

EXECUTIVE ORDER 11988 – FLOODPLAIN MANAGEMENT

EIGHT-STEP PROCESS

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY DEVELOPMENT BLOCK GRANT – DISASTER RELIEF (CDBG-DR) PROGRAM

- Stronger New Jersey Business Loan Program (SBL) Project No. SBL39373
- Decision Process for Executive Order 11988 as Provided by 24 CFR §55.20

Step 1: *Determine whether the action is located in a 100-year floodplain (or a 500-year floodplain for critical actions).*

The proposed project includes the reconstruction of the retail building at 525 Front Street, Union Beach Borough, Monmouth County, New Jersey. The project is located on the waterfront of Raritan Bay and is entirely within the 100-year floodplain. The former building was washed away during Superstorm Sandy; only the foundation of the building and pier pilings remain. The property is located within the AE Flood Zone (area of special flood hazard with water surface elevations determined), as indicated on Flood Insurance Rate Map (FIRM) Panel 33 of 457 no. 34025C0033F, revised September 25, 2009. The property's pier extends into Raritan Bay in an area designated as the VE Flood Zone (coastal flood zone with wave action). Executive Order (EO) 11988 within HUD Regulations 24 CFR Part 55 details floodplain management. The purpose of EO 11988 is "to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative." The project is located within the 100-year floodplain and for this reason, EO 11988 applies. An evaluation of direct and indirect impacts associated with construction, occupancy, and modification of the floodplain is required.

Step 2: *Notify the public for early review of the proposal and involve the affected and interested public in the decision making process.*

A public notice describing the project was published in the Asbury Park Press, the local and regional paper, on June 26, 2014. A Spanish translation of the ad was published in the Reporte Hispano newspaper on June 26, 2014. The ad targeted local residents, including those in the floodplain. A copy of the published notification is kept in the project's environmental review records and is attached to this document. The required 15 calendar days were allowed for public and agency comment. As required by regulation, the notice also included the name, proposed location and description of the activity, total number of floodplain acres involved, and the HUD official or responsible entity contact for information as well as the location and hours of the office at which a full description of the proposed action can be viewed. No comments were received following the conclusion of the comment period.

Step 3: *Identify and evaluate practicable alternatives to locating in the base floodplain.*

The SBL program provides grant awards to eligible owners of small businesses, as defined by the U.S. Small Business Administration, for activities necessary to restore their storm-damaged properties, including renovations, construction, new equipment, and/or working capital. To qualify, the property must be located within one of the nine most impacted counties (Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean and Union).

New Jersey is the most densely populated state in the country and therefore a policy to prohibit any development in the floodplain is not considered practicable due to the great number of parcels located within the floodplain in the counties most affected by Superstorm Sandy. The following viable alternatives have been identified:

- A. Reconstruction with elevation and flood proofing to a point above the Base Flood Elevation (BFE). (Option A).
- B. Reconstruction without elevating or incorporating flood proofing measures (Option B).
- C. “No Action Alternative” (Option C).

Option A is the Proposed Alternative as identified in the project application. This option involves the reconstruction of the building with the incorporation of elevation and flood proofing measures. Since the property is located entirely within the tidal 100-year floodplain and was “substantially damaged” (i.e., the cost of repairs exceeds 50% of the pre-storm value of the building) by Superstorm Sandy, it will require mitigation measures to at least one foot above the BFE in order to qualify for SBL program funding. Elevating the building above the BFE is the preferred measure; however, incorporation of flood proofing measures is acceptable in cases where elevation is not practical. The proposed project will construct a two-story building; the ground floor will incorporate wet-flood proofing measures (i.e., allow flood waters to flow in and out without causing substantial damage to the structure) and the main floor will be elevated to approximately three and a half feet above the BFE.

Option B includes reconstruction of the structure at ground elevation without elevation or incorporation of flood proofing measures. This reconstruction would continue to expose the building and its occupants to a risk for flood impacts. As a result, the project would not meet the requirements for flood hazard protection and would not qualify for SBL program funding. Therefore, this option was rejected as a practical alternative.

Option C is the “No Action Alternative”. Under this alternative, the applicant would reconstruct the building, therefore, the property would continue in its current vacant and dilapidated state. This alternative would not meet the State’s need to rehabilitate and revitalize storm-impacted communities nor would it meet the proposed project goal of reestablishing the former business in its original location.

Step 4: *Identify Potential Direct and Indirect Impacts of Associated with Floodplain Development.*

The HUD-funded SBL program is for owners of small businesses. HUD’s regulations limit what actions can be considered under the SBL program, including prohibition of any construction in the floodway. The businesses would have to be elevated or flood proofed to the elevation height standards

mentioned in Step 3 above, based off of the best available flood elevation data. Descriptions of the potential impacts from the proposed actions are below:

- Option A – This option would involve reconstruction of the building. The main floor of the building will be elevated above the BFE and all ground-floor areas below the BFE will be wet flood proofed. The elevation of the main level of the floor above the BFE and the wet flood proofing of the seasonal-use ground floor will minimize the impact of flood hazards on the building. In addition, this option would reduce the impact of the development on the floodplain by allowing flood waters to flow freely.
- Option B – This option would involve reconstruction of the building without the incorporation of flood hazard mitigation measures. This would allow the business to resume operations; however, it would result in continued exposure of the building and its occupants to flood hazard impacts. Because of this, Option B would not qualify for SBL program funding.
- Option C – The “No Action Alternative” would involve not reconstructing the building. Instead, the storm-damaged remnants of the building foundation and pier pilings would remain, which would be a detriment to the community and further hinder the restoration of New Jersey’s storm-impacted communities. This option would not meet the project objectives and would not meet the SBL program goals.

Step 5: *Where practicable, design or modify the proposed action to minimize the potential adverse impacts to lives, property, and natural values within the floodplain and to restore, and preserve the values of the floodplain.*

New Jersey Department of Environmental Protection (NJDEP) requires elevation or flood proofing of all “substantially damaged” structures in the floodplain. When followed, these regulations will reduce the threat of flooding damage to properties located in the floodplain and reduce the impact of development on the floodplain. Applicants are required to adhere to the most recent floodplain elevation levels when considering reconstruction of their “substantially damaged” property.

In summary, applicants participating in this program would be required to adhere to the following conditions to minimize the threat to property, minimize losses from flooding and high wind events, and benefit floodplain values:

- A. All proposed reconstruction and repair of “substantially damaged” structures in the floodplain must adhere to the latest (most recent) elevation requirements in accordance with the Emergency Flood Hazard Area Control Act rules (N.J.A.C. 7:13). Flood elevations are now determined either using the higher of the ABFE, the effective BFE, or the design flood elevation shown on the NJDEP flood maps;
- B. All participants in the SBL Program must carry flood insurance on the subject structure, when mandated, in perpetuity; and
- C. In the case of “Coastal High Hazard” areas (“V” or “VE” Zones on the latest [most recent] FEMA-issued Maps), that the applicant adhere to construction standards, methods and techniques requiring a registered professional engineer to either develop, review or approve, per the associated location, specific Applicant elevation plans that demonstrate the design

meets the current standards for V zones in FEMA regulation 44 CFR Part 60.3 (e) as required by HUD Regulation 24 CFR Part 55.1 (c)(3).

Therefore, the requirements of the SBL Program will help ensure a minimal adverse impact to the floodplain.

Step 6: *Reevaluate the Alternatives.*

Option C would involve leaving the existing dilapidated remains of the building foundation and pier pilings in-place; therefore, this option would not contribute to the revitalization of the shore community. Therefore, this option was not considered a viable alternative.

Options A and Option B would result in the applicant reconstructing the building. Option B, which would entail a reconstruction of the building similar to what was previously present (i.e., lacking floodproofing or other flood hazard mitigation measures), would continue to expose building occupants and property to flood hazard risks. In addition, under this option the property would continue to impact the floodplain.

Option A, unlike Option B, would involve incorporating a combination of flood hazard mitigation measures, including elevation of the majority of the structure and floodproofing those areas that remain below the BFE. This option would allow the business to resume operations, contribute to the revitalization of the shore community, and minimize the impact of flood hazards on the property and the property's impact on the flood plain. Therefore, this option is the preferred alternative.

Step 7: *Determination of No Practicable Alternative*

It is our determination that there is no practicable alternative to locating the project in the floodplain. This is due to: 1) the location of the subject parcel entirely within the 100-year floodplain; 2) the desire to not displace businesses; and 3) the ability to mitigate and minimize impacts on human health, public property, and floodplain values.

A final notice detailing the reasons why the modified project must be located in the floodplain was included in the joint Notice of Intent to Request Release of Funds (NOI/RROF) publication on #####. The notice stated the reasons why the project must be located in the floodplain, a list of alternatives considered, and all mitigation measures to be taken to minimize adverse impacts and preserve natural and beneficial floodplain values. All comments received were considered.

Step 8: *Implement the Proposed Action*

Step eight is implementation of the proposed action. The DCA will ensure that all mitigation measures prescribed in the steps above will be adhered to.