



**BRAZORIA COUNTY
REHABILITATION/RECONSTRUCTION PROGRAM GUIDELINES**

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BRAZORIA COUNTY
REHABILITATION/RECONSTRUCTION PROGRAM GUIDELINES

I. PROGRAM DESIGN

A. Purpose of the Program

The purpose of the Brazoria County Homeowner Rehabilitation/Reconstruction Program is to provide financial assistance and services that deliver decent, safe, and sanitary housing for low income owner occupants by the rehabilitation, reconstruction, or replacement of existing structures to a condition which, at a minimum, brings the structure into compliance with the County's locally adopted Rehabilitation and Minimum Property Standards, Housing Quality Standards (HQS) or any subsequently adopted HUD Standards, and applicable local codes and ordinances whenever feasible.

B. Designated Authority to Administer Program

This program shall be operated in accordance with all applicable rules and regulations of U.S. Department of Housing and Urban Development (HUD) and Brazoria County. The Brazoria County Community Development Department (BCCD) HOME Program Staff shall be responsible for the overall administration of this program. The Program is under the direct supervision of the Community Development Director and the Brazoria County Commissioners' Court. Decisions will be made by the HOME Program Manager, Rehabilitation Specialist or their designee. BCCD and Program Staff are collectively referred to as the Department, Program Staff and Rehabilitation Specialist throughout this document.

C. Type of Financial Assistance

1. Generally, the average amount of grant assistance to be provided to an eligible applicant shall be up to \$90,000 for rehabilitation and \$190,000 for reconstruction based on a standard two (2) bedroom home plan. Additional funds may be allocated for water wells and septic systems, if failing upon initial inspection. In the event that average amount of grant assistance is not sufficient to complete the needed repairs, the HOME Program Staff may request that additional funds be made available to the applicant(s) subject to the availability of funds. Generally, if repairs are estimated to exceed the \$90,000 rehabilitation amount, a determination may be made that demolition/reconstruction is more feasible.
2. The minimum amount of grant assistance which may be provided to any applicant for rehabilitation assistance shall be One Thousand Dollars (\$1,000.00).

3. Recipients who have received rehabilitation/reconstruction assistance may not reapply nor be eligible for additional assistance for a period of five (5) years following the expiration of the affordability period.
4. The financial assistance will be in the form of a no-interest deferred payment loan (DPL) which will be forgiven at the end of the applicable affordability period. If the home is sold prior to the expiration of the affordability period, the owner will be required to repay the unforgiven balance of the loan. The affordability period shall be five (5) years if the amount of assistance is less than \$15,000, ten (10) years if the amount of assistance is between \$15,000-\$40,000, and fifteen (15) years if assistance is more than \$40,000. In the event of a reconstruction, the affordability period shall be twenty (20) years regardless of the amount of assistance.

II. PARTICIPANT ELIGIBILITY

A. Applicant Eligibility Requirements

1. Forms of Ownership - The applicant will be considered the owner if he or she:
 - (a) Is the "owner of record" recorded in the official records of the County Courthouse having fee simple title; or
 - (b) Has a 99-year leasehold interest of which a minimum of twenty (20) years must remain.
2. Property Taxes - All property taxes shall be current on the property prior to providing assistance. Repayment agreements with the Brazoria County Tax office are acceptable means of "current" if the amount owed is less than 2 years of back taxes.
3. Income - Since HOME Program funds are intended to serve low-income residents who have limited means of financing home repairs or improvements, such funds shall not be made available to any applicants who have substantial financial resources available. The County's HOME Program Staff will be responsible for determining whether applicants have substantial financial resources. All sources of income will be verified (sources include but are not limited to: paystubs, child support, SS awards, unemployment, bank statements, etc.). In order to receive program assistance, the combined income of the applicant and all other persons in the household over the age of eighteen (18) years cannot exceed 80% of the area's median income based on the income limits published annually by HUD. In determining this eligibility, HUD's Section 8 Part 5 definition of annual gross income will be used.

4. All applicants and co-applicants must be current on payments for child support. If the applicant or co-applicant is not current on child support, that individual will be required to enter into a payment plan that will be obtained from the Office of Attorney General (OAG). A copy of the payment plan signed by all applicable parties along with documentation demonstrating that they are current on their payment plan must be supplied.
5. The applicant must be a U. S. citizen and resident of one of the County's participating jurisdictions or in an unincorporated area of the County.
6. The unit to be rehabilitated or reconstructed must be the applicant's principal residence. The applicant must have owned and resided in the home for at least five years prior to the approval of assistance. Residency can be established by a Deed recorded for record in the Brazoria County Clerk's office. Vacation homes and rental properties are not eligible for assistance.
7. **Reverse Home Mortgages are not eligible.**
8. The applicant must agree to and pass a criminal background screening/check, if so required by Brazoria County. Background checks will use Brazoria County Housing Agency's Administrative Plan regarding criminal activity to determine eligibility.
9. Duplication of Benefits- In the event of a natural disaster, HOME or any other department funds may not be used to pay for damages covered by any FEMA reimbursement, SBA assistance, insurance claim, or any insurance policy including anticipated delayed or future payments. A more in-depth review of the housing unit may be necessary to determine the amount of HOME assistance the homeowner is eligible for.
10. Homes subject to a Home Equity Loan are not eligible, if it puts the County in the 3rd lien position.

B. Selection of Applicants

1. Applications will be made available on the Department website, distributed as requested, and received during the month of September each year. Applications are only valid for the current funding year. Applicants not selected nor approved for assistance must re-apply every year.
2. Applications are selected for review based on a lottery system since the county does not receive sufficient funding to fully fund all applications each year. Upon receipt, applications will be entered into a computer program that randomly orders the applications in a lottery type drawing to determine the order in which applicants will be assisted. The Community Development

Department also reserves the right to change the process in which they select applicants.

3. Upon preliminary determination of eligibility, the applicant address shall be submitted to the County Commissioner's Court for conditional funding approval. Subject to applicant meeting all other eligibility requirements, the funding decisions of the Commissioners' Court shall be final, unless subsequently amended by court order
4. All applicants selected for assistance shall then be counseled by the HOME Program Staff, regarding his or her housing needs and in determining the types of eligible repairs. The HOME Program Staff shall draft a written agreement to be executed by the applicant that outlines the responsibilities of the applicant and the County and the terms of assistance.
5. Historical and Environmental Clearance – Once an inspection and Radon Testing has taken place, notification will be given to the Texas State Historical Commission (TSHC) and various Indian Tribes requesting a review of the project for any historical or tribal significance. If the home is located in a Coastal Management Zone, clearance from that agency will also be obtained. The County's Rehab Specialist shall prepare a Statutory Checklist including associated maps and any required letters for each property assisted. If the property is located in a Flood Hazard Area, an 8-step process with all advertisements and a RROF from HUD will be completed.
6. If the home is determined to be located in a Floodway, the property will not be eligible for assistance.

C. PRIORITY RATING SYSTEM

Community Development reserves the right to use the following scoring system in the event the lottery option is not utilized or is determined at any time to be unfeasible. All eligible applicants will be rated on a scoring system in order to establish the priority use of these remaining funds. This rating process has been designed to incorporate both the family and dwelling characteristics of an applicant in order to establish a system which gives preference to those with the greatest need. Scoring shall be based on the following factors:

1. Income (maximum 15 points):

If family income is between 30% and 50% of
median income limits.....10 pts.

If family income is equal to or less than 30% of
median income limits.....15 pts.

2. Head of Household (maximum 10 points):

If head of household is 62 years of age or older10 pts.

3. Disability/Handicap Status (maximum 10 points):

If any member of the household is partially disabled
or handicapped5 pts.

If any member of the household is fully disabled
or handicapped10 pts.

4. Dependent Children (maximum 16 points):

If household has any dependent children or
children attending school or college 2 pts./child

5. Housing Costs (maximum 5 points):

Housing costs (P.I.T.I.) exceed 30% of income5 pts.

6. Hardship Circumstances (maximum 10 points):

If the applicant has hardship circumstances as follows:

Family medical expenses in excess of 7.5% of their
income within the last year2 pts.

Death of a spouse within the last 2 years 2 pts.

Damage suffered from a fire within the last 2 years 2 pts.

Damage suffered from a flood within the last 2 years2 pts.

Alimony and/or child support payments in excess of 25%
of their income within the last year 2 pts.

III. PROPERTY REQUIREMENTS

- A. To qualify for rehabilitation assistance, the applicant must be an individual or family who owns **and** occupies a single-family dwelling for the previous five years, from date of application, within either the unincorporated area of Brazoria County or one of the participating jurisdictions. For these purposes, single family dwelling shall not include a townhouse, condominium unit, motor home, or travel trailer. Mobile home dwellings may be considered eligible for assistance based on condition and age of the structure. Generally, mobile homes older than 30 years will not be eligible for assistance. The Rehabilitation Specialist may recommend replacement of the mobile home with a like unit in lieu of rehabilitation if such cost of replacement is within program assistance limits for reconstruction. In case of mobile homes, the applicant must be owner of both the mobile home and the underlying land to be eligible for assistance.

Designation of what constitutes a single-family dwelling shall be at the sole discretion of the Rehabilitation Specialists. The owner (including members on the application) MUST currently reside in the home that is to be rehabilitated at time of approval, as well as at the time the application was submitted for assistance.

- B. HUD guidelines provide minimum housing unit size based on household size and occupancy policies and has determined that two persons per bedroom is deemed reasonable. Brazoria County has adopted HUD guidelines regarding bedroom size regardless of age or sex. Household composition determinations will be made by the County early in the eligibility process, as this may affect the applicant's decision to proceed with rehabilitation assistance. Brazoria County does not dictate the living arrangements of the family.

Exceptions to this standard are based on the following factors:

- No more than two persons are required to occupy a bedroom.
 - Couples living as spouses (whether or not legally married) must share the same bedroom for household size determination purposes.
 - A live-in aide who is not a member of the family is not required to share a bedroom with a member of the household. Note: The need for a full-time live-in aide must be documented.
 - Individual medical problems (e.g., chronic illness) sometimes require separate bedrooms for household members who would otherwise be required to share a bedroom. Documentation supporting the larger-sized unit and related subsidy must be provided and validated.
 - In most instances, a bedroom is not provided for family member(s) who will be absent most of the time. If individual circumstances warrant special consideration, a waiver request may be approved.
- C. If there is a mortgage on the home, the amount of the mortgage balance compared to the appraised value of the home will be used to determine the amount of assistance that will be provided.

Brazoria County reserves the right to deny an applicant if:

- the outstanding mortgage balance plus the amount of proposed improvements exceed the Central Appraisal districts appraised amount of the improvement, excluding land values.; or
- the outstanding mortgage balance exceeds the homeowner's equity in the home; or the homeowner has a history of late/missed mortgage payments; or
- the homeowner is not current on mortgage payments; or
- the home is in foreclosure.

- D. Further Brazoria County may deny an applicant if the home is the subject of/to condemnation proceedings
- E. The applicant must furnish evidence that they have sufficient income to insure the residence against fire; hazards included within the term "extended coverage", windstorm, and any other hazards for which Lender requires insurance in an amount sufficient to cover the amount of HOME investment in the home. The above insurance will be required during the entire affordability period and must be effective from the date rehabilitation assistance is completed. The policy must list the County as a lien holder/loss payee/additional insured and provide the County with at least thirty (30) days' notice of cancellation for any reason. Failure by the applicant/recipient to provide proof of coverage or any lapse of insurance coverage shall be grounds for recapture of the unforgiven balance of the loan.
- F. If the property is located in a flood hazard area, flood insurance will be required to be in place at the time assistance is completed by the County. Flood insurance must be maintained during the entire affordability period. The policy must list the County as a lien holder/additional insured and provide the County with at least thirty (30) days' notice of cancellation for any reason. Failure by the applicant/recipient to provide proof of coverage or any lapse of insurance coverage shall be grounds for recapture of the unforgiven balance of the loan.

IV. ELIGIBLE IMPROVEMENTS & EXPENSES

- A. Program funds shall be used for those repairs and/or replacements which are necessary to bring the dwelling and property in compliance with the County's Rehabilitation and Minimum Property Standards (RMPS) and applicable local codes and regulations. Property subject to condemnation/demolition will not be rehabilitated.
- B. Rehabilitation funds may be used for general improvements that are "reasonable and customary" except as excluded herein. All improvements must be permanent in nature, and include the main structure. Improvements must be physically attached to the house and be permanent in nature (e.g., sheds or garages located separately from the house are ineligible).
- C. Washing machines and dryers are not eligible items under this program. In addition, program funds may not be used for garage door openers, security systems, swimming pools, fences, television satellite dishes, hot tubs, or any other luxury item. Designation of what constitutes a luxury item shall be at the sole discretion of the Rehabilitation Specialists. Air conditioning and heating systems, water heaters, and kitchen ranges, ovens, and refrigerators are eligible to be replaced under the program. During reconstruction, **damage to landscaping, fencing, trees, shrubs, driveways may, can and, possibly will happen.** Removal of these items is recommended as Brazoria County

is not responsible for the replacement of any damage unless required by city code. Driveways will be reviewed on a case by case basis.

- D. The use of lead-based paint is prohibited. Also, any housing units built before 1978 will be inspected for the presence of lead-based paint. In accordance with the regulations, the owner shall be provided with all applicable notifications and disclosures. The testing and abatement of lead-based paint is an eligible cost under this program.
- E. All building permits, bonds, and other fees shall be obtained by the contractor at his/her expense and shall be included as part of the bid. The City and Brazoria County reserve the right to waive these permit fees to the extent feasible by law.
- F. Garages, carports, and grass sodding are not generally eligible unless required by jurisdictional code set forth by the City where the home is located. Minimally the grant may cover grass sodding in the front yard only.
- G. If the current home is in such condition that demolition is proposed, the existing home must be demolished. Homeowner cannot request the home be left standing for storage purposes.

V. PARTICIPANT APPROVAL AND RESPONSIBILITIES, & PROCUREMENT

- A. After the applicants have received initial approval for program assistance, the Rehabilitation Specialist or designated Inspector shall conduct a property inspection of the applicant's property to determine the specific items to be acquired, repaired, or replaced in order to bring the structure to minimum property standards (RMPS). All work done must meet the County's RMPS and all applicable local building codes. This list of work items will constitute the work write-up and bid document for that structure. Work write-ups will only be required for the appropriate number of applicants to deplete the available funds. During the application/approval and after the rehabilitation process is complete, photographs will be taken by Program staff to document the existing structure and any improvements, or when applicable, any reconstruction.
- B. Applicants will be given the opportunity to accompany the Rehabilitation Specialist/Inspector on the initial inspection in order to discuss the proposed work items. When the work write-up has been completed, the Rehabilitation Specialist shall discuss the scope of work with the applicant. If the applicant agrees with the scope of work, the applicant shall sign off on the acceptance of the work write-up which shall be utilized in the bidding process. The Rehabilitation Specialist shall not omit any work items that are necessary to bring the structure up to the County's RMPS as previously established herein. The work write-up will then become the bid document for rehabilitation projects.

- C. After completing the work write-up for the applicants, the Rehabilitation Specialist shall then estimate the cost of the proposed work, including labor, material costs, and profit & overhead costs for each structure. Bids for such rehabilitation will be obtained. If the estimated cost exceeds \$90,000, Program staff will determine the most cost effective or economically feasible method of correction up to and including converting the project to reconstruction in lieu of rehabilitation. At this time, the Rehab Specialist shall place each approved homeowner on the agenda for Commissioner Court approval.
- D. Upon Commissioners Court approval and homeowner acceptance of the work write-up (hereinafter referred to bid document), the applicant may, to the maximum extent feasible, solicit three separate bids from a pre-approved list of contractors. The applicant may also elect to have Department staff assist in obtaining said requested bids. Homeowner shall select the Contractor he/she/they want.

Alternatively, BCCD may solicit bids through the Brazoria County Bonfire procurement portal in coordination with Brazoria County Purchasing. Brazoria County Purchasing shall evaluate all responsive bids and select the contractor in accordance with County procurements policies and applicable federal requirements. Program staff will ensure compliance with all program guidelines prior to award.

Whether homeowner solicits bids, or the contractor is procured by the County, the accepted/awarded bid must be within 10% of the initial cost estimate. If the bid exceeds \$90,000, any non-RMPS items on the bid shall be negotiated with the Contractor to adjust applicable line-item costs accordingly or obtain another bid from another contractor. If it is determined that there were errors in the original cost estimate, appropriate adjustments shall be made to the cost estimate in order to effectively compare the bids to in-house estimates.

All Contractors must be approved by the County and accepted by the owner. The Contractor must meet all the contractor requirements as hereinafter established for this program.

- E. If staff determines the property is not feasible to rehabilitate, a complete demolition and reconstruction is then considered, if funding is available. Reconstruction projects are bid out by the Brazoria County Purchasing Department, and the County will choose the builders that return an eligible bid. Size of the new home will be determined at 2 persons per bedroom regardless of age or gender. Brazoria County does not dictate how the family will utilize the bedrooms.
- F. After an eligible bid has been received, the HOME rehabilitation specialist will determine the after-rehabilitation value of the property. Absent a formal appraisal, the valuation set by Brazoria County Appraisal District plus the cost of the rehabilitation will be used to determine that the after-rehab value does not exceed the 95% median sales price allowed as published by HUD annually. Additionally, the cost

of the rehab plus any mortgage or other liens against the property cannot exceed the after-rehab value of the property.

- G. At the recommendation of the Program staff, the applicant is required to prepare a will, if one is not currently in place. This is solely to protect the homeowner in time of death, and to assist the Department to determine who will inherit the home. The Department reserves the right to, in the event of death, allow the heir to prove their low-income status. If qualified, the lien period and all requirements may be transferred to them. If they do not qualify, the recapture provisions will apply (See IX Subsidy Recapture, Section C).

VI. CONTRACTOR SELECTION

A. Contractor Qualifications

In order to be eligible to participate in the construction work financed under the program, contractors must be approved by the County and meet the following minimum requirements:

1. Contractors, or their subs, must not be a debarred, suspended, or ineligible contractor according to the U. S. General Services Administration's "List of Parties Excluded from Federal Procurement or Non-Procurement Programs". Program staff or the Purchasing Department shall obtain verification of contractor eligibility prior to executing any contract with the contractor at SAM.gov.
2. Each contractor shall, where applicable, carry worker's compensation insurance, automobile liability insurance, and unemployment insurance as required by the State of Texas. Additionally, the contractor must carry general liability in an amount not less than \$1,000,000.00. This insurance must be applicable to construction work done in the County and must be in effect during the contracted period. Evidence of such insurance must be presented prior to the execution of the contract.
3. The contractor shall carry builder's risk coverage on each project in an amount to cover the cost of the dwelling in case of full reconstruction, or a lower amount for rehabilitation projects.
4. Acceptable work references shall be provided by new contractors and may be required of existing contractors. The contractor may be judged to be a non-responsible bidder if his/her past performance on other rehabilitation projects was marginal or not acceptable.

B. Preconstruction Conference and Contracting of Rehabilitation Work

1. The Department in coordination with the County Purchasing Department shall conduct a preconstruction conference with the contractor, the applicant, and the HOME specialist. The terms of the proposed construction contract will be explained along with the role of the contractor, County, and the applicant. Additionally, the HOME specialist will explain the inspection procedures, completion requirements, and payment procedures.
2. Following the preconstruction conference, a construction contract will be executed between the applicant and the contractor. The County Judge or his or her designee shall be named as Trustee.
3. Each construction contract executed with a contractor shall contain a start date and a completion date. It shall provide for liquidated damages in the amount of the unfinished line item, if the contractor fails to meet such completion date. If the line item(s) exceed \$1,000, the contractor is subject to a reduction of the retainage of an amount equal to the currently assessed liquidated damages. Under no circumstances will the amount of any liquidated damages be given to the owner. All such funds shall be used to reduce the contract price to be paid to the contractor and if applicable, complete the necessary work. The excess funds will be used by the County to provide additional program assistance to other applicants.

VII. INSPECTIONS AND CONSTRUCTION PAYMENTS

- A. The HOME specialist will assist the homeowner in ensuring that all contracted work is completed prior to payment and that such work was performed in the highest quality and workmanlike manner possible. A 3rd party windstorm inspector will be utilized in inspecting the home for Windstorm requirements, should rehab or reconstruction trigger such requirements. Roof, window, and door replacement are the “triggers” for windstorm inspection on rehabilitation. The HOME specialist/Inspector will conduct interim and in-progress inspections as necessary and a final inspection upon completion of all of the work, noting any deficiencies in a written report. If the home is located within any corporate city limits, the city inspection staff shall complete permit and final inspections according to city codes. Any work for which funds are requested, but in the opinion of the HOME specialist, is incomplete or is not quality work, shall be deleted from the request for payment. Items so deleted may be included on the next draw request if all applicable corrections have been made.
- B. The contractor may apply for a partial payment upon completion of work and final payment upon full completion, subject to approval by the HOME specialist. The contractor will only be paid for work satisfactorily completed, but not for stored materials. Advancing funds to a contractor is prohibited. A ten percent (10%) retainage will be held from each partial and final contractor's payment.

- C. Where applicable, electrical permits will be required for electrical work and electrical work will be inspected and approved by the applicable City's electrical inspector in accordance with the City's normal electrical inspection requirements. All electrical work must be performed under the supervision of a licensed electrician.
- D. Where applicable, plumbing permits will be required for plumbing work and plumbing work will be inspected and approved by the City's plumbing inspector in accordance with the City's normal plumbing inspection requirements. All plumbing work must be performed under the supervision of a licensed plumber.
- E. Where applicable, permits will be required for all heating and air conditioning work and heating and air conditioning work will be inspected and approved by the City's mechanical inspector in accordance with the City's normal inspection requirements. All heating and air conditioning work must be performed by a licensed mechanical contractor.
- F. Where applicable, building permits will be required for building construction work. Where applicable, building construction work will be inspected and approved by the City's building inspector in accordance with the City's building inspection requirements and laws.
- G. Where applicable, septic permits will be required for septic installation and work will be done by a licensed septic installer. All work will be inspected and approved by the Brazoria County Environmental Health Dept.'s Inspector in accordance with the County's/State's environmental requirements and laws.
- H. In the event a change order is requested by the contractor, owner, or is deemed necessary by the HOME specialist, the HOME specialist shall review the change to determine feasibility. Then the HOME Specialist will prepare a written change order which must be executed by all parties (the homeowner, the contractor, and the County). However, in no event shall a change order or cumulative change orders be executed in an amount more than twenty-five percent (25%) of the original contract amount. Change orders above twenty-five percent (25%) of the original contract amount shall require approval of the Commissioners' Court.
- I. Upon completion of the contracted rehabilitation work, the HOME specialist shall conduct a final inspection of the structure when notified to do so by the contractor. If the inspection reveals that corrective work is required on any improvements covered in the contract, the HOME specialist shall prepare a punch list for the contractor. After all work, including the punch list items, has been completed to the satisfaction of the homeowner and the HOME specialist, the homeowner shall sign a release accepting the work and authorizing payment to be made to the contractor. Homeowner may not unreasonably withhold their approval of payments or inspections if all required elements have met the RMPS minimum standard as determined by HOME Specialist. If HOME Specialist determines the project has met all required elements for acceptance, the project may be closed out and payment issued based on that determination alone.

If applicable, the HOME specialist will then obtain a fully executed Certificate of Construction Completion and the homeowner must show proof of insurance. The HOME specialist shall also take “after” pictures at this time. Additional photos may also be taken.

- J. Once the HOME specialist receives insurance, Certificate of Construction Completion and all punch-list items have been completed, homeowner shall sign a Note and Deed of Trust securing the lien on the property.
- K. When the final inspection determines that the rehabilitation work has been satisfactorily completed in full compliance with the contract and any properly executed change orders, the HOME specialist shall obtain from the contractor the following: (1) Contractor’s Final Invoice form, (2) Contractor’s Non-Kickback Certification form, (3) the General Warranty form, and (4) Affidavit of All Bills paid from all subs. After receipt of these items, the HOME specialist shall submit a draw request for the remaining funds, less the 10% retainage.
- L. The HOME specialist must review and approve all requests for construction draws, both partial and final. When the funds are received they shall be disbursed to the contractor or other applicable parties or entities in accordance with the County’s disbursement procedures.

VIII. CONTRACTOR WARRANTIES

All work performed by the rehabilitation contractor shall be guaranteed for a period of one (1) year against poor or faulty workmanship or materials. Roof replacement shall be guaranteed for a minimum of two (2) years for poor or faulty workmanship. Any foundation work shall have a minimum five (5) year warranty. The warranty does not cover normal wear and tear or damage caused by others. Such warranty shall be stipulated in the construction contract between the contractor and the homeowner. For any warranty issues, the homeowner should contact the contractor to correct defects or problems arising from his or her work under this contract. If the homeowner has difficulty in contacting the contractor, he or she may contact the HOME specialists and ask for assistance in getting any work covered by the warranty corrected.

Should the contractor fail to satisfactorily correct any defect that is/was the result of poor/faulty/defective workmanship and or materials, the homeowner or County may take any necessary legal recourse and the contractor shall be barred from performing further demolition, reconstruction, or rehabilitation work under the program. Should the contractor be currently involved in any rehabilitation or reconstruction work under this program and fails to correct any warranty problems on the current job or any previously completed job, no other payments shall be made to him or her until such problems have been corrected. A reasonable amount of time shall be given to correct the problem. Depending on the severity of the problem an immediate response may be required. Two weeks shall be considered reasonable to respond to the request for services under the

warranty. Only work that was completed under the initial rehabilitation contract and any approved and fully executed change order will be covered under any request for warranty work.

IX. SUBSIDY RECAPTURE

- A. The HOME Program funds will be provided as no interest, deferred, forgivable loans for owner occupied rehabilitation assistance. This assistance will be secured by a lien filed against the property. This lien may be either a first mortgage or as a secondary or inferior lien to an existing first mortgage. The County's lien shall be no lower than a second lien position except as otherwise approved by the HOME specialist and in no case shall the County's lien be lower than a third lien position.
- B. The County's lien will have a term of five (5) years if the amount of assistance is less than \$15,000, ten (10) years if the amount of assistance is between \$15,000-\$40,000, and fifteen (15) years if assistance is more than \$40,000. In the event of a reconstruction, the affordability period shall be twenty (20) years regardless the dollar amount of assistance. If at any time the homeowner fails to occupy the residence for 3 months or more without prior written consent from Brazoria County Community Development Dept, the homeowner may be deemed in default of the affordability period provisions stated herein, and resale/recapture provisions may be pursued. Determination of continuous or consecutive occupancy shall be at the full discretion of the HOME Program Staff.
- C. If HOME funds are recaptured during the prescribed affordability period, the amount to be recaptured shall be based on the pro-rated portion of the assistance based on the length of time the homeowner(s) occupied the property. The amount to be forgiven shall be calculated on each full year the homeowner(s) occupied the property based on the date of completion of the rehabilitation work. For example, the rehabilitation work was completed on 2/15/00. The amount of assistance provided was \$27,000, making the period of affordability ten (10) years. The homeowner sells the property on 3/11/06. The homeowner receives credit for occupying the home for a full 6 years. The loan is forgiven at the rate of 10% per year, so the amount to be forgiven is \$16,200 (\$2,700/yr. x 6 years). The amount to be recaptured from sale proceeds will be \$10,800 (\$27,000 - \$16,200).
- D. In the event an applicant wants to re-finance, refinancing will only be approved if the interest rate or payment terms are reduced and Brazoria County's lien remains in the same position. The applicant may not obtain any equity from the home during the lien period.
- E. In instances of a County foreclosure or by other means, resale provisions may be used. Resale requirement must ensure if the housing does not continue to be the principal

residence of the homeowner for the affordability period; the housing may be made available for subsequent purchase to a buyer whose family qualifies as a low-income family and will use the property as its principal residence.

X. FILES AND RECORDS

The County's HOME Program shall maintain all files and records at the Community Development office on each applicant. Files shall be maintained until the lien is release and then a period of seven (7) years after.

XI. APPEAL PROCEDURE

Each applicant or participant shall have the right to appeal any decision of the County's HOME Rehabilitation Specialist or other program staff personnel to the County Judge; provided such appeal is made in writing within ten (10) days from when the decision has been rendered with a copy mailed to the Community Development Department. The date of the denial letter will be used to determine this timeframe. The applicant shall use the form provided in the denial letter or a document that substantially complies in providing all the information on the County's form. The County Judge shall issue a written ruling within fifteen (15) calendar days of receipt of the appeal and mail such ruling to the Applicant. Failure of the County Judge to issue a ruling within fifteen (15) calendar days shall not deem their ruling invalid nor extend any other additional rights to the applicant.

If the Applicant wishes to appeal the County Judge's decision, that appeal shall be filed in writing within ten (10) calendar days of the County Judge's decision to the Commissioner's Court with a copy to the Community Development Department. Applicant may use the same form and documents provided to the County Judge. A meeting shall be scheduled and held before a quorum of County Commissioner's within thirty (30) calendar days of receipt of Applicants appeal. Notice of such meeting date shall be mailed to the address specified by the applicant. The Commissioner's Court shall issue a ruling within five (5) calendar days of such meeting. Failure of the Commissioners Court to schedule and issue a ruling within thirty-five (35) calendar days shall not deem their ruling invalid nor extend any other additional rights to the applicant. Applicant may present live testimony at this meeting but such testimony is limited to the issues originally presented in the denial. Additionally, all testimony will be taken under oath and live witnesses will be subject to cross examination by any member of the Commissioner's Court, the HOME Specialist, or their designee. This administrative hearing is open to the public, but not a public hearing. The decision of the Commissioners shall be final.

County Judge's mailing address is 237 E. Locust, Room 401, Angleton, TX 77515
Comm. Development's mailing address is 1524 E. Mulberry, Suite 162, Angleton, 77515

XII. CITY AND COUNTY EMPLOYEES NOT TO BE HELD LIABLE

No member of the governing body nor any representative, official or employee of the County or any of the participating jurisdictions who exercise any functions or

responsibilities in connection with the administration and implementation of this program shall be held liable for the exercise thereof. This provision shall not exclude liability for any illegal acts.

XIII. CHANGES, WAIVERS, AND/OR CONFLICTS

- A. The Commissioners' Court shall have the right to change, modify, waive, or revoke all or any part of these guidelines by a majority vote of the Court.
- B. Commissioner's Court has the right to revoke any contract that it deems detrimental to the welfare of the applicant or his property. Violation of any of the HOME Program Rehabilitation guidelines, any laws of this state or country or any other state in the United States during any phase of the application or eligibility phase of the Program may result in the revocation of the contract and for recapture of the entire unforgiven balance of the loan or the entire funded amount.
- C. No member of the governing body of the County and any other official, employee or agent of the County who exercises policy or decision-making functions or responsibilities in connection with the planning and implementation of this program shall be eligible for rehabilitation assistance.

XIV. OTHER

- A. The headings in this document are for informational purposes only.
- B. These guidelines shall be recorded in the official records of Brazoria County, Texas and shall be incorporated by reference as a part of the terms and conditions of any instrument recorded in such records securing the promissory note(s) executed by those applicants who are successful in securing financing pursuant to this program.

PASSED and **APPROVED** this _____ day of _____, **2026** by the Commissioner's Court of Brazoria County, Texas.