



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Shola Olatoye
Director, Housing and
Community Development

SUBJECT: Substantial Amendments to the AAP
FY 2020/21 Neighborhood
Stabilization Program

DATE: May 17, 2021

City Administrator Approval

Date: Jun 4, 2021

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt The Following Pieces Of Legislation:

1. A Resolution:

- a. **Authorizing The Remapping Of The Existing Neighborhood Stabilization Program (NSP) Target Area For Nsp1 To The Community Development Block Grant (CDBG) Community Development Districts To Facilitate Expenditure Of Program Funds And The Closure Of The NSP1 Grant;**
- b. **Authorizing The Reprogramming Of Three Hundred Twenty-Six Thousand, Five Hundred Eighty-One Dollars (\$326,581) Of Neighborhood Stabilization Program Funds Designated For The Purchase Of Foreclosed Properties To The Acquisition And Conversion To Affordable Housing (ACAH) Program;**
- c. **Authorizing The Modification Of The Eligible Activity For 1222 89th Avenue From Rehabilitation To Demolition Of A Blighted Property; And**
- d. **Authorizing The City Administrator To Prepare And Submit To The United States Department Of Housing And Urban Development The City's First Substantial Amendment To Its Annual Action Plan (AAP) For Fiscal Year 2020-21, Which Is Part Of The Five-Year Consolidated Plan (Con Plan) For Fiscal Years 2020-21 Through 2024-25, To Reflect These Modifications; And**

2. A Resolution:

- a. **Authorizing The Remapping Of The Existing Neighborhood Stabilization Program (NSP) Target Area For NSP3 To The Community Development**

City Council
June 15, 2021

Block Grant (CDBG) Community Development Districts To Facilitate The Closure Of The NSP3 Grant; And

- b. Authorizing The City Administrator To Prepare And Submit To The United States Department Of Housing And Urban Development The City's Second Substantial Amendment To Its Annual Action Plan (AAP) For Fiscal Year 2020-21, Which Is Part Of The Five-Year Consolidated Plan (Con Plan) For Fiscal Years 2020-21 Through 2024-25, To Reflect These Modifications.**

EXECUTIVE SUMMARY

The City of Oakland received Neighborhood Stabilization funding from the Department of Housing and Urban Development (HUD) in Round One (NSP1) in the amount of \$8.2 million and in Round Three (NSP3) in the amount of \$2 million. The NSP requirements and rules were complex and often difficult to conform to. As a result, to date, there are unexpended funds in the amount of \$326,581. In addition, there are three program components in which the NSP activities undertaken call for modifications to the original NSP Plans.

In order to complete expenditure of NSP funds and close-out these grants, Housing and Community Development Department (HCD) staff recommend the following three actions be taken:

- 1) Remap the target areas for NSP1 and NSP3. The original target areas were selected according to the guidelines provided by HUD in 2008 for disaster recovery following the foreclosure crisis. However, several critical NSP projects were identified outside of these target areas but are within the seven Community Development Districts (CD Districts), areas in great need of affordable housing assistance.
- 2) Reprogram NSP funds to the Acquisition and Conversion to Affordable Housing (ACAH) Program, to convert market-rate units into restricted affordable housing and protect low-income residents at-risk of displacement. This action will expend the remaining NSP funding and provide critically needed housing stability for low-income residents during these challenging economic times.
- 3) Modify the eligibility definition for the property located at 1222 89th Avenue. The original objective stated in the NSP Action Plan was for rehabilitation of the property; however, upon inspection it was found to be severely dilapidated and beyond repair. The best course of action was to demolish the property to eliminate blight, which is an allowable use under NSP Guidelines.

HUD approval of two substantial amendments to the AAP for FY 2020-21 is needed to effectuate these actions. A public hearing (June 15, 2021) and a 30-day comment period (May 12, 2021 – June 12, 2021) are required prior to submitting these substantial amendments to HUD for approval.

With City Council approval of the three actions in this agenda report and resolution, the two NSP grants will then be fully expended and can be closed-out.

BACKGROUND / LEGISLATIVE HISTORY

Congress created the NSP to help cities, counties and states deal with community problems that resulted from the mortgage foreclosure crisis of 2008. HUD provided money to approximately 250 cities and counties and to all fifty (50) states to purchase, rehabilitate, and resell foreclosed and abandoned homes. The City of Oakland received \$8.2 million in formula allocation from the first round of NSP (NSP1) and \$2 million in formula allocation from the third round of NSP (NSP3):

- NSP1 funds were appropriated by the City Council on November 18, 2008, through Resolution No. 81679 C.M.S.
- NSP3 funds were appropriated by the City Council on September 27, 2011, through Resolution No. 83577 C.M.S.

Between 2009 and 2016, NSP funds were used for the following activities:

- **Oakland Community Land Trust (OakCLT):**
 - The purchase, rehabilitation, and resale of 16 foreclosed, single-family homes, which provided homeownership to nine low-income and eight moderate-income households. Each property has a 99-year affordability agreement recorded with the Deed of Trust.
 - The purchase and demolition of one blighted single-family home.
- **Affordable Housing Associates:** The purchase and rehabilitation of the Asasha Hotel, 2545 San Pablo Avenue, which provided affordable rental housing opportunities to households earning 0-50 percent of Area Median Income. All units are subject to regulatory restrictions recorded as covenants running with the land to ensure continued affordability. Twenty units were designated for low-income residents.
- **East Bay Asian Local Development Corporation (EBALDC):**
 - The rehabilitation of the California Hotel, 3501 San Pablo Avenue, from single room occupancy (SRO) to 137 efficiency units with kitchenettes, designated for low-income residents.
 - The rehabilitation of Drasnin Manor, 2530 International Boulevard, a 26-unit project providing affordable housing for low-income families in the Fruitvale District.
- **ROOT Program:** provided financial assistance to income-qualified homebuyers to purchase three residential properties that had been foreclosed upon or abandoned.

In 2018, HCD received an On-site Monitoring Letter for NSP1 (B-08-MN-06-0005) and NSP3 (B-11-MN-06-0005) from HUD identifying areas that required action in order for the grants to be fully expended and then closed-out.

HUD's recommended actions related to the findings are:

- Provide a risk analysis and monitoring plan for NSP.
- Review developer agreements and ascertain the areas of noncompliance.
- Provide an accounting of the properties that have been resold and an accurate amount of program income generated. Set up a program income account in the Disaster

Recovery and Grant Reporting (DRGR) system for the single-family acquisition and rehabilitation activity.

- Submit outstanding NSP1 and NSP3 quarterly performance reports (QPRs) and include program income in DRGR.

HUD's recommendations related to the concerns are:

- Create NSP-specific Policy and Procedures to direct the program management.
- Reprogram funds in the Homebuyer Counseling Activity for the Unity Council into another activity. (**Note:** this change is administrative only to reconcile DRGR with the City's records. Records indicate that \$250,000 in NSP funds was obligated to homebuyer counseling in July 2010 and de-obligated in January 2013.)

All findings and concerns identified by HUD are in the process of being closed, with the exception of the three items that require the assistance of City Council.

ANALYSIS AND POLICY ALTERNATIVES

In order to complete the expenditure of NSP funds and close-out these grants, HCD staff recommend the following actions be taken:

Remap the Target Areas

The target areas were selected according to the guidelines provided by HUD in 2008 for disaster recovery following the foreclosure crisis. However, several critical NSP projects were identified that are located outside of these target areas, but within the seven Community Development Districts (CD Districts), areas in great need of affordable housing assistance.

The original target areas were selected based on:

- HUD's NSP dataset,
- Data from Realty Trac on completed foreclosures between 2007 and 2011,
- Census data on concentrations of low- and moderate-income households by tract and block group, poverty rates, and unemployment rates,
- Areas with the highest percentage of homes financed by subprime loans,
- Foreclosure completions, foreclosure starts, property value declines, and current lending activity from Foreclosure Radar and First American Core Logic, and
- A report by Urban Strategies Council on investors' purchase activity of foreclosed properties.

At the time, the areas with the greatest need were in West Oakland and East Oakland, where there were multiple foreclosed homes on nearly every block. **Attachment A** provides a map of the Target Areas. However, implementation of this program was more challenging than expected, primarily due to the difficulty in obtaining suitable properties from banks and the requirements of the NSP program. To meet these challenges, HCD staff formed a multi-disciplinary team and secured technical assistance from HUD and the Enterprise Foundation. Several properties were then selected that met the objectives of NSP; however, they were located outside of the NSP target areas, but were within the CD Districts.

Reprogram NSP Funds

NSP1 was established by Section 2301(b) of the Housing and Economic Recovery Act of 2008 (HERA) to provide emergency assistance for the redevelopment of abandoned and foreclosed homes. These funds were useful in assisting the residents affected by foreclosures and subprime loans. The NSP Policy Alert, "Guidance on Amendment Procedures" dated April 3, 2014, states "HUD encourages each grantee to carry out its NSP activities in the context of a comprehensive plan for the community's vision of how it can make its neighborhoods not only more stable, but also more sustainable, competitive, and integrated into the overall metropolitan fabric. HUD understands that NSP Grantees from time to time may need to make amendments to their approved action plans."

According to Title 24 of the Catalogue of Federal Regulations, Section 91.505(a) [24 CFR 91.505(a)] a jurisdiction shall amend its approved plan whenever it makes one of the following decisions:

1. To make a change in its allocation priorities or a change in the method of distribution of funds.
2. To carry out an activity, using funds from any program covered by the consolidated plan (including program income), not previously described in the action plan; or
3. To change the purpose, scope, location, or beneficiaries of an activity.

The purpose of the ACAH program is to provide loans to eligible borrowers for acquisition- and rehabilitation-related costs associated with protecting and preserving long-term affordable housing throughout the city. Under the ACAH program, tenant and resident incomes are expected to range between 30-80 percent of Area Median Income (AMI). In comparison, NSP income limits are up to 120 percent of AMI.

Staff recommends the remaining \$326,581 in NSP1 funds be reprogrammed to the ACAH program. The goals and activities of the ACAH program are aligned with the policies that govern NSP, codified at 42 U.S. Code 5305(a)(1)(A) Activities Eligible for Assistance. These include the acquisition of real property which is blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; provision of assistance, including loans and grants, for activities, including the acquisition of real property; and acquisition, construction, reconstruction, rehabilitation, site improvements, and utilities. This program is intended to stabilize the housing of tenants vulnerable to displacement, which is aligned with the original NSP goals as well.

Staff believes HUD will allow this program change given that the overall goals of neighborhood improvement and long-term affordable housing are met by both NSP and ACAH.

Modify the eligibility definition for the property located at 1222 89th Avenue.

Under NSP1, the Oakland Community Land Trust (OakCLT) was designated to purchase properties. In October 2010, OakCLT acquired 1222 89th Avenue. An inspection conducted prior to acquisition identified numerous major areas of concern, including moisture intrusion and structurally unsound subflooring. The repair costs were excessive, making the project infeasible. As a result, the property was demolished to remove neighborhood blight, an eligible activity under NSP guidelines. A modification to the Action Plan is needed to change the activity use from "rehabilitate and resell" to "demolition," an eligible use under NSP.

HUD approval of two substantial amendments to the AAP FY 2020/21 is needed to effectuate these three actions which will facilitate the expenditure of all NSP funds and closing out the grants. A public hearing (June 15, 2021) and a 30-day comment period (May 12, 2021 – June 12, 2021) are required prior to submitting these substantial amendments to HUD for their approval.

FISCAL IMPACT

The proposed City Council action allows the expenditure of the remaining \$326,581 in NSP1 program funds (Fund 2109, Org 89939, Project 1001058) according to the objectives stated in the original NSP Action Plan.

PUBLIC OUTREACH / INTEREST

The First and Second Substantial Amendments to the City's Annual Action Plan for Fiscal Year 2020/21 (AAP), which is a part of the City's Five Year Consolidated Plan (Con Plan) for Fiscal Years 2020/21-2024/25, requires public notice, a public hearing (June 15, 2021) and a 30-day comment period (May 12, 2021 – June 12, 2021). A Notice of Public Hearing will be published in the East Bay Times, The Post, El Mundo, and Sing Tao news publications providing dates of the public review and comment period, as well as the date, location, and time of the public hearing. During local Shelter-In-Place Orders related to COVID-19, the First and Second Substantial Amendments to the FY 2020/21 AAP will be available online at the City of Oakland website.

COORDINATION

This report has been compiled by the Department of Housing and Community Development in consultation with the Office of the City Attorney to ensure the legality of the funding commitment resolutions. The Budget Bureau was consulted to confirm fund amounts and location.

SUSTAINABLE OPPORTUNITIES

Economic: The NSP program expanded the affordable housing inventory in Oakland and generated construction and professional service opportunities.

Environmental: The completed projects addressed substandard conditions, such as the removal of blight and the remediation of environmental hazards, such as lead-based paint. The developers encouraged contractors to use sustainable building techniques, including energy-efficient design, use of recycled building materials, and water-conserving fixtures and landscaping.

Race & Equity: NSP provided affordable homeownership for low- and moderate-income families. It assisted in stabilizing neighborhoods impacted by foreclosures and sub-prime lending.

ACTION REQUEST OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A The Following Pieces Of Legislation:

1. A Resolution:

- a. Authorizing The Remapping Of The Existing Neighborhood Stabilization Program (NSP) Target Area For Nsp1 To The Community Development Block Grant (CDBG) Community Development Districts To Facilitate Expenditure Of Program Funds And The Closure Of The NSP1 Grant;
- b. Authorizing The Reprogramming Of Three Hundred Twenty-Six Thousand, Five Hundred Eighty-One Dollars (\$326,581) Of Neighborhood Stabilization Program Funds Designated For The Purchase Of Foreclosed Properties To The Acquisition And Conversion To Affordable Housing (ACAH) Program;
- c. Authorizing The Modification Of The Eligible Activity For 1222 89th Avenue From Rehabilitation To Demolition Of A Blighted Property; And
- d. Authorizing The City Administrator To Prepare And Submit To The United States Department Of Housing And Urban Development The City's First Substantial Amendment To Its Annual Action Plan (AAP) For Fiscal Year 2020-21, Which Is Part Of The Five-Year Consolidated Plan (Con Plan) For Fiscal Years 2020-21 Through 2024-25, To Reflect These Modifications; And

2. A Resolution:

- a. Authorizing The Remapping Of The Existing Neighborhood Stabilization Program (NSP) Target Area For NSP3 To The Community Development Block Grant (CDBG) Community Development Districts To Facilitate The Closure OfThe NSP3 Grant; And
- b. Authorizing The City Administrator To Prepare And Submit To The United States Department Of Housing And Urban Development The City's Second Substantial Amendment To Its Annual Action Plan (AAP) For Fiscal Year 2020- 21, Which Is Part Of The Five-Year Consolidated Plan (Con Plan) For Fiscal Years 2020-21 Through 2024-25, To Reflect These Modifications.

For questions regarding this report, please contact Loyd Ware, Manager of Residential Lending and Rehabilitation Services, at (510) 238-6197 or ResidentialLending@oaklandca.gov.

Respectfully submitted,

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Attachment (1):
A: NSP1 and NSP3 Target Areas