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May 24, 2017

**MEMORANDUM**

**TO:** Ian Golden, Housing and Human Services Director

**RE:** Item VI.B.1., Approval of Community Development Block Grant (CDBG) Demolition and Clearance Program Policy

The Board of County Commissioners, in regular session on May 23, 2017, executed the CDBG Demolition and Clearance Program Policy; and authorized the Chairman to sign future amendments and modifications. Enclosed is the fully-executed Policy

Your continued cooperation is always appreciated.

Sincerely,

**BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK**

Tammy Rowe, Deputy Clerk

Encl. (1)



# HOUSING & HUMAN SERVICES DEPARTMENT POLICY

BOARD OF COUNTY COMMISSIONERS

	<b>NUMBER:</b>	<b>HHS-19</b>	
<b>TITLE:</b>	<b>CDBG DEMOLITION AND CLEARANCE PROGRAM</b>	<b>CANCELS</b>	<b>Original</b>
	<b>APPROVED:</b>	<b>5/23/17</b>	
	<b>EFFECTIVE:</b>	<b>5/23/17</b>	
	<b>DATE:</b>	<b>5/15/17</b>	
	<b>ORIGINATOR:</b>	<b>CDBG TEAM</b>	
	<b>REVIEW:</b>	<b>AS NEEDED</b>	

**I. OBJECTIVE:**

To establish a policy for Community Development Block Grant Demolition and Clearance Program to implement written procedures to ensure that the demolition of unsafe structures comply with all necessary regulations and requirements. This policy will also provide guidelines and priorities for the implementation of the Demolition and Clearance program.

**II. DEFINITIONS:**

- A. Applicant – A person or household who submits a signed and completed Housing and Human Services Department application for assistance
- B. Assets – Assets are defined by Section 8 regulations 24 CFR Part 5 Subpart F 5.603(b). Actual or “imputed” income from assets is included in projected annual income
- C. BOCC – Brevard County Board of County Commissioners
- D. Borrower – an Applicant who has been approved (after income and property eligibility has been completed) for assistance
- E. CAPER – Consolidated Annual Performance & Evaluation Report (HUD annual report)
- F. CDBG – Community Development Block Grant
- G. CFDA – Catalog of Federal Domestic Assistance
- H. CFR – Code of Federal Regulations
- I. CONSOLIDATED ACTION PLAN – a 1-year plan updating the Consolidated Plan
- J. CONSOLIDATED PLAN – A 5-year plan itemizing community needs/strategies

- K. Default - A default shall be the occurrence of any of the following events, and upon that occurrence the County may, at the County's option, declare all sums secured by the Mortgage Lien to be immediately due and payable
1. Nonperformance by the Applicant or Borrower of any covenant, agreement, term or condition of the Mortgage Lien, or of the Note, or of any other agreement made by the Applicant or Borrower with the Housing and Human Services Department in connection with such indebtedness, after the Applicant or Borrower has been given due notice, as described hereafter, by the Housing and Human Services Department of such nonperformance
  2. Failure of the Applicant or Borrower to perform any covenant, agreement, term or condition in any instrument creating a lien upon the mortgaged property, or any part thereof, which shall have priority over the lien of the Mortgage
  3. The Housing and Human Services Department's discovery of the Applicant or Borrower's failure in any application of the Applicant or Borrower to the Housing and Human Services Department to disclose any fact deemed by the Housing and Human Services Department to be material, or the making therein, or in any of the agreements entered into by the Applicant or Borrower with the Housing and Human Services Department (including, but not limited to, the Note and Mortgage) of any misrepresentation by, on behalf of, or for the benefit of the Applicant or Borrower
- L. Deferred Loan – A no-interest loan to an eligible Household that is forgiven without repayment upon satisfaction of all requirements of the Household's agreement with Brevard County. The Household has an option to repay the loan at any time within the 10 to 15 year lien period without penalties and interest accrual, assuming the loan is not in default at any time. Defaulted loans may be subject to interest penalties
- M. DEPARTMENT – Housing & Human Services Department
- N. F/Y – Funding Year
- O. GRANTEE – Brevard County Board of County Commissioners
- P. Household - "Household" includes all dwelling occupants to include, friends, legal spouse, children and relatives. Occupants not claiming the applicant dwelling as their primary residence should not be included in determination of eligibility if primary residency can be verified outside of the applicant's household for a period of six months or greater prior to the application and the occupant is not a signatory on any deed or mortgage associated with the applicant dwelling
1. If the co-signor is not a spouse, and can document his/her residence at another location, then his/her income is not calculated, however, he/she must sign the security instrument with the County
- Q. HUD – Department of Housing & Urban Development
- R. Income – Projected annual income established in compliance with regulations, specifically established at 24 CFR Part 5.609

- S. IDIS – Integrated Disbursement & Information System (a computerized HUD project data base)
- T. Liquid Assets – Liquid assets are those in the possession of the household seeking assistance, which can readily and promptly be turned into cash. Examples include, but are not limited to: Checking Accounts, Savings Accounts, Certificates of Deposit, Treasury Bonds, Money Market Funds, or Savings Bonds. Not included in the liquid asset calculation are funds not readily accessible or specifically resulting from lump sum pension distributions, or other 401K/IRA-type retirement fund accounts designed to enhance social security benefits. Applicant must provide documentation from fund management institution of identification of these assets as intended retirement enhancement funding
- U. Median Income – the area median family income in Brevard County, Florida, adjusted for family size, as published annually by the U.S. Department of Housing and Urban Development
- V. OMB – Department of Office of Management & Budget
- W. Subordination – the process of placing, ranking, or positioning a mortgage as secondary to the primary mortgage. The Demolition and Clearance Program will remain in first, second or third position
- X. Satisfaction – a document recorded with the Clerk of Court removing lien(s) from the property

### III. **REFERENCES:**

- A. CFDA Part 14.218 – The catalog of Federal Domestic Assistance. This is the number of the (CDBG) Entitlement Grants Program
- B. 24 CFR Part 570 – Provides the General Provision of the CDBG “entitlement grants” program as authorized under Title 1 of the Housing & Community Development Act of 1974 as amended, whereas the primary objective of CDBG is the development of viable urban communities by providing decent housing, suitable living environments, and economic opportunity. Part 570 provides instructions for eligible activities, Grant Administration, and other program requirements
  - a. Housing & Community Development Contractor Debarment and Other Sanctions Policy – Procedure for Debarment
  - b. 24 CFR Part 24 – Suspension and Debarment
  - c. 24 CFR Part 84 – Administrative Requirements for Non-Profit Agencies
  - d. 24 CFR Part 85 – Administrative Requirements for Local Government entities
    - 1. OMB Circulars (Office of Management & Budget)
    - 2. A-21 “Cost Principles for Educational Institutions

3. A-87 "Cost Principles for State & Local Governments"
  4. A-110 "Program Standards for Non-Profits"
  5. A-122 "Cost Principles for Non-Profits"
  6. A-133 "Single Agency Audit Requirements"
- C. 24 CFR Part 1 – The regulations promulgated pursuant to Title VI of the 1984 Civil Rights Act
  - D. 24 CFR Part 107 – The regulations issued pursuant to Executive Orders 11063 that prohibit discrimination and promote equal opportunity in housing
  - E. Executive Order 11246, (and Revised Order Number 4), as amended by Executive Orders 11375 and 12086 – which established hiring goals for minorities and women on projects assisted with federal funds
  - F. Title VII of the 1964 Civil Rights Act as amended by the Equal Employment Opportunity Act of 1972 – which prohibits discrimination in employment
  - G. Age Discrimination Act of 1973 and 1975 as amended
  - H. Public Law 100-430 – The Fair Housing Amendments Act of 1988
  - I. 24 CFR 58.5 – Environmental Review
  - J. 24 CFR 57.605 – Flood Insurance: CDBG funds may not be provided in a FEMA designated special flood area unless specific precautions are undertaken
  - K. 24 CFR Part 35 and Section 401(b) – of the Lead-Based Paint Poisoning Prevention Act. Lead-Based Paint
  - L. 29 CFR Part 5 – Labor Standards: Construction activities may be required to comply with the Davis Bacon Act and the Safety Standards Act
  - M. 24 CFR 85.36 and 85.42 – Conflict of Interest: CDBG projects must comply with procurement requirements and other conflict of interest provisions (depending upon the type of activity)
  - N. Acquisition, Relocation & Replacement Housing: CDBG-funded projects and subject to relocation requirements, as a result of rehabilitation, demolition or acquisition
  - O. Public Law 103227, Part "C" Tobacco Smoke, also known as the Pro Children Act of 1994. (State)
  - P. Drug-Free: Drug-Free Workplace Act of 1988

#### IV. DIRECTIVES

##### Voluntary Demolition and Clearance Program:

Assistance can be provided for eligible multi-family structures located in Brevard County's CDBG strategy areas and single family residential property County-wide excluding areas which are not part of the Urban County as defined by HUD (currently excluded areas include Titusville, Cocoa, Melbourne, and Palm Bay). Program assistance can be utilized to demolish condemned structures, to demolish dilapidated or hazardous structures, and clear property of debris. Demolition and Clearance activity includes removal of dilapidated structures, junk vehicles, scrap materials, junk, debris and other hazardous or nuisance items from the property in order to place it in a safe and sanitary condition. The assistance amount shall not exceed the actual cost of demolition and clearance.

**A. Program Administration**

The Brevard County Housing and Human Services Department shall be responsible for the administration and monitoring of the Demolition and Clearance Program.

**B. Assistance Priorities**

The principal factors considered in setting the priorities and sequence of structures to be demolished will be:

1. Structures that have been vacant for at least three months, prior to the application for assistance and either recommended by residents or condemned by the Code Department.
2. Date of condemnation.
3. Cooperation of property owner.

**C. Eligibility**

1. Applicants must submit a signed and dated application provided by the Housing and Human Services Department. Income eligibility must be verified based on the regulations of the applicable funding source and BOCC approved policies.
2. If Household is disqualified due to being over-income, the disqualification period will be 6 months from day of notice. At that time, the applicant/household may re-apply when the Program is open to new applicants.
3. Applicants determined to be ineligible due to falsification of application will be disqualified from the Program for two years.

**D. Eligible Property**

1. Property must be located within Brevard County.
2. Property must be vacant.

3. Property can be a house, townhouse, condominium, modular home, or other type of dwelling that can be conveyed by title to be separate from other attached units.

**E. Funding Allocation**

The Demolition and Clearance Program is designed to demolish condemned structures, to demolish dilapidated or hazardous structures, and clear property of debris for very low (0-50% AMI), low (51-80% AMI), and moderate (81-120% AMI) income households. Funding for the program is allocated by CDBG.

**At no time will an applicant receive assistance above the actual costs of Demolition and Clearance.**

INCOME LEVEL	ASSISTANCE	LIEN TERMS
0-80% Median Income	<u>Less than \$15,000</u>	5 year forgivable mortgage lien
Above 81% Median Income	<u>Less than \$15,000</u>	5 year deferred mortgage lien

1. 0% to 80% Median Income Level

Assistance provided is in the form of a deferred, forgivable loan at a zero percent interest rate. The loan must be repaid in full in accordance with approved recapture guidelines when the property is sold or transferred during the lien term. The recaptured funds will be utilized to assist other Demolition and Clearance applicants. Future assistance from any of the Department’s programs is prohibited until any outstanding debt is paid or default is cured.

2. Above 81% Median Income Level

Assistance is in the form of a deferred loan at zero percent interest. The loan must be repaid in full in accordance with approved recapture guidelines when the property is sold or transferred. The recaptured funds will be utilized to assist other Demolition and Clearance applicants. Future assistance from any of the Department’s programs is prohibited until any outstanding debt is paid or default is cured.

**G. Terms and Conditions**

1. County as Agent

The owner authorizes and designates the County to act as his/her agent in contracting, supervising and inspecting the work.

2. Maintenance

After completion of the work, the owner agrees to maintain the property in good condition and will ensure that the property is kept in compliance with all applicable codes.

### 3. Cooperation

The owner must agree to provide information necessary for grant administration and monitoring, and to otherwise reasonably cooperate with Housing & Human Services staff in expediting the program. Failure to do so will constitute a default.

## H. **Procedures for Implementation**

### 1. Outreach Public Information

The following efforts will be made to make affected property owners and contractors aware of the Demolition and Clearance Program:

- a. Owners will be made aware of the program during inspections of residential structures conducted by Brevard County staff.
- b. Upon notification of non-compliance by the Code Department, staff will invite the property owner(s) to participate in the program.
- c. Area contractors will be contacted to advise them of the work to be done under this program activity.

## I. **Preliminary Inspection**

The Construction Projects Specialist or designated person preliminarily inspects units referred for the Demolition and Clearance program. Units selected for program participation may be determined by:

1. Structure determined to be unsafe, vacant for at least three months prior to the application for assistance, and either dilapidated and unfit for habitation, or condemned by the Code Department.
2. Outward appearance of a structure.
3. Request from property owner.

## J. **Processing**

Upon determination that a structure is unfit for occupancy, unsafe, vacant for at least three months, and either dilapidated and unfit for habitation, or condemned by the Code Department, the legal owner(s) will be notified by letter or in person of potential eligibility for this program. When notified of the owner's interest, staff will begin the following process:

1. After review of the preliminary inspection determination and other necessary eligibility review, the Housing and Human Services Department will determine if the property is eligible or ineligible for participation in the program. If the property is determined eligible

for the Demolition and Clearance program, the owner must complete a Consent and Authorization to Demolish and Dispose of a Structure form.

2. Determination of Income Eligibility and level of Available Assistance (per Section IV.F).
3. A title search will be done to determine if there is a mortgage or lien on the property. Upon receipt of the title search showing mortgages or liens, the property owner must obtain a release from the mortgage or lien holder in order to be eligible to participate in the Demolition and Clearance Program. Delinquent property taxes will not preclude the property owner from being eligible to participate in the Demolition and Clearance Program.
4. Mortgage lien documents will be created and executed between the Borrower and the County.
5. An asbestos survey will be ordered which will determine if there is asbestos in the structure; if asbestos is found, an asbestos abatement shall be performed in accordance with the recommended abatement procedure.
6. Documenting slum/blight criteria, title evidence, and other pertinent information.
7. Preparing and reviewing cost estimates, work write-ups and specifications for Housing and Human Services grant assisted demolition work.
8. Preparing contract documents and completing formal competitive bidding procedures.
9. Assuring that qualified contractors are selected through County procurement policies.
10. Performing interim and final inspections of the work.
11. Final lien document and/or a modification will be recorded utilizing actual cost of Demolition and Clearance, and if applicable, will include any approved change orders.
12. Assisting in dispute resolution between the contractor and the Borrower.
13. Assuring that the work meets minimum property code.
14. Assuring that other Federal requirements are satisfactorily met.

#### **K. Mortgage Lien Conditions**

1. Upon approval of the mortgage lien by the primary lending institution (if applicable), the Borrower shall sign an agreement that stipulates the rules and regulations governing the assistance, recapture restrictions, and/or transfer of property.
2. The length of the mortgage lien period is determined by the Assistance Level (per Section IV.F).

3. Upon the death of the Borrower, the mortgage lien balance shall become due in full, unless at the time of the Borrower's death an income eligible family member assumes ownership of the property (family member includes domestic partner).

If ownership of the property must be resolved by Probate, the eligible spouse or family member shall have one hundred and twenty (120) days from the date of acquiring title to the property to assume the Applicant's mortgage lien.

If none of the preceding benchmarks have been met, Brevard County will require repayment of the mortgage lien balance, such repayment to occur at the time the property is refinanced, sold, or transferred. If Brevard County requires repayment, and no refinance, sale, or transfer of the property occurs within ninety (90) days of the County's notification of repayment, the mortgage balance shall cease to depreciate at the annual rate (for Borrowers at or below 80% of Median Income), and will be frozen at the balance in place on the date of the Borrower's death. If the lien is not paid in full, interest shall accrue at 5% per annum; provided, however, that accrued interest plus the mortgage lien balance at the time of the Borrower's death shall not exceed the amount of the Mortgage Lien Note last executed by the Borrower. The mortgage lien will continue against the property until repayment plus interest is satisfied.

4. Upon default of the Borrower, the County may, at its option, declare all sums secured by the Mortgage to be immediately due and payable. Otherwise Brevard County will require repayment of the mortgage lien balance at the time the property is refinanced, sold, or transferred. If no refinance, sale, or transfer of the property occurs at the time of default of the Owner, the mortgage balance shall cease to depreciate at the annual rate (for Borrowers at or below 80% of Median Income) and will be frozen at the balance in place at the date of default. After 90 days, if the mortgage lien is not paid in full, interest may accrue at 5% per annum. The mortgage lien will continue against the property until repayment plus interest is satisfied.
5. No mortgage lien is considered satisfied until a Satisfaction of Mortgage is recorded with the Clerk of Courts by the Housing and Human Services Department.

#### **L. Subordination of County Liens**

1. A Borrower requesting a subordination of the County's mortgage lien must make this request in writing, indicating the reason for the request. The County Manager or Designee must authorize any subordination requested. Staff will identify for the County Manager or Designee, the current status of the County's equity position, and the equity position if the subordination request is approved.
2. Requests, which include the receipt of cash from the refinancing transaction, will not be considered.

3. Requests that increase the affordability of the housing unit or assist a household with catastrophic medical expenses (for the lien holder or relative of the lien holder) not associated with consumer debt, shall be considered.
4. Borrowers must not be in default of the County mortgage lien.
5. The Borrower may be charged any recording fees necessary for the subordination.

#### **M. Satisfaction of Mortgage Lien**

1. Upon satisfactory completion of the lien terms, a Satisfaction of Mortgage will be completed by the Department on behalf of the Board of County Commissioners and filed with the clerk of the court after review of the County Attorney and approval of the County Manager or Designee. The original Satisfaction of Mortgage will be mailed to the Borrower.
2. A Borrower seeking a satisfaction which includes a short payoff request (less than the total amount owed on the County's lien) must make this request in writing, indicating the reason for the request. Staff will identify for the County Manager or Designee, the current status of the County's equity position and any other applicable grant requirements. If all grant conditions are met and the reason for the request is acceptable, the County will accept as its payoff, an equal percentage as that being accepted by the First Mortgage Holder (i.e., First Mortgage Holder has a Lien of \$100,000 and accepts 50% or \$50,000; Brevard County has a lien of \$6,000 and accepts 50% or \$3,000).
3. If the First Mortgage Holder is a Federal or State lending entity (i.e., Freddie Mac, Fannie Mae, Federal Housing Authority (FHA), VA Administration, Florida Housing Finance Corporation etc.) and its guidelines set a maximum allowable payoff, The County will accept the maximum allowable payoff for satisfactory completion of the County's lien. In cases where multiple Federal or State Lending entities have an interest in the property, the County will take an equal share of the maximum allowable payoff ( i.e., FHA \$6,000; VA \$6,000 and Brevard County \$6,000).

#### **N. Demolition and Clearance Contracts**

All Demolition and Clearance contracts will be executed between the contractor and the County, acting as an agent for the owner.

#### **O. Inspections**

The Housing and Human Services Construction Projects Specialist will periodically inspect the work to insure compliance with contract work specifications and the County's Building Codes.

#### **P. Payments**

All contract payments shall be made by the County directly to the contractor. Contractors will be paid total contract price upon completion of the work, final inspection of work will be performed by the Construction Projects Specialist to ensure that all work completed complies with the contract and codes. The contractor shall submit an invoice for payment, release of liens, and warranty documents. Following the receipt of required documents and final approval of work, the Housing and Human Services Department Director and/or the Housing and Human Services Construction Supervisor will authorize payment.

**Q. Change Orders**

Changes in the work order that may become necessary during demolition will be negotiated by the Housing and Human Services Department and approved in accordance with County bid/purchasing procedures.

**R. Closeout**

Following completion of the work to the satisfaction of the County and Borrower, and completion of any final documentation, the County shall accept the work in writing and the project shall be closed-out, subject to the continuing requirements of the contract.

**S. Monitoring**

The Construction Project Specialist will periodically perform inspections and obtain information necessary to insure compliance with the contract.

**V. RESERVATION OF AUTHORITY**

The authority to issue or revise this policy is reserved to the Chair, Brevard County Board of County Commissioners.



\_\_\_\_\_  
Curt Smith, Chair  
Brevard County Board of County  
Commissioners

Approved by the Board on May 23, 2017

ATTEST:



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Scott Ellis, Clerk