COUNTY AGENDA REQUEST

Department:	Board of Commissioners	Presenter(s):	Commissioner McCarty
Meeting Date:	Wednesday, August 3, 2011	Type of Request:	Old Business

Wording for the Agenda:

Approval of Policy No. 200.27 which establishes a formal set of standards to be used whenever the County acquires privately-owned property for the construction of a transportation project.

Background/History/Details:

Whenever counties and cities acquire private property for transportation projects where Georgia Department of Transportation funds are used to pay for any part of the project, the local government is required to use GDOT's guidelines for acquiring the property. GDOT's guidelines are based on federal regulations known as the Uniform Relocation Act. Fayette County complies with these requirements anytime state funds are used to pay any of the cost of the project.

However, Fayette County from time to time acquires property for public purposes where no state or federal funds are used. These projects may be road or bridge improvements, reservoirs, buildings, parks, etc. Comm. McCarty asked to have a discussion about the County adopting its own set of standards to be used any time the County must acquire private property for the purpose of building a public project. These standards would meet/exceed GDOT's guidelines and could be distributed any time a property owner is expected to negotiate the acquisition of property with the County. At the Board's July 6 Workshop, this item was discussed and the Board asked the County Attorney to draft a policy as requested. At the Aug. 3 Workshop, there was a final review of the proposed policy and agreement to place this issue on the Aug.11 Board agenda for adoption. The policy on the August 11 agenda will only apply to transportation projects at this time. However, in the future a policy may be developed addressing the acquisition of private property for other types of public projects.

What action are you seeking from the Board of Commissioners?

Approval of Policy No. 200.27 which establishes a formal set of standards to be used whenever the County acquires privately-owned property for the construction of a transportation project.

If this item requires funding, please describe:

Not Applicable.

Has this request been considered within the past two years?	Yes	If so, when?	Wednesday, August 3, 2011
Do you need audio-visual for the presentation?	No	Backup Provided with Request?	Yes

STAFF USE ONLY

Approved by Finance	Not Applicable	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	County Clerk's Approval	Yes
Administrator's Approval	Yes		

Staff Notes:

Commissioner submitted this agenda request with back-up material to the County Clerk on June 14, 2011.

ACQUISITION OF PROPERTY POLICY
Transportation Projects
200.27

PURPOSE

The purpose of this policy is to provide guidelines for the acquisition of property for the construction of transportation projects.

POLICY

There shall be a uniform process for the acquisition of property for transportation projects in the County to provide staff and property owners guidance in negotiating with the County.

PROCEDURE

The following procedure will be followed in acquiring property for transportation projects in the County:

Fayette County, Georgia must acquire land to improve its transportation system. If a person owns property that will be needed for an existing or proposed transportation facility, they will be interested in the procedure which the County follows in acquiring the necessary right of way.

This brochure explains why property may be needed, the rights of the property owner and provides answers to some of the questions that will may be asked. The Policy is not all inclusive, but rather is intended to serve as an outline. The County's representative assigned for the acquisition of property should be able to answer additional questions.

I. What Determines Whether Property Is Needed.

Many factors are critically analyzed in locating and designing modern transportation systems. The element of need is the first consideration. For many years, as an example, roads were improved and hard-surfaced to meet the needs of the new automobile, people were willing to pay almost any price to get the roads that they wanted and needed. During this time, economics was the main consideration and the best road was almost always the shortest distance between two points. In more recent years, as the Interstate System and other major limited-access highways were built, the tremendous impact of these modern, safe, efficient and really superhighways came to be felt on the entire society. Planners and designers began to be more concerned with aesthetics and safety than a better location.

Now we have turned completely around. No longer is money the overriding factor. It is still a very important consideration, for we can build nothing without it, but it is no longer the most important, and it should not be. Now roads must do more than just transport people, goods and services. They must be planned and designed to blend with our communities.

II. The County's Right To Acquire Property

The Constitution of Georgia and the Constitution of the United States provide that private property may be acquired for public purposes and that just compensation be paid for all property so acquired.

III. Notification to Property Owners that Property Is Needed.

The County will advise property owners well in advance of actual negotiations. This is done through public hearings, meetings and personal visits. DO NOT ACT ON RUMORS. Property owners should have the facts from the County before building or making major changes. The mere fact that a survey is being made on or near a piece of property does not mean that the final location of a proposed transportation facility will cross certain lands.

IV. What Will Be Paid For Property?

Property owners are entitled to receive fair market value for their property. Market value is defined as the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer. The County will negotiate with a Property owner to reach an agreeable price for the property. Please note that the County can only pay the fair market value for the property, consequential damages, if any, and other costs, such as moving expenses, fence relocation, etc. If the parties cannot agree to a price for the acquisition of the property, the value will be determined from appraisals prepared by highly qualified appraisers. Property owners or their designated representative will be given an opportunity to accompany the appraiser during his/her inspection.

The appraisals are checked for accuracy to make certain that no items of allowable value have been overlooked or omitted. Property owners will be offered the full amount of the appraiser's estimate of fair market value. This offer will be made in writing.

If the entire property is needed, Property owners will be offered the fair market value of the entire property. If only a part of the property is needed, Property owners will be offered the fair market value of that part to be acquired plus any damages accruing to the remaining property. Should the remainder be classified by the County as an uneconomic remnant the County will offer to purchase the remainder.

V. Some Advantages Of Selling Property To The County

1. Cash Sale

2. No real estate commission to pay

3. Reimbursement will be made for:

a. Recording and/or cancellation fees, and similar expenses incidental to the conveyance of the acquired property to the County.

b. Penalty costs for pre-payment of any pre-existing recorded mortgage entered into in good faith encumbering such real property.

c. A pro-rated portion, on a calendar year basis, of all real estate property taxes which have been paid or which are due and payable at the time of acquisition.

d. Reasonable survey fees to reestablish existing property corner pins that were removed as a result of the acquisition or construction.

4. The owners do not pay legal or appraisal fees unless they hire their own attorney or appraiser.

VI. Who Prepares The Deed And Handles The Closing?

The closing will be similar to that required in any real estate transfer. The County prepares the deed. There will be no charges for preparing the deed.

Naturally, it may be necessary to use the proceeds from the agreed upon price to satisfy outstanding loans or liens on the property. The County representative will be glad to try to bring together all parties who have any interest in the property. When an agreement is reached, the County will deliver payment upon satisfaction of any outstanding encumbrances and upon execution of the deed.

VII. What Happens If An Agreement To Sell Cannot Be Reached?

Since the County must acquire the property in order to construct the proposed facility, Georgia law provides that the County can initiate a condemnation suit under eminent domain proceedings. This suit would be filed in the Superior Court of Fayette County. One of the following methods will be employed:

(a) Declaration of Taking

This is the most commonly used method. Upon filing the petition, the County deposits its estimate of just compensation. At this time title passes to the County.

(b) Special Master

Under this method the Judge of the superior court appoints an attorney to hear the evidence and make an award.

(c) Three Assessors

Under this method one assessor is selected by the owner, one by the County and the third by agreement of the first two, or if agreement cannot be reached, the third is appointed by the

Judge of the Superior Court. These three review the facts and make an award based on their findings.

VIII. May I Keep My Home Or Other Buildings?

There are two procedures by which the owner may retain the home or other buildings located on or partially on the property being acquired as right of way. During negotiations an agreement will be reached with the owner in regard to such buildings and will be spelled out in the agreement to sell. These procedures are as follows:

1. The owner may wish to retain the buildings at a predetermined retention value set by the County and make arrangements to have the buildings moved to a new location. Under this procedure, the County will pay the owner the appraised value less salvage value as determined by the County. The owner will be required to post a cash bond until the buildings have been removed. Once the buildings have been removed the cash bond will be refunded.

2. Improvements not retained under paragraph one (1) may be sold on the open market if the County finds that there is a market for such improvements. An owner will be furnished a proposal by a County representative when the buildings are offered for sale. In some instances, buildings located in the right of way of a project may be advertised for sale with the understanding that they will be delivered to the purchaser when and if they are acquired by the County. Offerings for sale prior to acquisition are sometimes necessary in order to coordinate the disposal of buildings for an entire project, expedite demolition or removal after the buildings are acquired and vacated, and minimize vandalism.

IX. When Must I Vacate My Property?

The occupants of property required for rights of way will not be required to vacate prior to three months from the date they were first and formally contacted in regard to the purchase of the occupied property nor less than two months from the date of its acquisition.

X. May I Move Prior To Negotiations To Acquire My Property?

It is the property owner’s right to move when they wish. In the event a property owner desires to move prior to negotiations for the parcel (occupied property), eligibility for Relocation Assistance Benefits could be forfeited.

XI. Suppose I Need Assistance In Relocating?

Any person, family, business or farm displaced shall be offered relocation assistance services for the purpose of locating a comparable replacement property. Relocation services are provided by qualified personnel employed by the County. It is their goal and desire to be of service and assist in a successful relocation.

A representative of the County will contact all affected persons and explain the services and payments available. Property owners will be provided current lists of comparable replacement housing, available on the open market and "decent, safe and sanitary".

The County's representative is familiar with the services provided by other public and private agencies in the community. Please make any needs known to the County's representative; if this representative cannot personally help with specific problems, perhaps the representative knows someone who can.

The County will furnish information concerning local housing ordinances, open housing, building codes, social services, data for such costs as security deposits, closing costs, typical down payments, interest rates and terms, VA and FHA insured loan requirements, real property taxes, consumer education literature on housing and various other subjects.

XII. An Illegal Alien Is Not Eligible For Relocation Assistance Payments & Benefits

Public Law 105-117 provides that aliens not lawfully present in the United States are not eligible to receive relocation assistance payments and/or any other benefits that are commonly provided to displacees. This law requires that persons seeking relocation payments or assistance under the Uniform Act certify, as a condition of eligibility, that they are citizens or are otherwise lawfully present in the United States.

If it is discovered that some of the occupants of the household and/or business are illegal aliens, then any payments or benefits the family or business would have received if all were legally present in the U. S., would only be made payable to the remaining eligible family occupants or business members based on a pro rata share basis of each member's eligible share. The shares of those that are illegal aliens cannot be paid to any of the remaining eligible displacees. Under law, the County may deny eligibility only if:

(1) a person fails to provide the required certification; or

(2) the County determines that a person's certification is invalid, based on a fair and nondiscriminatory review of an alien's documentation or other information that the agency considers reliable and appropriate; and

(3) the agency concludes that denial would not result in "exceptional and extremely unusual hardship" situations.

XIII. Will I Have To Pay Moving Costs To Have My Furniture And Other Personal Property Moved?

If a Property owner is displaced, he/she is entitled to be reimbursed, subject to certain limitations and requirements, for reasonable and necessary moving costs. These costs may include the costs to dismantle, insure, disconnect, transport, crate, unload, load, reconnect and modify personal property. Also service charges necessary to disconnect and reconnect utilities are reimbursable.

This does not include any costs which may be incurred to add to, improve, alter, or make physical changes to the replacement structure. **Prior to payment for the removal and reinstallation of personalty, the owner and the County must agree in writing that the property is personalty and that the County is released from any payment for the property as realty.**

Moving costs may include temporary storage of personal property, not to exceed twelve (12) months, if the County determines storage is necessary. In hardship cases, arrangements may be made for payment of moving expenses in advance, but only after the property on which the property owner resides has been acquired by the County.

XIV. Persons Eligible For Moving Payments

To be eligible for moving payments the property must be acquired by the County and the person must have been:

1. In legal occupancy at the time the owner is given a written offer for the property to be acquired; or

2. In legal occupancy at the time the property is acquired by the County.

XV. Moving Payments – Individuals And Families

Eligible individuals or families may be reimbursed for their reasonable and necessary moving costs by one of the three methods identified as Method “A”, Method “B”, or Method “C”. The method preferred must be selected before the move and indicated on the form entitled “Application for Moving Costs”. Such costs are not applicable to items classified by the County as real property. Property owners cannot combine any parts of the three methods.

There is no limitation on the distance a property owner may move. However, reimbursement for transportation charges is limited to a distance of 50 miles, except with prior approval by the County. Such exceptions will only be allowed when the relocation cannot be accomplished within the 50 mile area and then only to the nearest comparable and available site. Claims must be filed with the County within eighteen (18) months of the date a tenant moves, owners have eighteen (18) months from the date of move or date of final payment for the acquired dwelling, whichever is later.

Occupants of mobile homes are only eligible for payment under Methods “B” or “C” when the mobile home itself is classified as personal property.

Method A -Fixed Moving Cost

An eligible individual or family may choose to be reimbursed a fixed amount as determined by the County (Not Applicable for Mobile Homes). Determination of this amount is based upon the number of rooms having adequate furnishings. This amount includes a dislocation allowance to assist in utility reconnection charges.

Method B -Actual Cost

By written agreement between the County, the mover and property owner, a licensed mover and/or qualified performer of services may be chosen to move personal property. After services have been completed, the mover will present to the property owner an invoice, receipt, statement, or other acceptable documentation of moving costs which the property owner will forward to the County. The mover will be paid directly by the County for all reasonable costs. It may be necessary for more than one mover to complete the move. If so, each must be approved by the County prior to the move. Reconnection charges for utilities, telephones, TV cable, etc., will be reimbursed based on paid actual costs.

Method C - Self Move

The property owner may choose to move himself/herself and be reimbursed for actual reasonable expenses incurred, supported by paid receipted bills or other acceptable evidence of costs incurred. Such payments may not exceed the estimated cost of moving commercially, based on estimates secured by the County prior to moving.

A claim form will be furnished to the property owner, which paid receipts must be attached and submitted to the County for payment. The County's representative will assist the property owner in processing their claim. Reconnection charges for utilities, telephone, T.V. cable, etc. will also be reimbursed.

XVI. Moving Payments-Businesses, Farm Operations, And Nonprofit Organizations

Eligible businesses, farms and nonprofit organizations may be reimbursed for their reasonable and necessary costs of removal, or by moving a reinstallation of personal property by selecting one of the three methods explained below. In hardship cases, arrangements may be made for payment of moving expenses in advance of moving, however, this will only be made after the occupied property has been acquired by the County. The displaced business, farm or nonprofit organization must provide the County seven (7) days advance notice of the approximate date of the start of the move or disposition of the personal property.

The expense of removal, reinstallation, reestablishment and modification of machinery, equipment, appliances and other items which have been considered as personalty, including reconnection of utilities to such items, which do not constitute an improvement to the replacement site, are eligible for reimbursement.

Prior to payment of any expenses for removal and reinstallation of such property, the owner and the County shall agree in writing the property is personalty and the County is released from any payment for the property as realty. The owners or operators must (County personnel will assist if needed) prepare and execute a certified inventory of the items to be actually removed and reinstalled. This certified inventory must be prepared and attested to for all moves. If the items listed on the certified inventory deviate to a significant extent from the items actually removed and reinstalled, the amount previously agreed will be revised accordingly.

In addition to Method A- Self Move or Method B- Actual Cost (see below), the following moving incidentals will be reimbursed, based on receipted bills, if pre-approved by the County and are considered reasonable and necessary:

1) licenses

2) permits

3) relettering of signs

4) replacing stationery on hand that is made obsolete may be reimbursed

5) connection to available nearby utilities from the right-of-way to improvements at the replacement site

6) professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site.) At the discretion of the County a reasonable pre-approved hourly rate may be established

7) impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the County

The method desired must be selected prior to moving by executing a County form entitled "Application for Moving Costs Benefits." Relocatees will be advised of the amount of estimate prior to signing. The County's representative must be permitted to make reasonable and timely inspections of the personal property at both the acquired site and the replacement site and to monitor the move. Claims must be filed with the County within eighteen (18) months of the date of move or date of final payment for the property, whichever is later.

(a) Method A -Self Move

If the relocatees want to take full responsibility for the entire move, they may choose to be reimbursed by Method A, known as the Self-Move Method.

The amount will be based on estimates prepared by the County and/or qualified moving contractors. The relocatee may elect to submit to the County paid receipted bills or other evidence of costs incurred to support the costs of the move. In no event will a payment be made in excess of what would have been paid for a move by a commercial mover.

(b) Method B -Actual Cost

An eligible relocatee may elect to be reimbursed by the Moving Contractor Method. The County will secure at least two (2) estimates from licensed moving contractors and will establish payment based on these estimates. Upon completion of the removal and reinstallation the County will make payment directly to the contractor.

(c) Alternate Payments In Addition To Method "A" Or "B"

Payment for losses of tangible personal property may be made when it is decided not to move such property. A payment of this type requires a bona fide effort to sell the item(s). Reimbursement will also be made for the reasonable expenses incurred to effect the sale.

The property owner should consult the County's representative if they have personal property which may not be moved or which may be replaced at a new location.

XVII. Reestablishment Costs

The owner of a displaced small business, farm, or nonprofit organization is entitled to receive a payment for actual necessary and reasonable expenses to reestablish at a new site. This payment is limited to a maximum amount of $10,000.00 and will only be paid under Methods "A", "B" or actual direct losses of tangible personal property payments.

*Small Business -is a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. The income generated from the business must have been reported and filed with the IRS and the Georgia Revenue Department in order to be eligible to receive reimbursement of the eligible expenses associated with the reestablishment of the business.

When claiming this expense, the claimant will be required to submit certified copies of their current individual and business income tax returns to the County for verification and documentation.

Sites occupied solely by outdoor advertising signs, displays or devices do not qualify as a business and are not eligible for the reestablishment expense.

"Economic Activity" is when the site is producing or is capable of producing an ongoing legal financial activity currently in operation or where there has been some kind of economic development produced at or by the residence or building within the last twenty four (24) months prior to the initiation of negotiation for the parcel. A detailed list of the charges that were or will be involved in the reestablishment of the business will be reviewed by the County and all eligible costs that were actually incurred and paid will be reimbursed, but not to exceed the maximum amount allowed as stated above. These expenses include the following:

1. Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance,

2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business,

3. Construction and installation costs for exterior signing to advertise the business,

4. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting,

5. Advertisement of replacement location,

6. Estimated increased costs of operation during the first two (2) years at the replacement site for such items as: (a) lease or rental charges, (b) personal or real property taxes, (c) insurance premiums, and (d) utility charges, excluding impact fees,

7. Other items that the County considers essential to the reestablishment of the business.

The following is a non-exclusive listing of reestablishment expenditures not considered to be reasonable, necessary or otherwise eligible:

1. Purchase or construction of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures.

2. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

3. Interest on money borrowed to make the move or purchase the replacement property.

4. Payment to a part-time business in the home which does not contribute materially to the household income.

5. Sites occupied solely by outdoor advertising signs, displays or devices.

XVIII. Actual Reasonable Expenses In Searching For A Replacement Location

The owner of a displaced business, farm, or nonprofit organization may be reimbursed for the actual reasonable expenses in searching for a replacement location, not to exceed two thousand and five hundred dollars ($2,500). Such expenses may include transportation expenses, meals, lodging away from home and the reasonable value of time actually spent in search, including the fees of real estate agents or real estate brokers.

(a) Receipted Bills - All expenses claimed, except the value of time actually spent in search, must be supported by receipted bills.

(b) Time Spent in Search - Payment for a person(s) time actually spent in search must be documented and the hourly wage rate must be reasonable. Also a certified statement of the dates and hours spent searching, including the places visited and the persons contacted, must accompany this claim.

(c) Method C - In Lieu Of "A" Or "B"

In lieu of payment under Methods "A" or "B" and if actual direct losses of tangible personal property are not desired, an owner of a discontinued or relocated business, farm or nonprofit organization may be eligible to receive a payment equal to the past two (2) tax years average annual net earnings.

Such payment shall not be less than one thousand dollars ($1,000.00) nor more than twenty thousand dollars ($20,000.00). A person whose sole business at the displacement site (single or multi family units) is the rental of such property will not be eligible for this payment.

For the owner of a business to be entitled to this payment, the County must determine that:

(1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move; and the business vacates or relocates from its displacement site.

(2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings).

(3) The business is not part of a commercial enterprise having more than three other establishments which are not being acquired by the County, and which are under the same ownership and are engaged in the same or similar business activity.

(4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.

(5) The business is not operated at the displacement site solely for the purpose of renting the site to others.

(6) The business contributed materially to the operator's income during the two (2) taxable years prior to the taxable year displacement occurs as follows:

a. had average annual gross receipts of at least $5,000, or

b. had average annual net earnings of at least $1,000, or

c. contributed at least 33 1/3 percent to the operator's average annual gross income from all sources.

For the owner of a displaced farm operation to be entitled to this payment, the County must determine that:

(1) The farm operation produces products or commodities in sufficient quantity to be capable of contributing materially (as defined in (6) above) to the operator's support.

(2) The farm operator was required by the acquisition to discontinue his entire farm operation at the present location or required to relocate the entire farm operation.

(3) In the case of a partial acquisition of land which was a farm operation before the acquisition; the payment may be made if it is determined that:

a. The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land, or

b. The partial acquisition caused a substantial change in the nature of the farm operation.

For a nonprofit organization to be eligible for this payment, the County must determine that the nonprofit organization cannot be relocated without a substantial loss of its existing membership or clientele.

Any payment in excess of $1,000.00 must be supported with financial statements for the two twelve-month periods prior to displacement. The amount to be used for any payment by the County is the average of two (2) years annual gross revenues less administrative expenses.

(1) Payment Determination -Businesses And Farms

The term “average annual net earnings” means one-half of any net earnings of the business or farm before Federal, State and local income taxes, during the two taxable years immediately preceding the taxable year in which the business is relocated. “Average annual net earnings” include any compensation paid by the business or farm to the owner, his spouse, or his dependents during the two-year period. Such earnings and compensation may be established by Federal income tax returns filed by the business or farm and its owner, his/her spouse, and their dependents during the two-year period. In the case of a corporate owner of a business or farm, earnings shall include any compensation paid to the spouse or dependent of the owner of a majority interest in the corporation. For the purpose of determining majority ownership, stock held by a husband, his wife and their dependent children shall be treated as one unit.

(2) A Business or Farm Less Than Two Years

If the business or farm was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two taxable years prior to displacement, projected to an annual rate.

(3) Owner Must Provide Information

For the owner of a business, farm, or nonprofit organization to be entitled to this payment, they must provide information to support the net earnings. City, County, State, or Federal Tax Returns or a certified financial statement prepared by a Certified Public Accountant (C.P.A.) for the tax years in question are the best source of this information and would be accepted, as evidence of earnings.

A representative of the County will assist businesses, farm operations, nonprofit organizations and owners of other personal property in processing applications and claims.

XIX. Replacement Housing Payments To Owners for Federal-aid

If the County's project is funded in whole or in part by federal-aid, displaced owner-occupants of a dwelling may receive payments for the additional costs necessary to purchase comparable replacement housing, compensation for the loss of favorable financing of the existing mortgage in the financing of replacement housing and reimbursement for certain closing costs incidental to the purchase of replacement housing.

A "comparable dwelling" is one which, when compared with the dwelling being acquired, is (a) decent, safe and sanitary; (b) functionally equivalent with particular attention to the number of rooms and living space; (c) in an area not subjected to unreasonable adverse environmental conditions; (d) is not generally less desirable than the dwelling being acquired in regard to public utilities and public and commercial facilities; (e) reasonably accessible to the displacee's place of employment; (f) on a site that is typical in size for residential development with normal site improvements including customary landscaping, excluding special improvements such as outbuildings, swimming pools and greenhouses; (g) available on the market; and (h) within the financial means of the displaced family or individual.

A. Replacement Housing Payment

The replacement housing payment is the difference, if any, between the amount finally paid for the property acquired and the actual cost which the owner paid for a comparable decent, safe and sanitary dwelling, or the amount determined by the County as necessary to purchase a comparable dwelling, whichever is less.

B. Increased Mortgage Interest Costs

A property owner will be reimbursed for increased interest costs if the interest rate on a new mortgage exceeds that of the present mortgage. The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located. To be eligible, the acquired dwelling must have been encumbered by a bona fide mortgage which was a valid lien for at least 180 days prior to the initiation of negotiations and the mortgage was for the purchase of or improvements to the dwelling.

The property owner may also be eligible for reimbursement of purchaser points and/or loan origination fees, when such fees are normal to real estate transaction in the area (payment will be based on the remaining balance of the mortgage on the acquired property).

C. Closing Costs

A property owner may also be reimbursed for other expenses such as reasonable costs incurred for title search, recording fees and certain other closing costs, but not including prepaid expenses such as real estate taxes and property insurance.

XX. Owner Retains His Dwelling And Uses It As Replacement Dwelling

It is possible for an owner to retain the present dwelling, move it from the right of way and use it for replacement housing. Please contact the County's representative for details.

XXI. Replacement Housing Payment Eligibility for Federal-aid Projects for Owner-Occupant for 180 Days or More.

To be eligible for replacement housing payments for a federal-aid project, the displacee must have owned and occupied the dwelling for not less than 180 consecutive days immediately prior to the first formal contact to acquire the property*.

* Initiation of negotiations

In addition, a property owner must purchase and occupy a decent, safe and sanitary replacement dwelling, within one year of the date of the move, receive final payment for the displacement dwelling or the date the required amount is deposited in court, whichever is later.

Application for the replacement housing payment should be made as soon as possible after replacement housing is purchased and must be made on a form furnished by the County. The claim for payment must be filed within 18 months after date of displacement or date of final payment, whichever is later.

Replacement dwellings must be decent, safe and sanitary. In brief, this means that the replacement dwelling conforms to State and Local building plumbing, electrical, housing and occupancy codes or ordinances, or in the absence of such codes it meets similar criteria established by the County. The County's representative will furnish a copy of these requirements. The replacement dwelling must be inspected by a representative from the County to see that it meets these standards prior to payment.

XXII. Inspection Should Be Made Before Any Agreement To Buy Or Rent Replacement Housing Is Made.

In the event the replacement dwelling does not meet these standards, the displacee will be advised in writing of the deficiencies. It is not necessary to buy a comparable house in order to qualify for a supplemental payment, but the replacement dwelling must be decent, safe and sanitary.

If a relocatee elects to construct a new replacement dwelling, the payment will be based on the cost of comparable housing as determined by the County or the cost of construction whichever is less.

Upon request, the County will verify to any interested party the eligibility of the relocatee for Replacement Housing Payments and the amount of such payment. In addition, the replacement housing payment, closing costs and increased interest costs may be paid at the closing of the

replacement dwelling. The County's representative will advise a property owner of the County's procedure.

XXIII. Rental Payments - Down Payments for Federal-aid Projects

Tenants, owners who prefer to rent, or owners who occupied their dwelling for less than 180 days prior to the initiation of negotiations may be entitled to a supplemental payment to assist them in renting a replacement dwelling if they occupied the property for at least 90 days prior to the initiation of negotiations.

The payment will equal the difference, as determined by the County, between the cost of renting a comparable, decent, safe and sanitary dwelling and the actual or economic rent of the acquired property. The amount of rental payment is determined by subtracting 42 times the average rent being paid during the last three (3) months or the economic rent from the rental cost over forty two (42) months at the comparable property. Utilities will be included in the rental for the acquired property and the comparable replacement property when making this calculation. The rental payment will normally be paid in a lump sum unless the County determines otherwise. To qualify for the payment the property owner must rent and occupy a decent, safe and sanitary dwelling within twelve (12) months of the date of the move, and claim for payment must be filed within eighteen (18) months of the date of the move.

If a sleeping room is rented, the supplemental rent payment, if any, will be based on the rent for a comparable sleeping room. The standards of being decent, safe and sanitary will apply; however, a kitchen area need not be provided. Lavatory and toilet facilities must be provided including a door for privacy which can be locked.

A tenant and short term owner may elect to purchase replacement housing. In that event, they may qualify for a down payment on a comparable decent, safe and sanitary dwelling if the County has determined, computed and has made the displacee a rental supplement payment offer.

The displacee does not qualify for a down payment assistance amount if he/she was not eligible to receive a rent supplement payment amount. The down payment replacement housing payment is not to exceed the amount of the rent supplement, if any, described above including closing costs (Election to purchase must be made within twelve (12) months of the date moved, when converting a rent supplement to down payment.)

XXIV. Mobile Homes

Occupants of mobile homes are basically entitled to the same moving and replacement housing payments as occupants of a conventional dwelling.

The various choices and combinations of payments are too numerous to list; however, relocatees who occupy a mobile home will be contacted and advised of the choices, amounts and procedures to claim the moving cost and replacement housing payments.

XXV. Subsequent Occupants

Persons in occupancy when property is acquired by the County, but who do not qualify as either a 180 day or 90 day occupant prior to the initiation of negotiations, are eligible for advisory services and reimbursement of moving expenses. Also, they may be eligible for financial assistance in obtaining replacement housing if comparable housing is not available within their financial means.

XXVI. Replacement Housing Payments In The Event Of Condemnation

Since replacement housing payments are determined partially from the amount paid by the County for the property acquired, a final determination of payment due cannot be made in the event of condemnation until the condemnation has been settled. The replacement housing payment will be recomputed based on the verdict by the court compared to the actual price paid for replacement property, or the amount determined by the County necessary to acquire a comparable decent, safe and sanitary dwelling, whichever is less.

An advance payment may be made by the County pending the final determination of condemnation. Such payment would be limited to the amount determined by the County. The owner must execute a promissory note and Deed to Secure Debt in the amount of the advance payment on the replacement property before an advance payment is made. Should the recomputation of benefits due result in a decrease of payment, the difference would have to be refunded to the County. Should the recomputed benefits result in an increase the additional payment will be made by the County.

XXVII. Effects Of Relocation Assistance Benefits On Income

No relocation payment received will be considered as income for the purpose of the Internal Revenue Code or for the purposes of determining eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

XXVIII. Appeals

(Relocation Assistance & Incidental Expenses)

Any disagreement on eligibility for, or the amounts of, relocation payments and expenses to transfer title to the County may be appealed. An appeal should be made as soon as a person is aggrieved, but the latest an appeal may be filed is twelve (12) months from the date a written notification of the County's determination of eligibility or amounts of payment was received.

The appeal will be handled by the County in accordance with Federal law (42 USC 4601 *et seq.*) in the following manner:

1. Upon receipt of the appeal all determinations of benefits will be administratively reviewed by the County's public works director. Prompt notification of the results of the County review will be provided.

2. If, after the County's review, a further review is desired, a request in writing must be made to the board of commissioners.

3. If the decision of the board of commissioners is unsatisfactory to the Appellant or the County, either party may appeal that decision via a writ of certiorari to the Superior Court of Fayette County within 30 days of the board of commissioners' decision.

In the event the property being acquired by the County is pending final judgment due to condemnation and the appeal pertains to the cost of replacement housing, the appeal findings will only determine the cost of replacement housing. No payment can be determined until final judgment at which time the County will use this cost in computing the amount of Replacement Housing Payment.

XXIX. 1968 Fair Housing Law

In Title VIII of the Civil Rights Act of 1968 (the Fair Housing Law), Congress declared a national policy of providing fair housing throughout the United States. This law and later Acts and amendments make discrimination based on race, color, religion, sex, or national origin illegal in connection with the sale or rental of most housing and any vacant land offered for residential construction or use.

XXX. The Americans With Disabilities Act Of 1992

The Americans with Disabilities Act, of 1992 requires non-discrimination on the basis of Disability in State and Local Government Services. Therefore, no individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the service or activities of a public entity or be subjected to discrimination by any such entity.

XXXI. Control of Right Of Way

Right of Way conveyed to the County for public road purposes must be utilized for that purpose exclusively, except such encroachments as may be permissible by permit from the County. The adjacent land owner or other individuals are not permitted to use the right of way for permanent parking, storage of materials, display of merchandise, erection of signs, fences, or other structures. Prior to planning construction adjacent to the right of way, the owner should contact the County. On Limited Access Projects, no entrances are permissible across the limited access right of way.

XXXII. Environmental Law

The purchase of property by the County does not limit Environmental responsibility of either the Grantee of Grantor under Federal 40 CFR 280.12 or other applicable State or Federal Environmental Laws.