

RESOLUTION No. 2009-146-1091

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE CITY OF MIAMI GARDENS HOUSING POLICIES ATTACHED HERETO AS EXHIBIT A; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 13, 2006, the City Council approved the City of Miami Gardens Housing Policies which has been utilized by the Department of Community Development to establish and administer various housing programs, and

WHEREAS, over the course of administering these various Programs, staff has become aware of new funding sources and has found the need to amend the policies in order to encompass new program requirements, and

WHEREAS, City staff is recommending that the City adopt the revised Housing Policies attached hereto as Exhibit A,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. APPROVAL: The City Council of the City of Miami Gardens hereby adopts those Housing Policies attached hereto as Exhibit A.

Section 3. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON JULY 22, 2009.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

MOVED BY: Vice Mayor Watson  
SECOND BY: Councilman Gilbert

**VOTE: 6-0**

Mayor Shirley Gibson	<u>X</u> (Yes)	___ (No)
Vice Mayor Barbara Watson	<u>X</u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u>X</u> (Yes)	___ (No)
Councilman Aaron Campbell	<u>X</u> (Yes)	___ (No)
Councilman Andre' Williams	<u>X</u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	___ (Yes)	___ (No)(not present)
Councilman Oliver Gilbert	<u>X</u> (Yes)	___ (No)

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## City of Miami Gardens Agenda Cover Memo

<b>Council Meeting Date:</b>	<b>July 22, 2009</b>		<b>Item Type:</b>	<b>Resolution</b>	<b>Ordinance</b>	<b>Other</b>	
			<i>(Enter X in box)</i>	<b>X</b>			
<b>Fiscal Impact:</b> <i>(Enter X in box)</i>	<b>Yes</b>	<b>No</b>	<b>Ordinance Reading:</b> <i>(Enter X in box)</i>	<b>1<sup>st</sup> Reading</b>		<b>2<sup>nd</sup> Reading</b>	
		<b>X</b>		<b>Public Hearing:</b> <i>(Enter X in box)</i>	<b>Yes</b>	<b>No</b>	<b>Yes</b>
<b>Funding Source:</b>	<i>(Enter Fund &amp; Dept)</i>		<b>Advertising Requirement:</b> <i>(Enter X in box)</i>	<b>Yes</b>		<b>No</b>	
				<b>X</b>			
<b>Contract/P.O. Required:</b> <i>(Enter X in box)</i>	<b>Yes</b>	<b>No</b>	<b>RFP/RFQ/Bid #:</b>	<b>N/A</b>			
		<b>X</b>					
<b>Sponsor Name</b>	<b>Danny Crew, City Manager</b>		<b>Department:</b>	<b>Community Development</b>			

**Short Title:**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, APPROVING THE CITY OF MIAMI GARDENS HOUSING POLICIES ATTACHED HERETO AS EXHIBIT A; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

**Staff Summary:**

**Background**

On December 13, 2006, the City Council approved the first version of the City of Miami Gardens Housing Policies which was used by the Department of Community Development to establish and administer various housing programs. On July 11, 2007 and March 26, 2008, the Council approved amendments to these policies. In both instances, the policies were primarily amended as a result of the changing real estate market and to address conditions not originally addressed, such as requests for mortgage subordinations.

Since its inception in October 2006, the Department of Community Development has received over 738 applications seeking housing assistance (rehabilitation or homeownership assistance). The Department has also administered several programs funded by various sources, each with their own specific regulations and contractual specifications. With the addition of new funding sources and the processing

of participant applications, staff has found the need to add new program requirements and specific policies for circumstances that are not addressed in the current policies.

### **Current Situation**

The purpose of the Housing Policies is:

- To ensure the City's compliance with the requirements of the various funding sources
- To achieve program effectiveness, including consistency and fiscal responsibility

It is staff's opinion that the current Housing Policies are limited based on the addition of new funding and new program development.

In light of the magnitude of proposed amendments, Staff has determined it more prudent to develop new Housing Policies. Although the overall document is new, it has maintained the essence of the original policies. The document expounds on areas that were not sufficiently detailed and reflects totally new subject areas. The most significant addition has been that of policies pertaining to the process of awarding projects to contractors and the manner in which to handle contractor default. Staff has also deemed it appropriate to incorporate the guidelines governing the Neighborhood Stabilization Program (NSP) into this new Housing Policy document.

Some of the highlights of this new policy document are:

- Applicant eligibility, Section 2, Page 5
- Bidding process and contractor participation and project funding, such as the payment to contractors, Section 5, Page 11
- NSP guidelines, Section 10, Page 23

In addition to the substantive policy changes and updates, Staff has modified the format of the document to reflect a more user-friendly version. Currently, the policies do not have a useable method of reference. For this reason, the newly revised policies have been organized in a straight forward categorized format with the intention of making our daily operations transparent to residents and stakeholders. This format is not only more practical but will allow for easier updates of specific sections without affecting the entire document.

### **Proposed Action:**

It is recommended that City Council approve the attached resolution approving the City of Miami Gardens Housing Policies as submitted.

### **Attachment:**

Attachment A: City of Miami Gardens Housing Policies

1515 NW 167 Street, Building 5 Suite 200  
Miami Gardens, Florida 33169

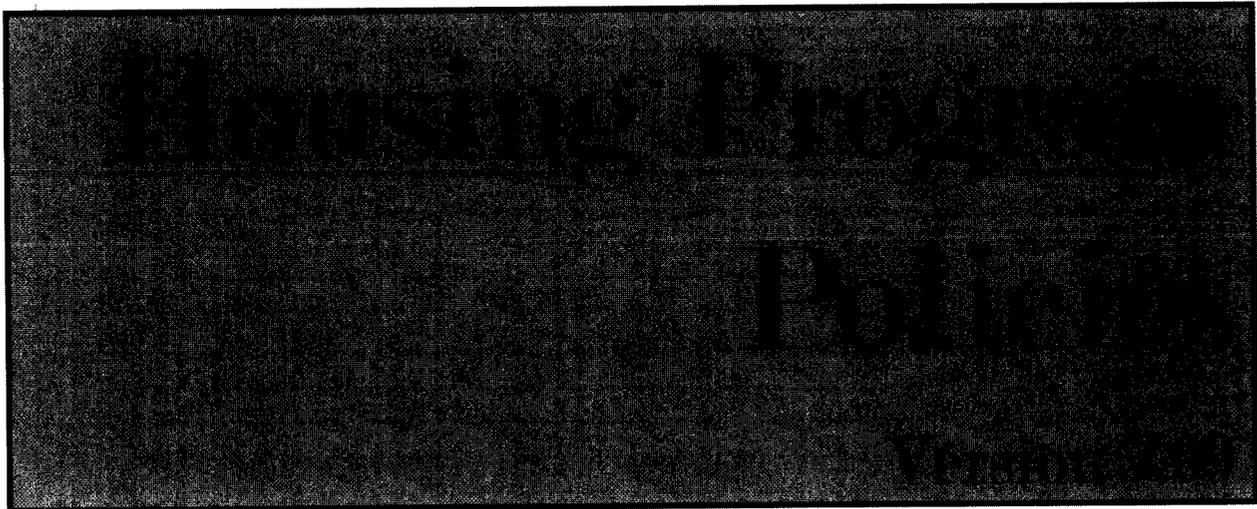




# CITY OF MIAMI GARDENS

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*Department of Community Development*

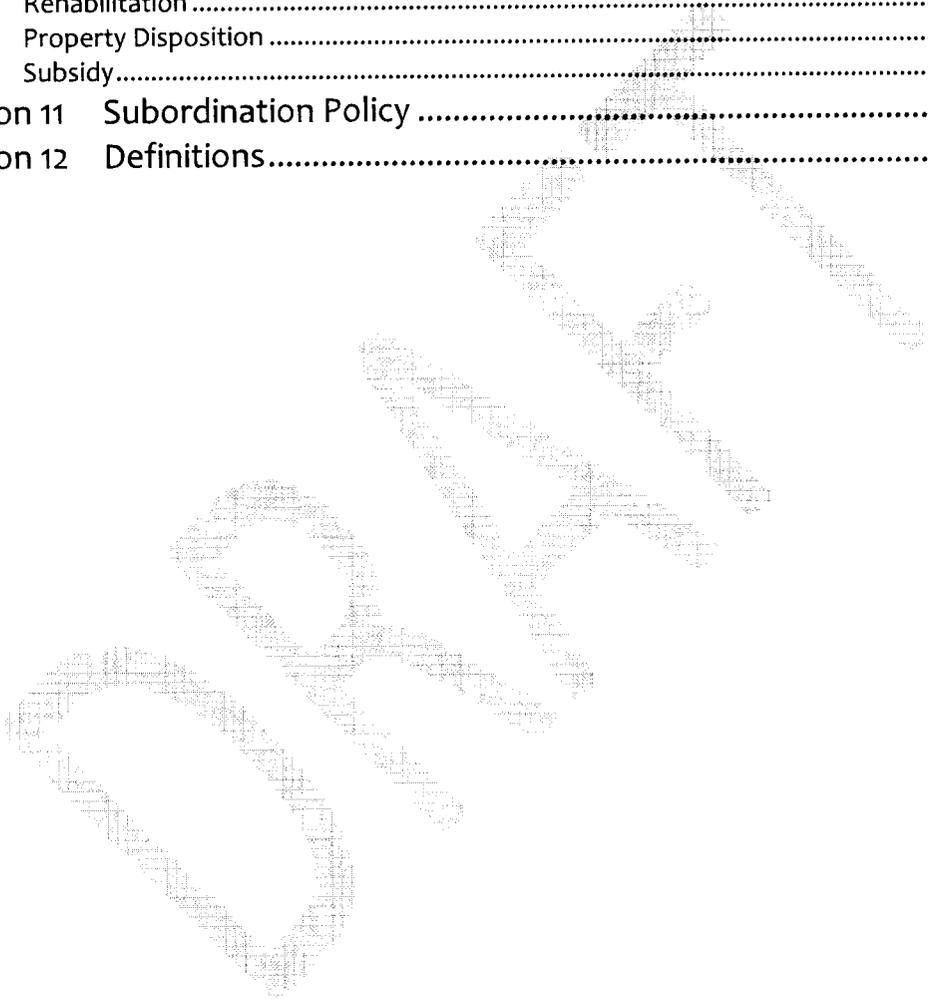


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## Program Objective

The City of Miami Gardens Department of Community Development utilizes the grant funds it receives from the federal, state and local government sources to aid in the development of a viable urban community. The primary objective of this department is to provide decent housing, a suitable living environment and the expansion of economic opportunities for the neediest persons in our community.

The Department serves the City's very low, low and moderate income residents by carrying out a wide range of community development housing activities such as Homeownership Assistance, Housing Rehabilitation, Replacement Homes, Emergency Housing Rehabilitation, Disaster Mitigation and the Neighborhood Stabilization Program.

All housing programs carried out by the Department of Community Development are designed to fulfill the Department's goal of providing safe and decent housing to the residents of this great City. The policies specified here were compiled from Federal and State Statutes and Regulations governing these programs, as well as industry practices that ensure prudent and efficient use of limited government resources for the benefit of the residents of the City of Miami Gardens.

## Statutes and Regulations

The Housing Programs utilize Federal and State funds. The following Statutes and Regulations govern the program and are the source of the policies in this document.

- CDBG Program : (Community Development Block Grant)

Federal Statute: Title 1- The Housing and Community Development Act of 1974. 42 U.S.C.-5301 Regulations: 24 CFR 570 and 24 CFR 982 .

- SHIP Program: (State Housing Initiative Partnership)

Florida Statute: Chapter 420.907 Regulations: Florida Housing Finance Corporation Rule Chapter 67-37

- Neighborhood Stabilization Program:

Federal Register Notice 73 FR 58330, Docket FR-5255-N-01 and amended June 11, 2009 with FR-5255-N-02.

## Environmental

All housing activities will be done in accordance with Federal and State environmental regulations. With respect to any assistance using CDBG funds, an environmental review will be performed by the Department of Community Development and/or their assignee in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR parts 50 and 58. The cost of Environmental Reviews is considered an administrative expense and will be borne by the Department of Community Development.

## Applicant Eligibility

### *Income Criteria*

The U.S. Department of Housing and Urban Development (HUD) determines the "Area Median Income" (AMI) for areas throughout the nation and updates the figure yearly. The applicable local area is Miami-Dade County since HUD does not provide a figure for the City of Miami Gardens specifically. When the policies use the term "median income" or AMI, it refers to the HUD Area Median Income for the Miami-Dade County area.

The Area Median Income as published by HUD corresponds to the area median income for a household of four (4) persons. The figures provided vary by the number of persons in the household. This is based on the rationale that a larger household requires higher income to maintain a minimum standard of living. The target income for each program will be expressed as a percentage of AMI. The percentage of AMI applicable for a program will vary according to the funding source and their program requirements.

The definition of annual income adopted for these programs is that as defined in 24 CFR 5.609, referred to as "Part 5" annual income. The "Part 5" definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period. Income not only includes wages or salaries of all adult household members, but all amounts anticipated to be received from a source outside the family. The full income of individuals determined to be household members must be included in the household's total annual income, even if the individual is temporarily absent.

It should be noted that the City could deny assistance to an applicant with ownership in any other residential real property. Assistance will also be denied to applicants who have more than \$25,000.00 in liquid assets.

### *Household Size Determination*

The household size is essential in accurately determining program eligibility as the income level is adjusted per household size. The Department uses HUD's Handbook 4350.3 as guidance on whether or not to count an individual as a household member. All members of the household must provide accurate proof of social security numbers and any other information required by the Department in order to substantiate them as a household member.

### *Creditworthiness*

Loans will be underwritten to assess the applicant and property eligibility as well as the level of risk being undertaken by the City and the funding sources.

To protect the City's interest and the interest of the funding sources, the applicant must be current on payment of property taxes, child support payments and on any federally funded or insured debt. The applicant must also be current on any existing mortgage/s. The Department defines "current" as the applicant making regular mortgage payments as stipulated by the original mortgage terms for the past 6 months.

The following conditions would define a loan as not being "current":

- Mortgage/s currently with one or more past due payments
- Payments being made through a reorganization/restructure payment plan
- A *Lis Pendens* recorded against the property. Upon release of a *Lis Pendens*, the applicant must display a current payment history of at least 6 months
- Or any other situation which would increase the amount of risk taken on behalf of the City and the funding source, as may be determined on a case-by-case basis.

Funds allocated to the various Housing Programs are awarded from various funding sources and therefore their regulations, policies and guidelines have been and will be incorporated into these policies.

### ***Conflict of Interest***

No loans will be made to City of Miami Gardens employees or their immediate relatives without the expressed written permission of the City Manager and/or the funding source if required. Full disclosure on the part of the applicant will be required at the time of application. Failure to disclose said relationship will result in an immediate rejection of the loan and/or will require full repayment of the loan including interest accrued at the maximum interest rate allowed.

Immediate relative for this purpose is defined as a spouse, parent, child, brother or sister of the applicant.

All program participants will be required to sign a Conflict of Interest Form acknowledging the above.

### ***Additional Criteria***

Applicants must occupy the property receiving assistance for the term of the assistance. The applicant/homeowner cannot change or transfer title of the property for the term of the assistance.

Applicants must either be U.S. Citizens or have obtained legal U.S. permanent residency immigration status.

# Section 3

## Property Eligibility

All properties assisted by this department must fall within the corporate limits of the City of Miami Gardens.

The property shall not consist of more than one (1) residential unit. For properties with more than one unit, further verification may be required to ensure that assistance can be provided and can require additional documentation and a revision of the established terms.

The property must conform to the requirements of the City of Miami Gardens Planning and Zoning Department. Additional criteria could apply for programs with specific parameters such as the Neighborhood Stabilization Program.

### **Property Value Assessment**

The Department of Community Development must determine the property value for all homes receiving assistance. The factors used to determine the property value will vary by program however the Maximum Property Value for participation in the housing programs is currently \$300,000.00.

Rehabilitation Program: the Market Value of the property as determined by the Miami-Dade County Property Appraiser.

Homeownership Program: the values as determined by a licensed professional and HUD approved appraiser.

Subordinations: the value can be determined using either Market Value or the value as determined by a licensed and HUD approved appraiser, using the highest value.

### **Combined Loan to Value**

This is the sum of all existing loans and proposed City loan secured by the property as a percentage of the value of the property. The value of the property is the market value as determined above.

The following are the maximum Combined Loan to Value Ratios (CLTV) per Housing Program:

Housing Rehabilitation	150%
Replacement Homes	125%
Homeownership Assistance	105%
Subordination Requests	150%

Loans with Combined Loan-to-Value Ratios (CLTV) above the maximum can only be originated with an approved request of exception.

### ***Additions and Conversions***

It is not the policy of the City to finance additions to existing buildings or projects that change the Certificate of Occupancy. However, in overcrowding situations, an exception to this policy can be granted by the Director. In providing an exception, the Director will review the composition of the family to ensure that the family composition will remain the same in the foreseeable future; this also applies in the case of Accessory Dwelling Units.

Property owners whose homes are found to have units that are believed to be non-conforming, such as additions or conversions built/converted without the benefit of permits, will be disqualified. The burden to prove the legality of the unit/s lies with the homeowner.

Depending on the program, the individual project funding limit and the overall program budget, the Department could provide the option of returning the home to its original form. At which time, a portion of the assistance would be used to demolish the non-conforming unit to its original form.

Homeowner's who are found to have non-conforming units that are being used as a rental unit or a second housing unit will be reported to the City's Code Enforcement Department.

## Assistance Amount

The amount of assistance to be provided to applicants shall be governed by either the HUD Annual Action Plan or the Local Housing Assistance Plan, or any other applicable contract, depending on the funds being used to carry out the program.

If the majority of the bids accepted for a project exceed the maximum assistance provided by a program, the Department will make every effort to identify items that are not of immediate or in direct need of repair. The Department, at its discretion, will remove items from the Specification of Work Report that are not essential in making the home safe, decent, and sanitary, nor affect the health and safety of the homeowner.

Exception to the maximum amount of assistance will be allowable when issues arise outside of the applicants, contractors and/or Department's control. These are usually items that are caused by unforeseen circumstances or required by the Building Department during the permitting or inspection process.

The authority to approve exceptions to the maximum assistance amount will rest with the City Manager and/or his designee and shall be noted on the Loan Approval Memo.

## Change Orders

It is the policy of the City to minimize the use of change orders. Hence, all efforts will be made to correctly identify all work that must be done to bring the property being rehabilitated to a safe and sanitary condition. However, in rehabilitating older homes, the City understands that additional work could be required due to unforeseen conditions. Staff must ensure that contractors do not use change orders as a means to add unnecessary work and staff must prevent homeowners from requesting additional work that is cosmetic in nature and has no bearing on the safety or health of the household members.

Contractors must get prior approval of Change Orders before completing or proceeding with the additional work or changes of the Specifications, regardless of monetary value. If a Contractor performs the work without prior approval, the contractor faces the possibility of not being compensated for the work. The Contractor will not be able to hold the City, the Department, the Homeowner or any other person representing the City accountable for the cost of the additional work or work performed differently than what was specified on the original Specification of Work Report.

## Housing Rehabilitation Program

The City of Miami Gardens provides assistance of up to \$35,000.00 to qualified applicants requiring necessary repairs in the City of Miami Gardens. This program is limited to persons or households whose total household income does not exceed 80% to 120% of AMI. (Please see Section 2 for the definition of AMI.) This assistance is subject to funding availability.

### **Security**

Assistance is provided as a five (5) year deferred payment loan with a recapture provision that requires the recipient occupy the property throughout the five years following receipt of assistance. Upon maturity, the City's loan converts to a grant and is thereby forgiven. This provision is clearly disclosed on the Promissory Note to be executed by the applicant and secured with a mortgage lien placed on the property. In the case of the death of the homeowner, the heirs can assume the indebtedness, provided they have been certified as income eligible by the City, and that they reside in the house as their primary residence. Otherwise, the total principal and all accrued interest will be due immediately.

### **Inspection and Specification of Work**

All Rehabilitation and Replacement loans will require an inspection of the home to be carried out by an approved and licensed inspector contracted by the Department. The cost of the inspection and the preparation of the Specification of Work Report will be paid from the loan proceeds.

The Inspector will meet with the homeowner and inspect the residence for repairs needed for the health, safety or sanitary conditions of the home. The Inspector will also review for violations of Housing Quality Standards (HQS), as well as Florida Building Code. The Tier System will be used to determine the priority of the repairs needed.

The Inspector will prepare a Specification of Work Report that will be reviewed and approved by the homeowner prior to it being released to the contractors. The Report will not be approved and finalized by the Department until after the Bid closing deadline.

The Inspector will schedule and invite the contractors to a Pre-Bid Meeting. Attendance at the Pre-Bid Meeting is mandatory. Contractors not attending are disqualified from participating. The inspector will collect names and signature of those in attendance and will conduct the meeting by explaining the Specification of Work Report, answering questions and addressing concerns.

After the Pre-Bid Meeting, the Inspector will provide the Department with a Specification of Work Report as provided to the contractors, a Specification of Work Report with his line item cost estimate and the sign in sheet from the Pre-Bid Meeting. He will also provide pictures to reference the items on the Report.

### **Eligible Repairs**

The Specification of Work report will be based on a Tiered System. This System was developed to provide a guide by which needed repairs are identified and to ensure adherence of the City's Housing Rehabilitation Standards and Housing Quality Standards as per 24 CFR 982. Priority will be

given to hardening and mitigation as well as returning homes to their original form if a non-conforming unit exists.

Tier I

- Roof
- Windows
- Exterior Doors
- Shutters

Tier II

- Smoke and Gas Alarm System
- Electrical System
- Plumbing

Tier III

- Exterior Paint & Structural Repair
- Bathroom Fixture Replacement
- Kitchen Cabinet Replacement
- Air Conditioning Replacement

**Contractor Participation**

Contractor's wanting to participate in the City's Housing Programs must be approved through the City's Procurement Department. In addition, the Department will perform an assessment to confirm the contractor's eligibility. This includes confirming that they have not been suspended or debarred by U.S. HUD or any other Federal Executive Branch Agency. If so, they will be excluded from participation in the program. The Department will also verify with the State of Florida Department of Business and Professional Regulation for any complaint history associated with the applicant's license. If a complaint were to exist, the particulars will be reviewed by staff and a recommendation will be made to the Department Director as to whether to approve or deny the contractor's request for participation. The Department's decision will be made in writing to the applicant with copy to the Procurement Department.

The Department will maintain a current listing of approved contractors that will be utilized to seek bids for the Housing Programs. The list will also be made available to City residents on the Department's website. The contractors will be responsible for updating their insurance and licensing information as required. All contractors must have an operating fax and/or e-mail address.

Approved Contractors are expected to actively participate in the bidding process. Those who are unresponsive to 6 or more bid invitations could be denied continued program participation. In situations such as this, contractors will receive formal notification from the Department advising of their removal from the Approved Contractor Listing. Contractors requesting to be reinstated must provide a written explanation, updated license and insurance information. The Department will reinstate contractors at the Department's discretion.

Any changes in policy or procedure related to the housing programs will be communicated to the contractors via a Program Directive.

**Bidding Process**

All eligible contractors will be invited to attend Pre-Bid meetings held by a City appointed Inspector at the applicants' homes. Pre-Bid Meetings are mandatory, contractors can only submit bids if they attend the meeting. At times, depending on the program specifications, invitations to bid could be

sent directly by the Department to eligible contractors. When this is the case, no Pre-Bid meeting will be held but contractors will be subject to the remainder of the eligibility components.

The eligibility to be awarded a bid will be subject to various components such as the number of projects underway, bid response, Performance Scorecard Ratings, contractor capacity, new contractor status, etc. The Department reserves the right to deny a contractor from bidding if they are currently working on a project where the Department believes the contractor's performance is lacking or is perceived to not meet the timeline imposed by the contract.

At the pre-bid meetings, contractors will be provided with the approved Specification of Work Report that will detail the work to be completed for that particular project. Contractors will be given a deadline to submit their bids. All bids should be presented in a sealed envelope labeled with the project number, name, address and submitters company name. If a Specification for Work Addendum is issued on a project, the bid package must include the Addendum. Failure to include the Addendum will disqualify a bid from being considered for award.

A minimum of 3 responsible bids will be required per project. If less than 3 bids are received, the Specifications of Work Report could be amended and re-sent to all contractors who originally attended the Pre-Bid meeting. In the event that the project is re-bid and 3 bids are not received, the Department will notate the file to show the attempts and proceed with the bids received. (In an emergency situation where a condition is deemed unsafe by either the Inspector or the City's building official, this requirement may be waived by the Director.)

Upon the expiration of the established Bid Deadline, the Department will notify participating contractors of the time and place of the Bid Opening. The Bids will be opened in the presence of two staff members. The bidder names and corresponding amount will be read aloud. The results will then be itemized on a Bid Result Report. Award shall be based on the information submitted only, no changes, additions or deletions will be permitted after the bids are accepted by the Department. The lowest responsible and responsive bidder will be selected. The Bid Result Report will be noted with the decision and supporting documentation kept in the Loan File. The homeowner will sign the final version of the Bid Result Report, further indicating their approval of the contractor selection. Exception to this policy rests with the City Manager.

The Department reserves the right to revise the Specification of Work Report if the lowest responsible bid exceeds the program maximum amount. The Tier System will be used to determine what items must be removed or revised. The Report will be revised prior to the loan closing and provided to all interested parties.

Contractors can request copies of the bid packages after a project is awarded and will be charged the standard Public Document Request copy fee. A deposit of \$10.00 will be required upon request. Contractors can request a Bid Analysis once a project is awarded at a charge of \$25.00. The fee must be paid upon request. Fees collected will be considered Program Income and will be used as such.

### ***Contractor Award Criteria***

Contractors will be awarded a maximum of two projects concurrently. Therefore, if a contractor has two active contracts, they will not be awarded any additional contracts. Contractors are encouraged to participate in the bidding process regardless of the number of projects awarded.

The authority to approve an exception to the Two-Contract Policy will rest with the Department Director and the file will be documented justifying the reason for the exception. Reasons for an exception can be related to the next highest bid being significantly higher, contract status, the work capacity previously displayed and the level of accomplishment and satisfaction with prior contracts.

If the lowest responsive and responsible bidder has not previously performed like services for the City of Miami Gardens, the City reserves the right to award only one contract during a trial period or until such time that Department staff can determine that the bidder will perform to the City's complete satisfaction. Approval of exceptions to this policy rest with the Department Director and must be documented for the file.

If the Department finds that a contractor fails to meet his/her obligations with the homeowner and/or the City, and does not remedy the situation as stipulated by the Department, the contractor will be removed from the Department's list of approved contractors and not be allowed to participate in the City's Housing Programs.

### ***Permits and Licenses***

All Contractors are required to have all applicable licenses and insurance coverage and/or exemptions. Upon receipt of a new contractor application, the Department will confirm licensing and worker's compensation status with the Florida Department of Business and Professional Regulation.

The Department will not make any disbursements unless the proper permits are filed and the work being performed is approved.

License from the Department of Business and Professional Regulation and/or from Miami-Dade County, depending on the particular trade, is required. It is the responsibility of the General Contractor to ensure that all sub-contractors are licensed and insured. The City will require all contractors to provide proof of General Liability coverage of not less than one million dollars (\$1,000,000). Contractors will also be required to provide proof of Workers' Compensation Insurance or an Exemption Certificate and submit any change in status immediately.

All contractors awarded with a Replacement Home Program contract will be required to add the City of Miami Gardens as an additional insured on all insurance policies and will be required to purchase Builder's Risk coverage.

### ***Contractor Performance Scorecard***

In order to ensure a high level of quality and workmanship, the Department has established a Performance Scorecard process that allows us to evaluate each contractor's performance. The Performance Scorecard is completed once the final inspection is performed. The scorecard assigns a specific point value to each established criterion. The minimum score required to continue participation in the programs is 75 out of 100 points. The criterion primarily focuses on timeliness, quality of workmanship, homeowner satisfaction, acquisition of permits and local vendor participation. However, the Department reserves the right to amend the scorecard as deemed necessary. See Appendix for sample.

A new contractor who is awarded their first project and does not score the minimum points will be removed from participating in the program. The contractor will be notified in writing and provided a

copy of the Performance Scorecard. Copy of the correspondence and Scorecard will be submitted to the Procurement Department for their files.

An existing contractor who has successfully completed projects with the City in the past and does not score the minimum points required on one particular project will be placed on a probationary status. While in probation, their participation will mirror that of a new contractor, including the same limitation on projects awarded. They will be notified of their new status and limitations and will receive a copy of the Scorecard. Copy will be provided to the Procurement Department for their files.

All contractors will be given a reasonable time to appeal the Department's decision. Appeals will be submitted to the Director for his assessment. The final determination will be provided in writing to the Contractor, the Procurement Manager and Community Development Staff.

### **Remedy Contractors**

Although the Department makes every effort to assure that Contractors perform as per the Contract Terms, there are times where the Contractor either fails to perform as expected or does not complete the project; both considered a default of the Contract Terms.

In most cases, the default is identified within the first 30 to 45 days after the project is awarded. In these cases, the Department would follow the necessary steps in working with the homeowner in cancelling the existing contract and terminating the Contractor from the project. Depending on the circumstances, this could include the Department removing the Contractor from the overall program. The Department would proceed to contact the next lowest bidder to complete the project and execute the necessary documents to do so.

Unfortunately, there are cases where the initial contractor has performed partial or all the work but the work is not completed in accordance with the Specification of Work Report, the workmanship is poor, or the contractor has failed to pull permits and/or adhere to building code requirements. Again, the Department would proceed to contact the next lowest bidder to complete the project.

In the case that the next lowest bidder cannot proceed from where the defaulted contractor stopped either because of: a) the lapse of time from when he initially submitted the bid, b) he cannot honor his initial bid amount, c) he cannot commence work immediately or d) he no longer wants the project, the Department then reserves the right to select a Remedy Contractor.

The Remedy Contractors will be appointed by the Department using the following criteria: a) they must have the capacity to begin work on the project immediately, b) they must have received passing scores on all of their Scorecard Evaluations, c) they must have completed 8 or more projects for Miami Gardens and d) they must accept to warrantee all the work for which they were not initially responsible. The Remedy Contractor will also be asked to accept the original bid amount when the work being performed is the same. Instances where the cost is more, the Department, at its discretion, will evaluate the cost and make the determination to either accept the proposed cost or proceed in another manner which could include re-bidding the project. The Department will review its Remedy Contractors on an annual basis.

### **Sweat Equity**

The City of Miami Gardens will not finance any rehabilitation in cases where the applicant performs the work. The City will not reimburse homeowner for work completed prior to or during the time whereby the City sponsored project has commenced.

### **Draw Requests**

Upon execution of a Contractor/Homeowner Agreement, the Department will provide the Contractor with a Payment Request Form and a Draw Form. The Department will be responsible for ensuring that payments are made in accordance with the Specification of Work Report, and all applicable Department and City procurement and contracting policies.

To request a draw, both forms must be signed by the Contractor and Homeowner and presented to the Department of Community Development. Copy of applicable City of Miami Gardens Permit Cards must accompany the Draw Requests. The Permit Card must show an approval for the specific trade being drawn and with the percentage of completion being drawn. The Department will not make payment for more than 50% of a line item without an approved final inspection.

All Draw Requests must be approved by the Loan Program Manager and the Department Director. At no time are Draw Requests to be submitted directly to the Finance Department. The Finance Department will not process any Draw Requests that have not been reviewed and approved by the Director or his/her designee.

### **Retainer**

The City will retain 10% of all Draws until final inspection and project completion. The retainer is released upon acceptable project completion and submission of the required documentation including releases of liens from all subcontractors who performed work on this project.

### **Final Inspections**

Upon completion of a project, a final inspection must be requested by the contractor. The request must include a copy of the Final Draw Form and copy of all Permit cards with Final Approval from the Building Department Inspectors. The request for a final inspection will be made by the contractor directly with the Department's independent inspector.

A final inspection will be performed and will determine whether the work performed was completed as per the Specification of Work Report. Any line item not completed as per the Specification of Work Report will not be acceptable and considered a finding. If the final inspection determines that there are findings, a second final inspection will be required and again must also be requested by the contractor. There will be a charge to the contractor of \$200.00 for any inspection beyond the second final inspection. The charge will be deducted from the project retainer.

Contractors will be fined \$50.00 per calendar day to be deducted from the total contract as liquidated damages for each day the project remains incomplete beyond the date specified for completion.

### ***Contract Dispute***

If a problem should arise between the Homeowner and the contractor, it is the responsibility of those parties to resolve the issues. The Department may intercede in order to facilitate the progress of the project.

If the Homeowner does not receive satisfaction from the contractor, the Department reserves the right to intervene on his/her behalf. The Department could withhold payment and/or retainer if deemed necessary.

Likewise, the Department reserves the right to intervene on the contractor's behalf if the Homeowner is refraining from approving a Draw request without just reason. The Department could proceed to pay the contractor for the work completed as required without the Homeowner's approval if it can inspect and justify that the contractor is in fact due payment.

In the event that a homeowner cancels a certain line item or activity from the proposed scope of work, the contractor could be allowed to draw up to 10% of the line item amount, provided they are able to demonstrate that they have incurred expenses for the line item in question.

The file must be documented with all the specifics and findings for each case.

## Homeownership Assistance Program

The City of Miami Gardens provides assistance of up to \$20,000.00 to qualified applicants purchasing a home in the City of Miami Gardens. This program is limited to persons or households whose total household income does not exceed 80% to 120% of AMI. (Please see Section 2 for the definition of AMI.) This assistance is subject to funding availability.

### ***Applicant Eligibility***

In addition to the eligibility criteria specified in Section 2, applicants seeking Homeownership Assistance must meet additional criteria in order to receive this assistance. This additional criterion serves to assure affordability and that the assistance is being provided to the intended recipients. Therefore, persons having owned a home in the last three (3) years are not eligible for this assistance. Exceptions can be made for cases where a single parent has been displaced.

Applicants must have attended a Homebuyer Counseling Course within the last 24 months and must be able to provide certification of their attendance. If the Certification is older than 24 months, the applicant can still be considered with the understanding that the course must be retaken before a Commitment Letter will be issued by the City of Miami Gardens.

The Housing Debt-to-Income Ratio (Front End Ratio) will not be a determining factor for an approval as long as it is acceptable to the first mortgage lender. However, the Overall Debt-to-Income Ratio will be used to determine applicant eligibility. The maximum Overall Debt-to-Income Ratio accepted is 45% (forty-five percent). The Overall Debt-to-Income Ratio includes the housing expenses and any other expenses for which the applicant is responsible for.

The Combined Loan-to-Value Ratio cannot exceed 105%.

The Department's eligibility is not contingent on an applicant's credit history as long as it is acceptable to the primary lender. The City will not use the applicant's credit score to determine eligibility. However, the City will reserve the right to reject an application based on credit.

### ***Program Funding***

The assistance provided by the Homeownership Assistance Program can be used towards either down payment and/or closing costs. The assistance cannot be used as payment towards any existing debts or to satisfy any collection items. Buyers are not permitted to receive any funds at closing.

The amount of assistance approved by the City will solely be based on the applicants need and this will be determined by the Overall Debt-to-Income Ratio.

A minimum contribution towards the purchase of the home of one percent (1%) of the sales price will be required by the applicant.

### **Approved Lender Listing**

The City maintains a list of participating lenders which are able to submit and process files seeking assistance from the City of Miami Gardens. This list is limited to lenders whom are either a depository institution, an entity affiliated with a community development financial institution or a non-profit secondary market lender. The City will be inclined to accept files from lenders for the purchase of homes developed as part of a county funded project or a file from a Section 8 Voucher recipient. Exceptions can be made on a case by case basis and the decision to do so will rest with the Department Director.

Staff will hold periodic workshops for these lenders for the purpose of providing technical assistance and keep them abreast of our policies and procedures.

### **Loan Terms**

The City's funding will be provided in a two part form, with only one portion to be repaid. The repayment was minimized to avoid creating a hardship for the homebuyer and to recycle the funding for future applicants.

The City's maximum amount of assistance is \$20,000.00, the first \$10,000.00 will be provided as a thirty (30) year deferred payment loan that will be forgiven at maturity provided that occupancy requirements are met. The amount of assistance provided beyond the initial \$10,000.00 will be provided as a thirty (30) year repayable loan.

The repayment will consist of 360 equal monthly installments with zero percent (0%) interest. Payments will commence on the first day of the month following the closing. Recipient will receive payment remitting instructions upon closing.

### **Security**

Assistance is provided with a recapture provision. This provision is clearly disclosed on the Promissory Note/s to be executed by the applicant. The Promissory Note is thereby secured with a mortgage lien placed on the property. In the case of additional subsidy from other sources, the City has no pre-set requirement as to the City's lien position but expects the position to be in the order of amount of subsidy provided. In the case of the death of the homeowner, the heirs can assume the indebtedness, provided they have been certified as income eligible by the City, and that they reside in the house as their primary residence. Otherwise, the total principal and all accrued interest will be due immediately.

In the case of sale or transfer of the unit, the City will share in the appreciation/gain realized by the borrower or heir according to the following schedule:

- i. 0 – 5 years – 100% of both the City's loan balance and the pro-rata share of the appreciation (gain) is due to the City.
- ii. 6 – 10 years – 100% of the loan balance and 50% of the pro-rata share of the appreciation (gain) is due to the City.
- iii. 11 – 30 years – 100% of the loan balance is due to the City. The City will not share in the appreciation after the 10<sup>th</sup> year.

In addition to a Mortgage Deed and Security Agreement being recorded with the Miami-Dade Recorder against the property, an Affordability Mortgage Rider will also be recorded by the City to disclose the requirements attached to the assistance.

The above gain sharing proposal will terminate in the case of foreclosure; however, the City will require lenders to provide us a right of first refusal to purchase the loan at a negotiated price.



## Replacement Home Program

## Section

## 7

The Replacement Home Program provides assistance to homeowners whose homes requiring repairs costing in excess of 50% of the property's assessed value. This program is limited to persons or households whose total household income does not exceed 80% of AMI. (Please see Section 2 for the definition of AMI.) This assistance is subject to funding availability.

### ***Applicant Eligibility***

In addition to the eligibility criteria specified in Section 2, applicants seeking to participate in the Replacement Home program must meet additional eligibility criteria.

The home must be free of mortgage liens or the mortgage holder/s must be in agreement to allow for the demolition and rebuilding of the home. The agreement must be received by the City in writing within a time frame that is acceptable to the City. The total Combined Loan-to-Value cannot exceed 125% of the estimated appraised value of the home upon completion. For qualification purposes, three (3) area comparables will be utilized to estimate the appraised value.

The homeowner must demonstrate the ability to make payment of the standard housing expenses such as property taxes and homeowner's insurance. The combined monthly cost of these expenses should not exceed 45% of the homeowner's total income.

### ***Loan Terms***

The assistance will be provided as a 30 year deferred payment loan with no interest being accrued. The homeowner will not be required to make any payments toward the amount outstanding until the maturity, provided that they continue occupying the home and do not transfer or make changes to the property title. Upon maturity the total outstanding balance will be due and payable in full.

If the homeowner does sell or transfer title of the property, they will be required to repay the City the total amount expended by the City. In the case of the title being altered without prior approval of the City, the City will make a determination based on the change made and the effect on the City's mortgage and lien position.

The rebuilding of a home will have an impact on a homeowner's property taxes and homeowner's insurance. The Department, in anticipation of this impact, will establish a Reserve Account for each Replacement Home. This account will serve as an escrow account for collection and payment of property taxes and the homeowner insurance premium. The Department will conduct an analysis and determine the estimated year end cost to the homeowner and collect this amount in 12 equal monthly payments. The Department will be responsible to collect and disburse the funds as required. The Department will continue the Reserve Account for a period of three (3) years or until the homeowner is able to demonstrate their ability to make payment of these costs on their own. See page 21 for more information regarding escrow performed by the Department.

## **Security**

Assistance is provided with a recapture provision. This provision is clearly disclosed on the Promissory Note to be executed by the applicant. The Promissory Note is secured with a mortgage lien recorded on the property.

In the case of the death of the homeowner, the heirs can assume the indebtedness, provided they have been certified as income eligible by the City, and that they reside in the house as their primary residence. Otherwise, the total principal and all accrued interest will be due immediately.

In the case of sale or transfer of the unit, the City will share in the appreciation/gain realized by the borrower or heir according to the following schedule:

- i. 0 – 5 years – 100% of both the City's loan balance and all of the appreciation (gain) is due to the City.
- ii. 6 – 10 years – 100% of the loan balance and 50% of the pro-rata share of the appreciation (gain) is due to the City.
- iii. 11 – 30 years – 100% of the loan balance is due to the City. The City will not share in the appreciation after the 10<sup>th</sup> year.

## **Bidding Process**

The City will follow a competitive bidding process to select the contractor to perform the specifications for these projects. The bidding requirements and contractor eligibility will be determined by the Department with the assistance of the City's Procurement Department. The bids will be received and reviewed by the Procurement Department to assess the lowest eligible bid/bids. If there are more than one bid at the same lowest price, the homeowner will be allowed to review and select the contractor of their choice.

Contractors will be formally notified and are required to submit required documentation within the time frame disclosed on the bids packet or by the Procurement Department. The contract will be executed between the Homeowner and the selected Contractor. The City will serve as project administrator.

The management of the project will be conducted in the same manner as the Housing Rehabilitation Program, please refer to Section 5, pages 11 thru 14.

## Lead-Based Paint

When Federal Funds, such as CDBG, are used to assist housing units built prior to 1978, steps must be taken to address lead hazards. The following has been implemented in order to comply with the regulations found at 24 CFR Part 35. The purpose of this regulation is to identify and address lead-based paint hazards before young children are exposed to lead.

### **Notification**

The Department provides participating homeowners with the Lead Hazard Pamphlet at the time of application for which they sign an acknowledgement stating they received the pamphlet and understood the material. This acknowledgement will be kept in the participants file.

Participants will also be notified of the results of any lead hazard evaluation/or assessment of lead-based paint or lead hazards. This notification will be made 15 days from the date of evaluation and a copy of this notice will remain in the participant file.

Should lead hazards be detected requiring lead hazard reduction work be performed, the homeowner will also be notified of the results within 15 days of the project achieving clearance and a copy will remain in the participant file.

### **Lead Hazard Evaluation**

A risk assessment will be required for all rehabilitation projects for receiving assistance of over \$25,000 per unit and where children under the age of 7 or pregnant women reside, this only includes hard costs. A risk assessment will also be performed for homes where the occupants are not yet determined. An Assessment/Evaluation can include a visual assessment, paint testing and a risk assessment. This will be done prior to any rehabilitation work. This assessment will be completed prior to the Pre-Bid meeting.

### **Lead Hazard Reduction**

If the evaluation/assessment determines that lead paint will be disturbed as part of the rehabilitation work or the property has existing exposed lead hazards, reduction or abatement will be necessary. This can include paint stabilization, interim controls, standards treatments or abatement. The work required to reduce or abate the hazard will be compiled as a Scope of Work and would be made available for bidding through the standard bidding process. Bidding for lead project will be limited to contractors that are certified to perform the work and that understand and will follow the safe work practices for lead.

### **Funding**

The costs of the evaluation and any reduction work required will be considered part of the overall project cost and will be subject to the program's maximum amount of assistance.

## General Policies

### *Loan Approval*

Loans will be recommended for approval after program eligibility and credit review is completed. The Loan Program Manager will review the file and recommend approval of the loan to the Director based on the current policies for the program as approved by the City Council for the period in question.

Authority to commit the City providing Housing Assistance is vested in the City Manager.

### *Security*

The assistance provided by the Department could be subject to recapture requirements depending on the individual program specifics. The assistance will be provided in the form of deferred payment loans, forgivable loans and/or grants and the terms will be based on each program's individual policy.

### *Decision Appeals*

The Department of Community Development will determine if an applicant is eligible or not to receive assistance for the program for which they have applied based on the guidelines contained herein and those set by the funding sources. The Department will notify applicants of the determination in writing. The applicant will have a period of ten (10) days from the date of the letter to contact the Department to appeal the decision.

The appeal will only be accepted if based on evidence or belief that an error was made by the Department. The appeal cannot be made on the basis of the program guidelines since these rules, regulations and programmatic guidelines are pre-established by the funding sources and not the Department.

### *Right to Refuse*

The Department reserves the right to refuse assistance to any applicant on the basis of homeowner:

- failing to disclose information which negates their eligibility;
- unreasonableness;
- homeowner uncooperativeness;
- any other reason as may be determined on a case-by-case basis

## ***Fees***

The City will incur charges for services necessary in the delivery of providing assistance. These charges are paid from the corresponding loan proceeds. These services include, but are not limited to: loan underwriting fees, ownership and encumbrance reports, property inspections, credit reports and any other services required in the making of the loan. The Department does not collect any fee for participation in the program.

## ***Exceptions to Policy***

Exceptions to policy will be considered on a case-by-case basis. The Loan Program Manager must review such a request and make a recommendation to the Director for an approval or rejection citing reasons, which should include the policy from which the request is based and the reason for the exception. The decision to allow an exception must be based on the ability of the City to make that exception and whether the granting of the exception will put the City's investment at risk. Final approval of cases where exceptions will be made lies with the City Manager.

In situations where the exception contradicts the Statutes or Regulations for the funding source, an exception should first be obtained from the funding source. Such exception requests should be in writing and a written response solicited and made part of the loan file.

## ***Escrow Requirements***

For all housing related loans, the Homeowner is required to have a current Homeowner's Insurance Policy whereby the City of Miami Gardens must be listed as an additional insured. Properties being reported as located in a Flood Zone per Miami-Dade County will also be required to maintain Flood Insurance Coverage and list the City of Miami Gardens as an additional insured.

The City of Miami Gardens reserves the right to escrow for real estate taxes, homeowners' and/or flood insurance, if the City's loan is in a first mortgage position or if the Department sees just cause to escrow for such payment. Just cause can be considered a default of real estate taxes or cancellation of insurance coverage for non-payment.

The Department will require annual proof of insurance coverage throughout the term of the mortgage.

The Department will perform an expected cost analysis to determine the amount to be escrowed and will provide the homeowner with payment terms. The data for the analysis will be collected from the State of Florida Office of Insurance Regulation and the Miami-Dade County Tax Collector.

In the case where payments are made on behalf of the homeowner and there are still funds remaining, the homeowner will be notified and given a choice to either receive the over collected funds or allow the balance to remain with the City to disburse for future payments.

In the case of a shortage, the homeowner will be notified immediately of the amount and requested to submit the difference. Upon receipt of the difference, the City will disburse the necessary payments. If there are not sufficient funds collected to pay for both the property taxes and the insurance, the Department will prioritize payment of property taxes. Payment to the insurance will be held until homeowner submits balance due.

## Neighborhood Stabilization Program

On July 30, 2008, the Housing and Economic Recovery Act was signed into law and it contained many components, one being the Neighborhood Stabilization Program 1 (NSP1). For this Program, the City of Miami Gardens received an allocation of funds to acquire, redevelop and resell foreclosed and abandoned properties in areas of greatest need to prevent any further neighborhood decline. The activities to be carried out by the City of Miami Gardens were submitted to U.S. HUD in the form of a Substantial Amendment which has since been approved. The following are the activities and policies as related to the NSP1.

### ***Property Selection and Acquisition***

The established criterion for purchasing properties under the NSP1 includes, but is not limited to:

- the property must be vacant
- the purchase price must be at least one percent (1%) below the appraised market value
- the census tract in which the property is located was identified as a priority area in the Substantial Amendment approved by HUD
- the condition of the property
- the size and amenities desirable to interested buyers

Properties to be purchased through the NSP1 must be abandoned and foreclosed residential properties limited to one (1) unit. Duplex or multi-family properties will not be considered under this activity. Properties with underground pools will not be considered eligible under this program.

Properties located in planned communities can only be purchased if a Homeowner's Association is existent, recognized and registered with the State of Florida and operating in accordance with its fiduciary responsibilities.

### ***Realtor Services***

The City will utilize the services of three (3) licensed, independent realtors, selected by way of a formal procurement process and approved by the City Council, to assist with the activity of purchasing foreclosed and abandoned properties. Each of these realtors will be assigned to one of three areas as identified by staff. Contracts will be executed between the City and the selected realtors to serve exclusively in the role of the City's "buyer's agent".

### ***Appraisals***

An appraisal will be required for each property and must be completed within 60 days of the City's offer. The Department can order up to two (2) appraisals per property if considered necessary. The City will not require an appraisal for any property being purchased for an amount less than \$25,000.

The City will utilize the appraisal to determine if the offered price is at least one percent (1%) below the appraised market value and determine if the property meets the NSP acquisition requirements.

The appraisers used for this program will be solicited and selected through a formal Request for Qualifications (RFQ) Process. The appraiser qualifications utilized to solicit bids were those provided by HUD for guidance with voluntary acquisitions.

### **Purchase Process**

The City Manager has been authorized by City Council through Ordinance No. 2009-03-175 to execute purchase and sale agreements for properties related to the NSP1. Documents requiring execution beyond the initial offer will be reviewed by the City Attorney or his/her representative.

A survey will be ordered and reviewed by the Attorney and the City's Planning and Zoning Department. Title work will be ordered by the sellers and provided at a minimum of 10 days prior to the closing. The City Attorney will review and provide guidance; the City Manager will be tasked with making the business decisions pertaining to the acquisitions.

Buyers closing costs will be limited to not exceed five percent (5%) of the purchase price. The City will recuperate these costs upon the sale of the property.

### **Rehabilitation Standards**

For the NSP1, the City will have inspections performed by several entities, including the City of Miami Gardens Building and Code Compliance Department, a Lead Risk Licensed Assessor, and the Community Development Housing Inspector.

These inspections will determine the Scope of Work required in meeting the standards of the following:

- 1) HUD Section 8 Housing Quality Standards
- 2) State of Florida Building Code
- 3) Miami Gardens Building Code
- 4) Local Rehabilitation Standards
- 5) Environmental Requirements
- 6) Local Zoning Ordinances

In addition to meeting these standards, the City will include improvements that increase the energy and water efficiency of each home. Such Improvements will include replacing older obsolete products and appliances with Energy Star labeled products or products that meet the Energy Star recommended efficiency levels. For water fixtures, WaterSense labeled products will be installed when available. If these are not available, the improvements will be required to meet the Maximum Flow and Consumption Table requirements as adopted by Miami-Dade County and effective on January 1, 2009.

The NSP1 rehabilitation process will simulate the Housing Rehabilitation Process in Section 5 with minor exceptions. The most significant exception being that the Rehabilitation Contract will be between the selected general contractor and the City. Another exception relates to the bids, as they will be made available through a formal process carried out by the Procurement Department who will utilize a formal procurement service such as DemandStar, which will make these bidding opportunities available to all interested parties.

### **Property Disposition**

The properties purchased and rehabilitated by the City of Miami Gardens will be made available for purchase by first time homebuyers or anyone who intends to occupy the property as their homestead, regardless of them owning a home prior.

The sales price will be determined by the City and will be an amount equal to or less than the cost to acquire and rehabilitate the home. The amount of acquisition can include the activity delivery costs, and all other costs related to the acquisition, such as closing costs, title work, etc. However, the cost of maintaining the property cannot be considered such as boarding-up, lawn mowing, or any other costs expended in order to keep the property in a static condition.

The buyer must meet the income requirement set by U.S. HUD for the NSP1 which is at 120% of AMI adjusted per household size. (For an explanation of AMI, please see Section 2) The buyer must also be able to secure a first mortgage with a mortgage lender. The City will not contract with a buyer whose offer is contingent upon sale of another property.

### **Subsidy**

The City will provide eligible buyers with an amount of up to \$55,000.00 to be used towards various forms of assistance such as interest rate buy-down, down payment, payment of closing costs and mortgage insurance, etc. The amount and type of actual assistance provided to an eligible buyer will be based determined by staff on a case by case manner with the intent of maintaining affordable housing. Affordable, for this program is defined as monthly debts, including mortgage payments, taxes and insurance, to not exceed forty-five percent (45%) of the applicants confirmed monthly income. The assistance cannot be used as payment towards any existing debts or to satisfy any collection items. Buyers are not permitted to receive any funds at closing. The City intends to also leverage this assistance with other available funding sources.

The NSP1 financial assistance is provided with a recapture provision. This provision is clearly disclosed on the Promissory Note/s to be executed by the applicant and secured with a subordinate mortgage lien.

In the case of the death of the homeowner, the heirs can assume the indebtedness, provided they have been certified as income eligible by the City, and that they reside in the house as their primary residence. Otherwise, the total principal and all accrued interest will be due immediately. In the case of sale or transfer of the unit, the City will share in the appreciation/gain realized by the borrower or heir according to the following schedule:

- i. 0 – 5 years – 100% of both the City's loan balance and the pro-rata share of the appreciation (gain) is due to the City.
- iii. 6 – 10 years – 100% of the loan balance and 50% of the pro-rata share of the appreciation (gain) is due to the City.
- iii. 11 – 15 years – 100% of the loan balance is due to the City. The City will not share in the appreciation after the 10<sup>th</sup> year.

In addition to a Mortgage Deed and Security Agreement being recorded with the Miami-Dade Recorder against the property, an Affordability Mortgage Rider will also be recorded by the City to disclose the requirements attached to the assistance.

The above gain sharing proposal will terminate in the case of foreclosure; however, the City will require lenders to provide us a right of first refusal to purchase the loan at a negotiated price.



## Subordination Policy

Subordination of a Housing Rehabilitation or Homeownership Assistance Loan (Program Loan) for the purpose of refinancing an existing debt that is in a superior lien position to the Program Loan may be allowed provided that all of the following conditions are met:

- i. The proposed refinancing shall not result in an increase in debt in a superior position to the Program Loan; this includes any cash back to the Debtor.
- ii. The proposed refinancing shall not “wrap in” any other debt such as credit card balances.
- iii. The proposed refinancing terms are at market prevailing rates and fees, lowest available for the borrower’s risk category. Rate and/or monthly payment must be significantly enough lower than the existing rate and/or monthly payment amount to compensate for closing costs and fees.
- iv. The debtor is occupying the property as their primary residence.

Subordination of the Program Loan will NOT be approved for any purpose other than to refinance debt that was secured by the subject property prior to or of the same date of the Program Loan.

The City of Miami Gardens will only allow one subordination approval during the course of the Program Loan.

The City of Miami Gardens reserves the right to deny any subordination request it deems not in it’s or the homeowner’s best interest.

The authority to approve subordination requests or exceptions to the City’s Loan Subordination Policy will rest with the City Manager or his/her designee.

## Definitions

**Abandoned Property:** a property where mortgage or tax foreclosure proceedings have been initiated, no mortgage or tax payment has been made by the property owner for at least 90 days, and the property has been vacant for at least 90 days.

**Bid Analysis:** a cost basis analysis per line item of all the bids submitted for a specific project and commonly used by Contractors to determine the accuracy of their costing methods.

**Blighted Structure:** a structure that exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health, safety or public welfare. For NSP1 purposes, a blighted structure echoes the criteria for slum and blight found in Florida Statutes Chapter 163.340.

**CDBG:** Community Development Block Grant, funding provided from the U.S. Department of Housing and Urban Development.

**Decent, Safe and Sanitary Housing:** a dwelling unit or building meeting Federal Occupancy Standards as defined in 24 CFR 882.109 and CFR 882.405.

**Default:** the failure to make required payments on a financial loan secured by a mortgage debt.

**Deferred Payment Loan:** funds provided to a borrower under terms that calls for repayment to be delayed for a certain length of time, until certain circumstances change, or a certain threshold is met.

**Directive:** a formal notification used by the Department to advise participating contractors of any changes or updates the program policies and/or procedures.

**Director:** City of Miami Gardens Department of Community Development Director or his/her designee.

**Dwelling Unit:** An independent living unit containing, at a minimum, a bathroom, kitchen or kitchenette and a living area/bedroom.

**Emergency Condition:** A condition that represents an eminent physical danger to anyone in the household. Examples of an Emergency Condition may include, but is not limited to, a roof collapse or faulty electrical wiring providing a risk of fire.

**Foreclosed Property:** A property has been foreclosed upon at the point that, under state or local law, the mortgage or tax foreclosure has been complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former owner under some type of proceeding or transfer in lieu of foreclosure, in accordance with state or local law.

**Foreclosure:** the legal action by a mortgage holder to require repayment of a Loan through the sale of the subject property.

**Forgivable Loan:** A loan with no repayment obligation, provided program terms and requirements are met for the period of time specified.

**Grant:** An amount of assistance provided by the City requiring no repayment.

**Hazardous Condition:** A code violation that is an immediate, serious threat to the health and/or safety of the occupant(s) of a dwelling unit.

**Household:** Immediate members of a family living together who may be expected to contribute to the income of the household for a substantial period of the term of the loan. Household may also include unmarried adults living in the same unit as the applicant if they are expected to contribute to the income of the household for a substantial period of the term of the loan.

**Income:** The gross amounts received from all sources by every person residing in the dwelling including wages, pension, social security, interest, rent, dividends etc.

**Income Limits:** The maximum amounts that can be earned to qualify for a specific assistance category, based on family size (those actually living in the dwelling unit). Derived from a percentage of the median income for Miami as determined by the Department of Housing and Urban Development (See Appendix for current limits).

**Investor-Owned:** The title holder of a residential property who does not live at the property but owns it for investment purposes.

**Loan:** An advance of funds which must be repaid or may be forgiven, and is secured by a mortgage on the property.

**Neighborhood Stabilization Program 1:** Program created as a result of the Housing and Economic Recovery Act of 2008 (HERA) providing funding to units of local governments for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the funds are to be considered Community Development Block Grant (CDBG) funds.

**Owner-occupant:** The title holder of a residential property which occupies the property as their primary residence and is eligible to file for homestead exemptions.

**Pro-Rata Share:** Proportionately according the amount of funds invested by the City on a certain project.

**Rehabilitation:** Repairs or improvements which are needed for safe and sanitary habitation, correction of code violations or building violations.

**Replacement Home:** The demolition and rebuilding of a home identified as requiring repairs costing more than 50% of the estimated market value.

**SHIP:** State Housing Initiative Partnership, funding provided by the Florida Housing Finance Corporation

**Single Family Dwelling:** A property with one to four units, including town homes, twin homes and condominiums.

**Subordination:** when an existing second mortgage retains its junior position, allowing a new mortgage to be in first mortgage and is usually a result of a refinance. If it were not for the subordination, the second mortgage would automatically take first lien position.

**Vacant:** a property that is without occupant, with no occupant or contents.

