
  - **Property Owner.** If directed by the Board, the Director will contact the owner and notify the owner (1) that the Agency has an interest in acquiring the real property, (2) of the Agency's interest in beginning negotiations and rights of property owners in the process, and (3) the purpose of the proposed acquisition.
  - **Advisory Body and Neighborhood Contact.** If directed by the Board, the Director will provide notice of the intended acquisition to the appropriate urban renewal area advisory body and the local neighborhood organization. When an urban renewal plan amendment is required to acquire the real property, the notice will be concurrent with the amendment process. If notice is required by the Board, the local neighborhood organization will be asked to participate in the Agency advisory board's decision making process.
3. **Due Diligence Activities.** If the Board determines that it wishes to proceed with the acquisition, the Director shall undertake the following due diligence activities prior to the Board's authorization to make an offer.
  - **Determination of Fair Market Value.** The Real Estate Section shall retain a certified appraiser to determine the fair market value of the real property identified for potential acquisition. The Agency will offer a price that it determines is "fair market value" based on the appraisal, provided that the appraisal is no more than one year old as of the date the Board authorizes the offer. If the appraisal is more than one year old, the Director shall provide the Board with an updated appraisal,

and the Board shall base its offer on the updated appraisal. Generally, fair market value will not be less than the appraised value of the real property unless other factors exist that support a different value, such as:

- a. Environmental condition of the property or the condition of any improvements that were not considered in the appraisal.
  - b. Information obtained from due diligence activities that reveals defects in the condition of the land, buildings, or title that were not considered in the appraisal, and which would require money and/or time to cure.
  - c. Information provided by the owner and verified by the Agency regarding the condition of the real property or improvements, or information revealed by due diligence activities which reveals conditions that may not have been taken into account in the appraisal.
  - d. Special circumstances related to the public benefit or unique public need for the real property support a determination that a price other than the appraised price should be offered.
- **Environmental Review.** If it is known that the real property was used for industrial or commercial uses that may have resulted in the presence of an environmental contamination or an environmental hazard, then a Phase One Environmental Assessment shall be performed by a qualified professional consultant. For real property in a residential area, where only previous residential use of the property is known, a Phase One ESA is not required, but may be ordered at the discretion of the Director. For properties in a mixed commercial/residential area, particularly those near or at intersections of arterial and/or collector streets, or for real property in a residential area that was used for commercial or industrial uses, a Phase One ESA is required. If the Phase One ESA indicates the possibility of the presence of environmental contamination or an environmental hazard, then a Phase Two ESA shall be performed by a qualified professional consultant.
  - **Other Activities.** In order to make informed decisions about potential acquisitions regarding the fair market value of real property and any risks associated with it, a variety of other due diligence activities may be undertaken at the Director's discretion. Such additional activities include, but are limited to, an assessment of utilities and their location, investigation into existing building or structure condition, geotechnical investigation, demolition estimates and market feasibility.
4. **Agency Consideration and Authorization.** After contact and consultation, where applicable, and due diligence activities have been completed, the Director shall proceed to consult with the Board for consideration and authorization to proceed with the acquisition of the real property.
- **Consideration of Preliminary Findings.** The Board will meet in Executive Session to consider the results of property owner contact, advisory board and neighborhood association comment; and other due diligence activities. If the Board deems it to be in the best interests of the Agency to acquire the real property, staff will be directed to enter into negotiations with the property owner.

- **Agency Board Authorization (Willing Seller).** Prior to executing a Purchase and Sale Agreement or an Option Agreement to acquire real property, the Board shall adopt a resolution at a public meeting identifying the real property, the necessity of acquiring the real property, the public purpose for which the real property will be acquired pursuant to the applicable urban renewal plan, and, where necessary, amending the plan.

#### **SECTION 4: OFFER AND NEGOTIATION**

1. If the Board authorizes an offer on a property, the Director shall designate staff to work with legal counsel in negotiations with the property owner.
2. The Agency will encourage the seller to obtain appropriate professional advice during the acquisition process.
3. Throughout the negotiation process, adequate records must be kept and maintained to chronicle substantive issues and understandings discussed with the seller regarding price, terms, and conditions.
4. The Purchase and Sale Agreement or Option Agreement shall be provided to the Board for adoption in open session.

#### **SECTION 5: PROPERTY ACQUISITION USING EMINENT DOMAIN**

The Agency may acquire property through eminent domain only after good faith negotiations have failed to result in a voluntary sale. Prior to initiating eminent domain, the Board shall consult with the area's urban renewal advisory board and affected neighborhood association as to the necessity of acquiring the real property using eminent domain. After such consultation, the Board shall hold a public hearing on whether the property should be acquired by eminent domain, or the acquisition abandoned. Notice of the decision to refer the acquisition of the property to the advisory board and neighborhood association and the hearing shall be provided to the property owner by certified mail. The notice shall state that negotiations for a voluntary sale have not been successful, explain the process for initiating eminent domain identify opportunities to provide comment, and indicate the date, time and place of the public hearing. If, after the hearing, the Board determines the property should be acquired by eminent domain, the Board shall adopt a resolution pursuant to ORS 35.235, which shall:

- Declare the necessity of acquiring the real property;
- State the public purpose for which the property will be acquired pursuant to the applicable urban renewal plan;
- Contain findings that demonstrate the acquisition meets the objectives stated in the plan;
- Contain findings that demonstrate the acquisition meets the criteria set forth in Section 3 of these Policies and Procedures; and
- Where necessary, amend the plan.

After the adoption of such resolution, acquisition shall proceed according to ORS Chapter 35.

FOR AGENCY MEETING OF:  
AGENDA ITEM NO.: \_\_\_\_

February 21, 2006  
D.1 (c)

TO: URBAN RENEWAL AGENCY BOARD  
THROUGH: ROBERT G. WELLS, EXECUTIVE DIRECTOR  
FROM: RICK L. SCOTT, DIRECTOR  
URBAN DEVELOPMENT DEPARTMENT  
SUBJECT: AGENCY REAL PROPERTY ACQUISITION POLICY

**ISSUE:**

Shall the Urban Renewal Agency Board pass Resolution 06-4 URA, adopting a Real Property Acquisition Policy for the Urban Renewal Agency of the City of Salem (Agency)?

**RECOMMENDATION:**

Staff recommends the Agency Board pass Resolution 06-4 URA adopting a Real Property Acquisition Policy for the Agency.

**BACKGROUND:**

On May 16, 2005, the Agency initiated amendments to the Riverfront-Downtown Urban Renewal Plan (Plan). The Plan was originally adopted on May 5, 1975, and has been amended thirteen times. As a result of the recent amendment process and thorough review of the Plan, a reference to an out-of-date policy in Section 602 (Land Acquisition) was discovered.

The prior acquisition policy, which is incorporated into most urban renewal plans by reference, refers to the 1976 Purchasing Manual (Attachment A: Resolution No. 76-126). Chapter 3.11 of the Manual (Attachment B) addressed jurisdiction over acquisition of real property matters. The 1976 Manual was subsequently amended several times and was recently re-written. The current Purchasing Manual, approved by Agency and Council on February 28, 2005, expressly states it does not apply to the acquisition of real property.

Agency approval of the revised Acquisition Policy is anticipated to precede City Council approval of the proposed Plan amendments. The existing reference in the Plan is being recommended for revision as part of the Plan amendments to refer to a new acquisition policy for the Agency.

**FACTS AND FINDINGS:**

**Authorization.** Oregon Revised Statutes (ORS) 457.170 authorizes the Agency to acquire property within the urban renewal areas of the City of Salem (City) to carry out an urban

FEB 21 2006

*Referred back to staff*

URA

renewal plan. Through an intergovernmental agreement with the City, the Agency acquires, manages, and disposes of real property through the City's Real Estate Section of the Urban Development Department. Under ORS 457.085, property must be identified in an urban renewal plan before it may be acquired. If a key property in an urban renewal area is not specifically identified for acquisition, or is not directly tied to a project within the plan, the plan must first be amended prior to initiating the acquisition procedures discussed in the revised Agency Acquisition Policy.

**Policy Objective.** The revised Agency Acquisition Policy establishes consistent, legal and responsible procedures to be followed by City staff when identifying and acquiring real property at the Agency Board's direction. The policy will ensure that real property is acquired in a manner that is responsive and consistent with the goals of the urban renewal plans, reducing Agency risk, aligning with principles of stewardship of public resources, and ensuring the fair treatment of sellers.

**Policy Elements.** The proposed policy provides for the Agency to acquire property through any lawful method, including donation, opportunity purchase, negotiated sale, or eminent domain. Property that is identified for acquisition in an urban renewal plan, or is required to facilitate a project identified in the plan, may be acquired for purposes specified in the acquisition policy, which are based on purposes currently identified in all of the Agency's urban renewal plans.

Under the proposal, the Agency will be required to conduct due diligence activities, such as initial screening for consistency with ORS Chapter 457 (Urban Renewal), and the respective urban renewal plan; conduct an environmental assessment, confirm that the plan identifies the property as one subject to acquisition; and determine that the Agency has adequate resources to secure the property in a timely fashion. In addition, the proposed draft acquisition policy recognizes the Agency will consult with the property owner and appropriate advisory boards.

As a result of property owner and advisory board feedback gathered during the drafting process (Attachment C), a section on eminent domain has been added to the draft policy. The minimum required procedures for condemnation are regulated by State law and described in ORS Chapter 35, and the Agency will use those procedures. Should good faith negotiations fail, additional public process above and beyond minimum requirements of State law, are specified in the proposed policy. These public processes include additional consultation with geographically appropriate advisory boards and neighborhood associations, and an Agency public hearing on the matter proposed for eminent domain action (Attachment D).

## **NEXT STEPS**

1. If approved, the Agency Acquisition Policy will be incorporated by reference into the Riverfront Downtown Urban Renewal Plan, if the amendments to the Plan are approved at future Council meeting.
2. Each urban renewal plan will require amendment to incorporate the new acquisition policy reference.



**Attachment A: Resolution No. 76-126**

**Attachment B: Chapter 3 of the 1976 Purchasing Manual**

**Attachment C: Feedback on Agency Real Property Acquisition Policy from Advisory Boards  
and Salem Area Chamber of Commerce**

**Attachment D: Property Acquisition Flow Chart**

**Report Prepared By: Courtney Knox, Project Coordinator**

**G:\Group\URBANDEV\Final Council Staff Reports\2006\Feb 21\Agency Acq Policy\Staff Report Acquisition Policy\_2\_21\_06.wpd**

WHEREAS, the Purchasing Agent has prepared and submitted to the Common Council a Purchasing Manual pursuant to SRC 2.195; and

WHEREAS, the Common Council has reviewed such Purchasing Manual and found it to be acceptable and in conformity with the standards set forth in SRC 2.195; and

WHEREAS, the Common Council finds and declares that compliance with the procedures therein set forth will conform to the requirements of applicable state law, city ordinance and city charter, and will promote the public interest in fostering competition, discouraging favoritism, and providing maximum cost savings and cost effectiveness in public contracts; NOW, THEREFORE

BE IT RESOLVED BY THE COMMON COUNCIL  
OF THE CITY OF SALEM, OREGON:

THAT the City of Salem Purchasing Manual, as reviewed and constituted as of May 10, 1976, one copy of which shall be kept on file by the City Recorder, is hereby adopted pursuant to SRC 2.195.

ADOPTED by the Common Council this 10th day of May, 1976.

ATTEST

  
CITY RECORDER

ATTACHMENT A

## **CHAPTER 3**

### **ACQUISITION JURISDICTION**

#### **3.1 PUBLIC IMPROVEMENT CONTRACTS**

Preparation, review and submission of plans and specifications is within the original jurisdiction of the using agency. The City Attorney and the Purchasing Supervisor may review the contract documents as to form and legal propriety. The City Attorney will prescribe the boilerplate provisions to be used. The Purchasing Division has the sole jurisdiction over bidding procedures, advertisement and prequalification. Award of the contract is within the exclusive jurisdiction of the governing body. Jurisdiction for contract administration is provided for in Chapter 6.

#### **3.2 SUPPLY CONTRACTS**

Submittal of specifications is the responsibility of the using department. Review of specifications and addition of boilerplate based thereon is within the exclusive jurisdiction of the Purchasing Supervisor, as is bid procedure. Award of supply contracts where the estimated amount exceeds \$1,000 is within the original and exclusive jurisdiction of the governing body. Award of supply contracts for lesser sums is within the jurisdiction of the City Administrator.

**EXCEPTION:** At the discretion of the Purchasing Supervisor, the Services Division Supervisor and Equipment Division Storekeeper may assist the Purchasing Division in the purchase of routine supplies and parts.

#### **3.3 PROCUREMENT OF FEDERAL SURPLUS PROPERTY**

The Purchasing Supervisor is solely responsible for the procurement of Federal surplus property. This is a vested responsibility and cannot be delegated to others without approval of the Council. All such purchases shall be coordinated through the Purchasing Division.

#### **3.4 PROCUREMENT OF STATE SURPLUS PROPERTY**

The Purchasing Supervisor shall be solely responsible for the procurement of State surplus property. All such purchases shall be coordinated through the Purchasing Division.

#### **3.5 MAJOR EMERGENCY PURCHASES (Definition 2.17)**

Major emergency purchases are emergency purchases of \$1,000 or more.

Jurisdiction for determining propriety of purchase rests, first, with the City Administrator. When he or the official acting in his place during his absence cannot be reached without delay which would materially aggravate the emergency situation, the department head of the using department is authorized to determine propriety of purchase. Such jurisdiction is both original and exclusive, and is non-delegable past the department head level. In cases where a department head is on leave and has designated one of his subordinates to act in his place during his absence, an acting department head may exercise the powers of his superior in determining propriety of purchase.

Using departments should, in making major emergency purchases, use the services of the Purchasing Supervisor and obtain a purchase order number unless the emergency makes summary action in the field critically necessary to the immediate preservation of the public health or safety. If the

Acquisition of leasehold interests is within the jurisdiction of the using department head as to initial determination to acquire, the governing body to authorize, and the City Attorney to prepare or review leasehold documents as to form and legal propriety.

Acquisition of real property in fee (this does not include easements) is within the original jurisdiction of the Central Real Estate Division; however, final approval of any purchase is the exclusive function of the governing body. Acquisition of real property by eminent domain proceeding (condemnation) is the function of the Legal Department upon direction of the governing body.

### **3.12 AWARD**

Jurisdiction for the award of any contract to acquire property or services where the cost or contract price is estimated to exceed \$1,000 rests exclusively with the governing body, except where the governing body specifically finds that competitive bids are impractical.

### **3.13 EXECUTION**

Only the Mayor may execute a contract whereby the funds of the City of Salem are or could be committed for any sum in excess of \$1,000.00. Only the Mayor may execute a contract or conveyance for the sale, lease or purchase of real property. The City Administrator may execute all other contracts on behalf of the City. The governing body of any other using agency may, by resolution, confer upon either its chief executive officer or chief administrative officer the general or special authority to execute contracts on its behalf.

### **3.14 SUBMISSION TO GOVERNING BODY**

All requests for governing body approval of public contracts and contracts for personal services shall be submitted to the governing body by the Purchasing Supervisor if for City contracts, or by the chief administrative officer after notice to the Purchasing Supervisor if for other using agency contracts.

### 3.8 MAINTENANCE SERVICES

Except as to emergency services covered by section 3.5 and 3.6, the determination as to the necessity for maintenance services shall be within the jurisdiction of the using Department Head. Preparation of the specifications shall be a joint function of the Purchasing Division and the Using Department. The Purchasing Division shall be responsible to initiate and follow through with the appropriate purchasing procedure.

### 3.9 PERSONAL SERVICES

Complete jurisdiction for the pre-award stages of the following types of personal services contracts shall be as follows:

- a) Real property services (agents and appraisers): Central Real Estate Supervisor.
- b) Legal services (attorneys, process service, etc.): City Attorney
- c) All others: Using department head in conjunction with Purchasing Supervisor. See Chapter 13.

Award of personal service contracts estimated to be more than \$1,000 is within the exclusive jurisdiction of the governing body. Contracts representing less than that amount may be administratively awarded through the officer having jurisdiction as set forth in a) through c) above. All contract forms shall have the approval of the City Attorney, and shall be executed by the chief executive officer. Screening and selection procedures set forth in Chapter 13 shall be followed.

**EXCEPTION:** Real Property services contracts do not need approval of the governing body as long as the line item for such services in the approved project budget is not exceeded.

### 3.10 INSURANCE

*what about agent of Record*

Procurement of insurance bids for all types of insurance other than real property title insurance shall be within the exclusive jurisdiction of the Risk Management Committee. Contacts with agents regarding insurance coverage shall not be made without prior approval of the Risk Manager. The Purchasing Supervisor shall implement decisions of the committee. Insurance acquisition, irrespective of anticipated cost, may be handled either through informal bids, an RFP procedure similar to that specified in Section 13.10, negotiation, or any combination thereof as the Committee may deem most likely to produce adequate coverage at the most reasonable rate. The Committee's decision shall be consistent with the standards set forth in 1.6.4.

Jurisdiction for the acquisition of title insurance for an interest in real property rests with the City Attorney unless the grantor agrees to furnish an owner's policy of title insurance. The City Attorney shall attempt to evenly distribute title insurance among insurers maintaining offices in the City of Salem.

### 3.11 REAL PROPERTY

Acquisition of interests in real property other than leaseholds is a joint jurisdictional function involving, through the various stages, the using department, the Central Real Estate Supervisor, the City Attorney and the governing body.

Acquisition of easements by negotiation may go through Central Real Estate. Acquisition of easements by eminent domain proceeding (condemnation) is the jurisdiction of the Legal Department.

emergency purchase exceeds budget limitations, the Director of Finance must be notified (before the purchase if at all possible). In such cases the using department head shall cause a complete report of the emergency and the purchase to be filed with the Purchasing Supervisor immediately. All major emergency purchases shall be presented to the applicable governing body at its next regular meeting.

**EXCEPTION:** In cases where the President of the United States or the Governor of the State of Oregon has declared an emergency to exist, and official civil defense or disaster relief emergency procedures and systems are activated, city officers and employees are authorized to obligate the City of Salem to the purchase of necessary emergency supplies, services, materials and equipment within the framework and procedures of such civil defense or disaster relief effort.

### **3.6 MINOR EMERGENCY PURCHASES – (Definition 2.17)**

Minor emergency purchases are emergency purchases less than \$1,000.00.

Jurisdiction for determining propriety of purchase rests with the department head. When he or the person acting in his place during his absence cannot be reached without delay which would materially aggravate the emergency situation, the division head is authorized to determine propriety of purchase.

Using departments should, in making minor emergency purchases, use the services of the Purchasing Supervisor and obtain a Purchase Order number unless the emergency makes summary action in the field critically necessary to the immediate preservation of the public health or safety. In such case, the Using department head shall make a verbal report immediately to the Purchasing Supervisor who may require a report in writing.

**EXCEPTION** shall be the same as for major emergency purchases. See 3.5.

### **3.7 FIELD PURCHASES**

Propriety of purchase shall be determined by the using department head, provided that he may delegate special or general authority to make such determinations to supervisory or management personnel under his control. Normal purchasing channels shall be used whenever possible. Capital outlay or replacement equipment shall not be purchased as field purchases.

Field purchases shall not exceed <sup>250.00</sup>~~\$50.00~~, without specific approval of the Purchasing Division. **SPLITTING** of purchases to avoid the <sup>250.00</sup>~~\$50.00~~ limitation will not be permitted.

**EXCEPTIONS:** Equipment parts purchases by the Equipment Division, electronics parts by the Communications Section, signal parts by the Traffic Signal Section, and supplies by the Services Division shall not exceed \$1,000.00 per Miscellaneous Disbursement Document or per Purchase Order when regular Inventory Items are involved. The actual dollar limit shall be set at the discretion of the Purchasing Supervisor. All purchases shall, whenever practical, be based on three competitive bids. Each purchase over \$250.00 shall be recorded on the quote sheet and submitted with the Miscellaneous Disbursement Document or recorded on the back of the requisition and submitted to the Purchasing Division. If an item can be purchased from only one source (see proprietary supply, Section 2.24) it shall be recorded as "Sole Source." The using department shall retain the second copy of the quote sheet.

All field purchases shall be subject to review by the Purchasing Supervisor.

For field purchase procedure, see Section 9.2.

## **Feedback on Agency Real Property Acquisition Policy from Advisory Boards and Salem Area Chamber of Commerce**

A draft Real Property Acquisition Policy for the Urban Renewal Agency of the City of Salem (Agency) was shared with the urban renewal area advisory boards – West Salem, North Gateway, and Downtown Advisory Boards during the months of August and September of 2005.

The proposed Real Property Acquisition Policy (Acquisition Policy) was developed and is being considered as part of the Riverfront Downtown Urban Renewal Plan (Plan) Amendment process, initiated by the Agency in May 2005. The Acquisition Policy is linked to the amendment package because the Acquisition Policy would be incorporated into the Plan by reference, if approved.

Prior to a City Council public hearing on the amendment package in September 2005, the Agency Board referred the amendments to the DAB for further discussion and deliberation.

The Acquisition Policy has evolved during the review process, first presented in the Downtown Advisory Board's August 25<sup>th</sup> meeting packet, to include a section on eminent domain. Review of the draft Acquisition Policy culminated with the DAB recommendation to approve the policy on January 12, 2006 as recorded below. Following the January DAB meeting, staff were also invited to present the draft Acquisition Policy at the February 2, 2006 Governmental Affairs Forum at the Salem Area Chamber of Commerce.

### ***West Salem Redevelopment Advisory Board August 31, 2005***

- Appreciate the effort to establish consistency.
- Is there a way to get out of an acquisition when it looks like the environmental issues are bigger than expected?
- What are the criteria being used to define the broad terms – “underutilization” and “blight”?
- The guidelines should be somewhat flexible, given the diversity of urban renewal areas in the City. However, there is a fair amount of discretion in the terms.
- Consider a different standard for each type of zoning?
- Would like to hear what other boards think about the policy.

### ***North Gateway Revitalization Advisory Board September 1, 2005***

- The terms used in the policy are really broad. We should be sure that we're preserving the person's right to own property.
- Demonstrate “substantial public interest” – want to be sure that all the checks and balances, all the steps, are exhausted before we get to condemnation.

### ***Downtown Advisory Board January 12, 2006***

- Move the acquisition policy forward as it pertains to willing sellers with the recommendation that there be additional consideration regarding unwilling sellers and

additional protections in the instances of eminent domain for the purposes of economic development.

***Salem Area Chamber of Commerce – Governmental Affairs Forum  
February 2, 2006***

- All the barriers should be removed for property acquisition with a willing seller.
- This bureaucratic process burdens the private sector. Investments occur with each step. It's overkill for those who want to sell to spend all that money along the way, and then – at the very end, someone could stop the process.
- The public input shown is important. There must be public input if we're talking about spending public money.
- Care must be exercised to balance the expedited process needed for willing sellers with the property rights of unwilling sellers.
- Consider developing two processes: one for willing seller and one for unwilling sellers.
- Consider concurrent consultation with neighborhoods, advisory board and property owners. Meet with them all together to save staff time.

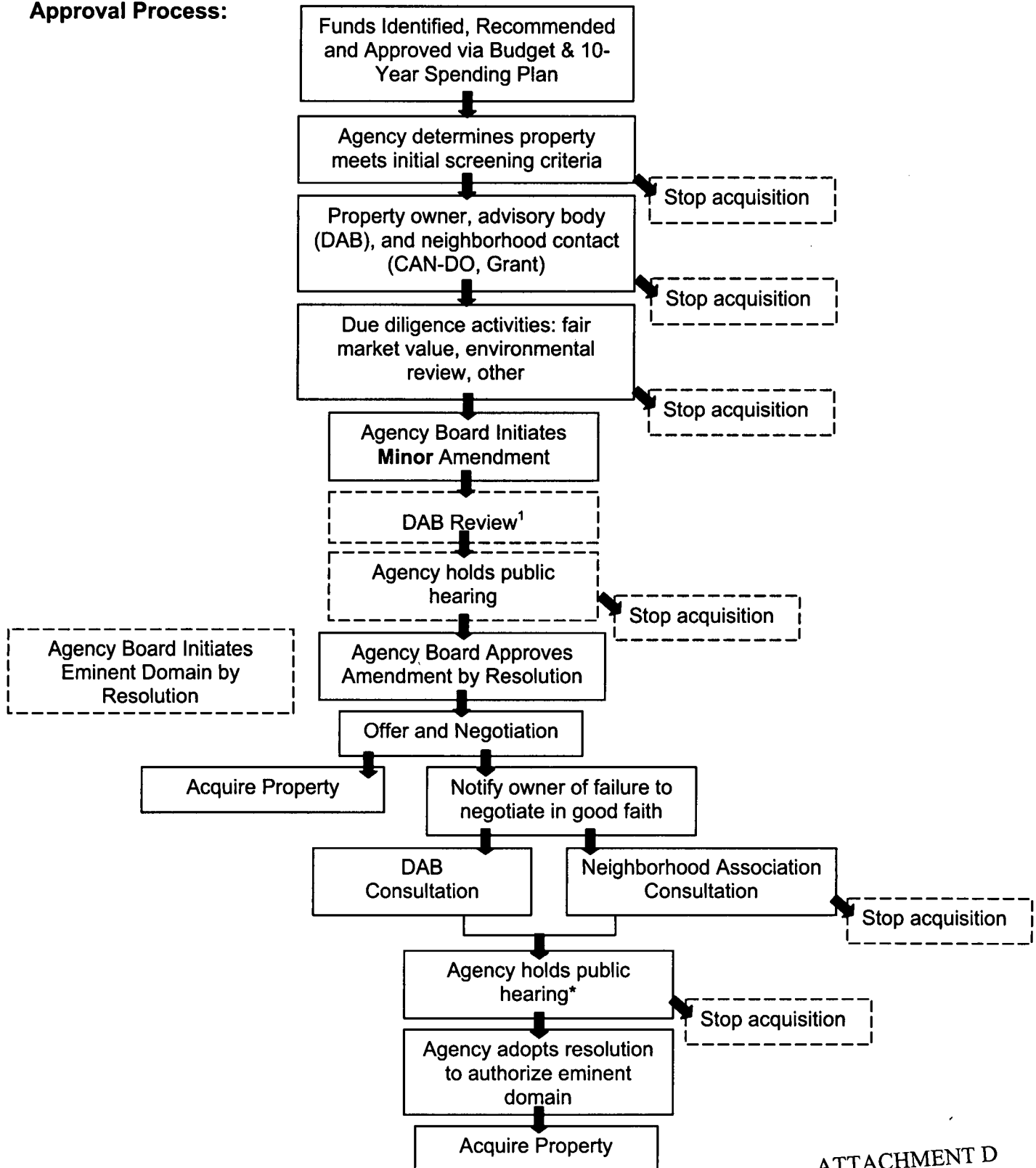


## PROPERTY ACQUISITION

### *Effect of Proposed Amendments to Riverfront Downtown Urban Renewal Plan*

**Definition:** New project (1102) for Core Area redevelopment; Section 602 references new Agency Acquisition Policy

#### **Approval Process:**



ATTACHMENT D

#### Key:

Discretionary

Required

<sup>1</sup>An alternate proposal offers a 21-day written notice of public hearing to owner, neighborhood, and area owners