

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2008 NOV -7 AM 4:31

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: November 18, 2008

RE: **A Report And A Resolution 1) Adopting A Substantial Amendment To The Consolidated Plan Annual Action Plan For Housing And Community Development For Fiscal Year 2008-2009; 2) Authorizing The City Administrator To Submit The Amendment To The U.S. Department Of Housing And Urban Development; 3) Authorizing The City Administrator To Accept And Appropriate Funds Totaling \$8,250,668 To The HUD-CDBG Fund To Develop And Administer The Neighborhood Stabilization Program; 4) Authorizing The Community And Economic Development Agency To Issue A Request For Proposals/Qualifications For The Neighborhood Stabilization Program; And 5) Authorizing The Reallocation Of Neighborhood Housing Revitalization Program Funds As Needed For The Neighborhood Stabilization Program.**

SUMMARY

This item is a request for City Council approval of a resolution to amend the Consolidated Annual Action Plan for Housing and Community Development for Fiscal Year 2008-09. The resolution also authorizes and directs the City Administrator to take the necessary actions to accept and appropriate \$8,250,668 in Federal funds and implement a Neighborhood Stabilization Program for the acquisition and rehabilitation of vacant, foreclosed properties in designated target areas to avoid the negative impacts of high concentrations of such foreclosures in those areas.

FISCAL IMPACT

The resolution accepts and appropriates \$8,250,668 from the Federal government, and any program income derived from those funds, for the FY 2008-09 budget. The resolution also authorizes the reallocation of Neighborhood Housing Revitalization Funds (Fund 2999, Project G08760) as need to support the NSP. The grant funds for the NSP will be appropriated into HUD-CDBG (Fund 2108, Org 88949, Project to be Determined).

BACKGROUND

On September 29, 2008, HUD released the allocation and the notice of implementation for the \$3.92 billion allocation of the Community Development Block Grant (CDBG) Neighborhood Stabilization Program (NSP) funds. The allocation of funds is based upon a formula established by HUD using criteria specified by Housing and Recover Act, 2008 (HERA). The formula is based upon need determined by the number and percent of:

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- Home foreclosures in each State or Unit of General Local Government (UGLG)
- Homes financed by a subprime mortgage related loan in each State or UGLG
- Homes in default or delinquency in each State or UGLG.

HERA has set forth strict requirements by which NSP grantees must adhere to in administering the NSP program and use of the NSP funding. Below are some the more critical requirements, **Attachment A** is a complete summary of all the requirements.

Eligible Activities

There are (5) eligible uses of NSP Funding which are tied to Entitlement CDBG eligibility provisions. The uses of NSP Funding are as follow:

- Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties;
- Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon in order to sell, rent, or redevelop such homes and properties;
- Establish land banks for homes that have been foreclosed
- Demolish blighted structures; and
- Redevelop demolished or vacant properties.

Income Targeting

NSP grantees must ensure for the longest term feasible, that NSP-assisted properties remain affordable for households with incomes up to 120% of area median income, and that at least 25% of their allocation benefits households with incomes at or below 50% of area median income.

Time Period to Use Funds

NSP grantees must "use" their funds within 18 months from the date of allocation. The notice defines "use" as the obligation of the funds, not disbursement of funds. All funds must be expended within four years from the date of allocation.

Applying for NSP Funds

In order to receive the NSP allocation, grantees must submit to the HUD local office by December 1, 2008, a Substantial Amendment Action Plan to the Consolidated Annual Action Plan for FY 2008-09. In the Substantial Amendment, grantees must provide the following:

- General information about needs, distribution, definitions, use of funds;
- Information for each proposed activity describing how grantee will use the funds;
- Description of general terms under which assistance will be provided; and
- Contact Information.

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KEY ISSUES AND IMPACTS

The foreclosure crisis has disproportionately affected Oakland, particularly in minority and low-income neighborhoods where predatory lending was widespread. The City's effort to restrict predatory lending through a local ordinance did not sustain a legal challenge; one consequence being that large numbers of existing homeowners were induced to refinance their homes with loans they could not afford, which has further exacerbated the crisis.

Staff has identified over 3,500 homes that were fully foreclosed and taken back by lenders between January 2007 and September 2008. These foreclosures have been most heavily concentrated in West Oakland and East Oakland, where there are multiple foreclosed homes on nearly every block. Many foreclosed properties are now becoming targets for vandalism and theft, including the removal of copper piping, appliances, cabinets and other items. If left unchecked, these properties will become magnets for crime, causing further declines in property values that could accelerate the foreclosure problem in a downward spiral.

While some foreclosed properties are reselling relatively quickly, in neighborhoods that were already dealing with problems of crime and relatively weaker housing markets, foreclosed homes are not moving as quickly. These neighborhoods are thus plagued by a combination of high rates of subprime lending, high foreclosure rates, and high risk of abandonment as homes remain vacant and unsold for many months.

As noted above, the HERA legislation was crafted specifically to deal with the neighborhood impacts of foreclosures, using factors such as prevalence of predatory lending, high foreclosure rates, and high unemployment and vacancy rates, to identify neighborhoods most at risk. These factors are all especially high in West and East Oakland.

PROGRAM DESCRIPTION

The City of Oakland has been allocated \$8.25 million to implement a Neighborhood Stabilization Program (NSP). Additionally, the State of California has been allocated \$145 million to implement a NSP. The State is required to allocate funds to areas of greatest need, including cities that received their allocation of NSP funds, but the State has not yet announced its implementation plans. Once the State establishes an allocation plan, staff will come back to Council and request authority to apply for, accept and appropriate those funds.

As noted above, in order to receive its NSP allocation, the City of Oakland must submit to the HUD local office by December 1, 2008, a Substantial Amendment to the Consolidated Annual Action Plan for FY 2008-09. Below are some of the critical elements required in the Substantial Amendment (**Attachment B** is a complete copy).

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Target Areas

The NSP regulations require that NSP grantees target funds to give priority emphasis and consideration to areas with greatest need based upon the same criteria HUD utilized to make funding allocations. HUD has provided jurisdictions with data that includes a “risk factor” scored on a scale of 1 to 10. Using this data, staff has determined the areas with greatest need are areas within East and West Oakland. Please see the map attached for the specific areas that will be the target areas. (**Attachment C**).

Use of Funds

Staff recommends developing a Neighborhood Stabilization Program to include the requirements set forth by HUD. The Neighborhood Stabilization Program (NSP) will provide financial assistance to purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell or rent such homes and properties to low, moderate and middle income households. Below are some of the key eligibility requirements. For a full description of the NSP Program see **Attachment D**.

a. Eligible Applicants:

- Applicants can be individuals, partnerships, corporations, non-profit organizations or community land trusts.
- Applicants must demonstrate credit worthiness, financial capacity, and relevant past experience to undertake acquisition, rehabilitation and resale of homes. For rental projects, applicants must also demonstrate capacity to manage and maintain such properties as required by the program.

b. Eligible Properties:

- Single-family and multi-family residential structures.
- Properties must be (a) foreclosed and (b) vacant for at least ninety (90) days prior to submission of an application to the City.
- “Foreclosed” means that pursuant to applicable state and local laws, the mortgage or tax foreclosure process has been completed. Title must have been transferred from the former homeowner. Funds may not be used for foreclosure prevention activities or for acquisition of properties that have not been foreclosed upon.
- Properties must be located in areas with a high concentration of foreclosure activity as determined by the Community and Economic Development Agency’s Housing and Community Development Division.

c. Eligible uses of Funds:

- Homeownership activities. Funds must be used to benefit households whose income does not exceed one hundred percent (100%) of area median income. The City is required to impose resale controls to ensure continuing affordability.
- Rental activities. Funds must be used to benefit households whose income does not exceed fifty percent (50%) of area median income. Continuing affordability controls are required.
- Acquisition. Properties acquired under this program must be purchased at a price not to exceed eighty-five percent (85%) of the current market value of the property,

taking into account its current condition, as determined by a City-approved appraisal.

- Rehabilitation. Funds may be used for the costs of rehabilitating properties to comply with State and local code requirements and all applicable property standards (see below) necessary to ensure housing safety, quality, and habitability

Competitive Allocation of Funds

In December, staff will issue a Request For Proposals/Qualifications (RFP/Q) to choose an organization or group of organizations to provide the acquisition, rehabilitation, land trusts marketing and sale of properties in the areas within East and West Oakland that have been foreclosed upon and have been vacant for 90 days as well as pre- and post-purchase counseling. Housing units must be purchased at below market-rates, and resold at a price not to exceed the cost of development including a reasonable developer fee. The intent of this program is to remove blight and provide decent housing to low and moderate income homebuyers.

Budget of Funds

Funds allocated to the Neighborhood Stabilization Program **\$7,125,000**
These funds will cover the cost of implementing the NSP program as listed above. As a requirement of HUD, 25% of all NSP funds, \$2.1 million, must be used to purchase and rehabilitate homes for households whose incomes do not exceed 50% of area median income.

Funds allocated for Homeownership Counseling **\$ 250,668**
These funds will allow for the provision to low-income buyers with pre-purchase counseling, general homebuyer education and post-purchase education. In addition buyers must receive education about the specifics of the program's resale formula and other restrictions to ensure they know what they are buying.

Funds allocated for Administration of the NSP **\$ 825,000**
These funds will cover the administration costs of preparing and submitting the action plan substantial amendment; development and issuance of RFPs; development, oversight and monitoring of contracts; development and submission of required monthly performance reports to HUD and other grant administration costs.

TOTAL **\$8,250,668**

SUSTAINABLE OPPORTUNITIES

Economic: As noted in the report, these CDBG funds are for the purpose of addressing the problems faced by families and their communities in light of the foreclosure crisis and to ensure communities can mitigate the harmful effects of foreclosures.

Environmental: The activities funded address such issues as removal of blight and the abatement of environmental hazards such as lead-based paint and other hazardous building conditions. Housing rehabilitation programs encourage contractors to use green building techniques, including energy-efficient design, use of recycled building materials, and water-conserving fixtures and landscaping.

Social Equity: As noted in the report, these funds may be used to provide affordable housing to households whose incomes do not exceed 120 percent of the area median income.

DISABILITY AND SENIOR CITIZEN ACCESS

These funds do not provide specific benefits or programs for disabled or senior citizens. The City will ensure that all applicable accessibility requirements are met for any rehabilitation work funded under this program.

RECOMMENDATION AND RATIONALE

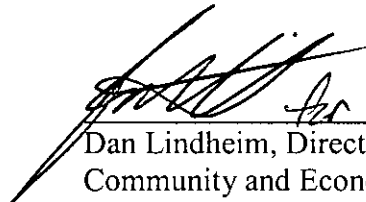
In order to receive the NSP allocation, grantees must submit the Substantial Amendment to the HUD local office by December 1, 2008. Therefore, staff recommends that the City Council approve a resolution to:

- (a) Adopt the Substantial Amendment to the Consolidated Plan Annual Action Plan for Housing and Community Development for Fiscal Year 2008-09 to describe the new Neighborhood Stabilization Program
- (b) Authorize the City Administrator to submit the Substantial Amendment to HUD and to accept and appropriate funds totaling \$8,250,668, plus associated program income, to the HUD - CDBG Fund (2108) for the Neighborhood Stabilization Program;
- (c) Authorize the Community and Economic Development Agency to issue a Request For Proposals/Qualifications for the Neighborhood Stabilization Program; and
- (d) Authorize the reallocation of Neighborhood Revitalization Program funds as needed to support the Neighborhood Stabilization Program.

ACTION REQUESTED OF THE CITY COUNCIL

The Community and Economic Development Agency requests that the City Council accept this report and approve the resolution to authorize the actions described above and implement the Neighborhood Stabilization Program for acquisition and rehabilitation of vacant, foreclosed properties.

Respectfully submitted,




Dan Lindheim, Director
Community and Economic Development Agency

Reviewed By: 
Sean Rogan, Deputy Director
Housing & Community Development

Prepared By:
Michele Byrd,
CDBG Program Manager

APPROVED AND FORWARDED TO
CITY COUNCIL:



Office of the City Administrator

Outline of HUD's Notice Implementing the CDBG Neighborhood Stabilization Program

HUD released a notice on the CDBG Neighborhood Stabilization Program (NSP) on September 29, 2008, along with the allocations. The notice was effective immediately. The full notice can be accessed at <http://www.hud.gov>. The notice implements the NSP, which provides \$3.92 billion in emergency CDBG funds to eligible grantees. The program was enacted by Congress in late July as part of H.R. 3221, the Housing and Economy Recovery Act. The National Community Development Association, U.S. Conference of Mayors, National Association of Counties, and the National Association for County Community and Economic Development began advocating for this funding in January 2008 and were successful in obtaining funds for grantees through the program. NCEA is concerned, however, that more cities did not receive funding and a letter has been sent to HUD asking that reallocated State funds from this program, as well as future funding, be allocated to entitlement communities, particularly those communities that did not receive funding initially.

Outline of the Program

1. **Application of funds.** The application of funds will consist of a substantial amendment action plan to the Consolidated Plan, as is used in the regular CDBG program. HUD is waiving the normal CDBG citizen participation process for the use of the NSP funds. Instead, HUD will rely on a shorter process that is used with CDBG disaster funds. Grantees must publish the action plan via the usual methods and put it on the agency's internet site for 15 calendar days. Citizens must have equal access to the information. HUD will then undertake an expedited review, and once the environmental review is completed by the grantee, HUD will release the funds.

In its action plan, which must be submitted to HUD no later than December 1, 2008, grantees must provide the following:

- summary needs data identifying areas of greatest need within its jurisdiction;
- narrative describing how the distribution and use of funds will meet the statutory requirement that funds be targeted to areas of greatest need according to the formula elements, which may also include other relevant data;
- narrative is also to include a definition of blighted structures in the context of state or local law and information on their demolition and conversion activities;
- definition of affordable rents when using the funds for rental housing;
- description of how the grantee will ensure continued affordability for NSP-assisted housing and a description of the rehabilitation standards that will apply;
- description by activity of the use of the funds for eligible uses under NSP, eligible CDBG activities, areas of greatest need, expected benefit to income qualified households and appropriate performance measures (units to be acquired, rehabilitated, or demolished for income levels at or below 50% of area median

- income, 51-80% of area median income, and 81-120% of area median income);
- name and location of entity to carry out the activity;
- expected start and end date;
- the discount for acquisition to be used (5% from the current appraised market value for single purchases and 15% for bulk purchases);
- range of interest rates;
- duration of term of assistance;
- tenure of beneficiaries (rental or homeownership);
- statement on how the activity will benefit households at or below 50% of median income; and
- reference on how and whom citizens may contact for information

HUD will review each grantee submission for completeness and consistency with the requirements of the notice and will disapprove incomplete and inconsistent action plan amendments. Grantees will be allowed to revise a disapproved plan and resubmit it to HUD within 45 days (but no later than February 13, 2009).

2. **18 Month Deadline.** Grantees must “use” their funds within 18 months from the date of allocation. The notice defines “use” as the obligation of the funds, not disbursement of funds. All funds must be expended within four years from the date of allocation.
3. **Administrative Costs.** Grantees will be able to spend up to 10% of their grant, plus program income, on administrative costs. Grantees can also charge program delivery costs to activities.
4. **Pre-Award Costs.** Grantees can incur pre-award costs necessary to develop the substantial action plan amendment and undertake other administrative actions necessary to receive their grant, subject to current CDBG limits. This does not apply to localities applying to the State for an allocation.
5. **National objective.** NSP funds can only be used to address the low- and moderate-income national objective under CDBG, not slums and blight or urgent needs. An NSP activity meets this objective if it:
 - Provides/improves housing that will be occupied by a household at or below 120% of AMI;
 - Serves an area in which at least 51% of residents have incomes at or below 120% of AMI;
 - Creates or retains jobs for persons at or below 120% of AMI;
 - Serves a limited clientele whose incomes are at or below 120% of AMI.
6. **Eligible Activities.** Funds can be used for the following activities: create financing mechanisms to purchase and redevelop abandoned and foreclosed properties through soft-second loans, loan loss reserves, and shared-equity loans; purchase and rehabilitation

of abandoned and foreclosed homes to re-sell, rent or redevelop; establish land banks of foreclosed homes; demolish blighted structures; redevelopment of demolished or vacant properties.

HUD will not consider exception requests to allow foreclosure prevention or demolition of non-blighted structures or allow purchase of homes that are not abandoned or foreclosed. CDBG's prohibition on using funds for new construction is waived to the extent that new construction is necessary to redevelop demolished or vacant properties.

7. **Ineligible.** Grantees cannot provide NSP funds to another party to finance an acquisition of tax foreclosed (or any other) properties from itself, other than to pay necessary and reasonable costs related to the appraisal and transfer of title.
8. **Income Targeting.** Grantees must ensure, for the longest term feasible, that NSP-assisted properties remain affordable for households with incomes up to 120% of area median income and that at least 25% of their allocation benefit households with incomes at or below 50% of area median income. Grantees must describe how they will define affordable rents and long-term affordability in their application.
9. **Housing safety, quality and habitability.** NSP assisted-rehab must comply with applicable laws, codes and other requirements related to housing safety, quality and habitability, as well as improvements to increase energy efficiency and conservation.
10. **Sale of homes.** The sale of homes acquired with NSP funds must be in an amount equal to or less than the cost to acquire, rehab and dispose of the home. The maximum sales price is determined by aggregating all costs, including activity delivery costs related to the sale. HUD will not allow the cost of boarding up, lawn mowing or property maintenance to be included in the sales price.
11. **Pre-Purchase Counseling.** Homeowners that are assisted with the funds must undergo eight hours of pre-purchase counseling from a HUD-approved provider.
12. **URA.** Grantees are advised to consider Uniform Relocation Act (URA) requirements in designing their programs. Grantees must also follow their anti-displacement and relocation plans already in effect for the CDBG and HOME programs. All NSP-assisted property acquisitions must be voluntary acquisitions as the term is defined by the URA and its implementing regulations.
13. **One-for-One Replacement.** Grantees who use their funds for demolition will not be held to the one-for-one replacement requirement.
14. **Program income.** Program income earned during the first five years must be used for the same type of activities. Program income received after five years must be returned back to the Treasury; although, HUD can grant an exception.

15. **Reporting.** HUD will use the Disaster Recovery Grants Reporting (DRGR) system rather than IDIS. Grantees will have to report to HUD on their progress on a quarterly basis. Reports will have to be filed no later than 30 days following the end of the quarter. Each report will include use of funds, project name, activity, location, national objective, funds budgeted and expended, non-NSP funds used, number of properties and housing units, beginning and ending dates of activities, and the number of low- and moderate-income persons and households assisted. Moreover, grantees will be required to report monthly on their NSP obligations and expenditures.

16. **Definitions.** The notice contains a number of definitions, as follows:

Abandoned property - a property in which the mortgage or tax foreclosure process has been initiated for the property and no mortgage or tax payments have been made in 90 days and the property has been vacant for 90 days.

Blighted structures – structures that have objectively determined signs of deteriorated conditions to be a threat to health, safety, and public welfare.

Current market appraised value – the value of a foreclosed home established through an appraisal made in conformity with the requirements of the URA (at 49 CFR 24.103) and complete within 60 days prior to an offer to purchase.

Foreclosed property – a property that is at the point, as defined by state or local law, where the mortgage or the tax foreclosure is complete and the title for the property has been transferred under a foreclosure proceeding or a transfer in lieu of foreclosure.

Land bank – a governmental or non-profit entity that assembles, temporarily manages and disposes of vacant land for the purpose of stabilizing neighborhoods and encouraging redevelopment. Such land may be held for no more than 10 years.

Use of Funds (in terms of 18 months deadline) – Funds are used when obligated by the grantee for a specific NSP activity. Funds are considered obligations when “orders are placed, contracts are awarded, services are received, and similar transactions have occurred that require payment by the grantee during the same or a future period.”

17. **Certifications.** Grantees must make the same certifications they make with regular CDBG funds.

18. **Cross-cutting Federal Requirements.** Federal regulations relating to fair housing, labor standards, and the environment cannot be waived.

19. **Formula Allocation.** The formula is based on foreclosed and vacant homes, subprime and delinquent mortgages. The statute required that each state receive at least \$19.6

million. After reserving \$19.6 million for each state, HUD then calculated how much entitlement communities would receive. HUD imposed a minimum allocation threshold of \$2 million. If a communities' projected allocation fell under this threshold, then the amount was allocated to the state. NCDCA is in the process of reviewing the data elements used by HUD to allocate the funds. We were surprised that some cities that clearly have a foreclosure crisis did not receive funding under this program.

20. **States can allocate their funding to entitlement areas.** Under the existing CDBG program, States are not allowed to provide their funding directly to entitlements. Under the NSP, States can allocate their funds to the areas within the State with the greatest need, regardless, if a community receives a direct allocation through the program. In addition, contiguous entitlement cities and counties that are in the same metropolitan area can join together to undertake a joint program (similar to HOME Program consortia).
21. **Reallocation of Funding.** If a local grantee fails to complete an application to HUD by December 1, 2008 or if HUD disapproves their application, the grantee's allocation will revert back to their state. State allocations will be reallocated to the 10-highest need states, identified by HUD. HUD will also recapture from grantees funds that have not been committed within 18 months. NCDCA and the U.S. Conference of Mayors sent a letter to HUD on October 1, 2008, requesting than any reallocated State funds be allocated to entitlement communities, with an emphasis on those communities that did not receive funding initially through the program.

Finally, HUD has informed the interest groups that implementation of the NSP funding will be closely scrutinized by the HUD Inspector General and the FBI. There is concern about inflated appraisals, conflicts-of-interest and excessive fees. The message from HUD is to be careful in using the funds. Also, HUD provided technical assistance sessions in October at various locations across the nation. The information provided at the sessions is available on HUD's website.

THE NSP SUBSTANTIAL AMENDMENT

Jurisdiction(s): City of Oakland Jurisdiction Web Address: www.oaklandnet.com	NSP Contact Person: Michele Byrd Address: 250 Frank Ogawa Plaza, Suite 5313 Telephone: (510) 238-3714 Fax: (510) 238-6956 Email: mbyrd@oaklandnet.com
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A. AREAS OF GREATEST NEED

The City of Oakland, eight miles southeast of San Francisco, sitting on 19 miles of shoreline along the San Francisco Bay, includes 54 square miles of land and has a population of 400,000. The City of Oakland is divided up into seven districts.

The NSP regulations require that the City of Oakland target funds to give priority emphasis and consideration to areas with greatest need based upon the same criteria HUD utilized to make funding allocations. HUD has provided jurisdictions with data that includes a “risk factor” scored on a scale of 1 to 10. Using this data, staff has determined the areas with greatest need are areas within East and West Oakland.

The City of Oakland has identified over 3,500 homes that were fully foreclosed and taken back by lenders between January 2007 and September 2008. These foreclosures have been most heavily concentrated in West Oakland and East Oakland, where there are multiple foreclosed homes on nearly every block. Many foreclosed properties are now becoming targets for vandalism and theft, including the removal of copper piping, appliances, cabinets and other items. If left unchecked, these properties will become magnets for crime, causing further declines in property values that could accelerate the foreclosure problem in a downward spiral.

While some foreclosed properties are reselling relatively quickly, in neighborhoods that were already dealing with problems of crime and relatively weaker housing markets, foreclosed homes are not moving as quickly. These neighborhoods are thus plagued by a combination of high rates of subprime lending, high foreclosure rates, and high risk of abandonment as homes remain vacant and unsold for many months.

B. DISTRIBUTION AND USES OF FUNDS

NSP funds will be spent in the areas within East and West Oakland. These are the areas of greatest need in Oakland, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a subprime mortgage related loan and identified as likely to face a significant rise in the rate of home foreclosures.

C. DEFINITIONS AND DESCRIPTIONS

- (1) Definition of “blighted structure” in context of state or local law.
 - (a) NSP definition: A structure is blighted when it exhibits objectively determinable signs of deterioration sufficient to constitute a threat to human health safety, and public welfare.
 - (b) State context: California Health and Safety Code Section 33031(a)(1) describes physical conditions that cause blight: “Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions may be caused by long-term neglect, construction that is vulnerable to serious damage from seismic or geologic hazards, and faulty or inadequate water or sewer utilities.”
 - (c) Local law context: The City of Oakland Municipal Code Chapter 8, Section 24 describes blight as the factors that affect the preservation of the livability, appearance, and social and economic stability of the city. Health and safety hazards and the impairment of property values which result from the neglect and deterioration of property.

- (2) “Affordable rents” follow the HOME program standards at 24 CFR 92.252 (a), (c), (e), and (f). Namely, the maximum rents will be the lesser of the fair market rent and up to 30% of the adjusted income of a family earning 65% of AMI, with adjustments for the number of bedrooms in the unit, less a utility allowance. Affordable rents for units designated for households with incomes below 50% of AMI will be no more than 30% of 50% of AMI, adjusted for unit size. Such rents may be increased annually after HUD updates fair market rents and median incomes. The minimum period of affordability is as follows:

Rental Housing Activity	<u>Minimum affordability period (years)</u>	
	HOME Standards	Oakland Standards
Rehabilitation or acquisition of existing housing per unit amount of NSP funds		
Under \$15,000	5	5
\$15,000-\$40,000	10	10
Over \$40,000 or rehabilitation involving refinancing	15	15
New construction or acquisition of newly constructed housing	20	55 ¹

- (3) The City of Oakland will ensure continued affordability for NSP assisted housing by requiring documentation of income-eligibility upon sale or initial occupancy beyond through the following mechanisms:

¹ The 55-year affordability period allows such newly constructed or acquired rental units to count as low/moderate income production units under California Community Redevelopment Law.

- For homeownership: recording a notice of affordability restrictions and a regulatory agreement requiring any resale within 30 years to be to another-qualified buyer for an affordable housing cost; and
 - For rental: require the property manager or owner, as the case may be, to recertify that residents' incomes still qualify on an annual basis.
- (4) All housing rehabilitation activities assisted by NSP funds will meet federal Housing Quality Standards guidelines and City of Oakland building codes.

D. LOW INCOME TARGETING

The City of Oakland will expend approximately \$2.1 million of the funds appropriated or otherwise made available under the NSP to purchase and redevelop abandoned or foreclosed upon homes or residential properties for housing individuals or families whose incomes do not exceed 50 percent of area median income. This amount is 25% of the total grant amount, and does not include funds allocated to administration and planning.

E. ACQUISITIONS & RELOCATION

The City of Oakland does not intend to demolish or convert any low- and moderate-income dwelling units (i.e., $\leq 80\%$ of area median income).

F. PUBLIC COMMENT

(1) The City of Oakland posted a notice on its official website on November 10, 2008 and also in the Oakland Tribune on November 7 and 16, 2008 announcing the November 18, 2008 Public Hearing on the Substantial Amendment to the Annual Action Plan and inviting comments at or before the November 18, 2008 Public Hearing.

(2) The Oakland City Council will hold a Public Hearing on November 18, 2008 beginning at 7:00 pm.

G. NSP INFORMATION BY ACTIVITY (COMPLETE FOR EACH ACTIVITY)

(1) Information Common to All Activities

- (a) National Objective: benefiting Low, moderate and middle income persons, as defined in the NSP notice—i.e., $\leq 120\%$ of area median income).
- (b) Projected Start Date: February 1, 2009
- (c) Projected End Date: Ongoing
- (d) Responsible Organization: The City of Oakland will establish a program known as the Neighborhood Stabilization Program (NSP) which implements the NSP activity. NSP will be located at 250 Frank Ogawa Plaza, Suite 5313, Oakland,

CA 94612. The administrator will be Michele Byrd, who may be contacted by phone at (510) 238-3714 or by email mbyrd@oaklandnet.com.

- (e) Location Description: All activities will take place in the two areas of greatest need described in Sections A and B above.
- (f) Performance Measures: When possible, NSP will seek to achieve deeper affordability than the performances listed in Activities G (3) below.

(2) Activity Name: General Administration and Planning

- (a) Activity Type:
 - (1) NSP eligible use: plan and administer activities under Oakland's Neighborhood Stabilization Program.
 - (2) CDBG eligibility activity: program administrative activities eligible under 24 CFR 570.206.
- (b) Activity Description: This activity addresses the two areas of greatest need in Oakland. Assisted households will all be income-qualified persons, including those below 50% of area median income. Each activity administered will ensure continued affordability as described in Section G (3) below. Activities will include planning, outreaching to mortgages, structuring and administering financing, managing the NSP activities and projects as described below, issuing RFPs/Qs for appraisers, contractors, property managers, and/or developers, and reporting and monitoring on the NSP activities.
- (c) Budget: \$825,000
- (d) Performance Measures: achievement of the performance measures of all NSP activities outlined below.

(3) Activity Name: Acquisition and Rehabilitation

- (a) Activity Type:
 - (1) NSP eligible use: Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon; in order to sell, rent, or redevelop such homes and properties.
 - (2) CDBG eligibility activity: Acquisition, disposition, and direct homeownership assistance activities eligible under 24 CFR 570.201(a), (b), (i) and (n), as well as rehabilitation and preservation activities eligible under 570.202.
- (b) Activity Description: This activity will provide financial assistance to purchase and rehabilitate homes and residential properties that have been abandoned or

foreclosed upon, in order to sell or rent such homes and properties to low, moderate and middle income households. Assisted households will all be income-qualified persons, including those below 50% of area median income.

The abandoned and foreclosed-upon properties will be purchased at a discount from fair market value, in conformance with Section II.Q of the Notice of Allocations, Application Procedures, Regulatory Waivers Granted to and Alternative Requirements for Emergency Homes Grantees under the Housing and Economic Recovery Act (HERA), 2008. The NSP will follow the discount methodology discussed in Section II.Q, namely to set purchase prices below the fair market value in an amount reflecting the expected carrying costs the seller/mortgagee is saving by selling to NSP. Therefore, the average discount across all NSP-purchased properties will be at least 10% and the discount for each individual purchase will be at least 5%.

NSP will select an organization or a group of organizations through a Request For Proposals/Qualifications (RFP/Q) to provide the acquisition, rehabilitation, marketing and sale of properties in the areas of greatest need.

The extent of assistance will depend on the amount time required to acquire, rehabilitate and sell or rent the property. Residences will be sold at below market rate to income-qualified buyer to the extent sales are supported by the market. If a property cannot be sold for a price that will recover the development cost, NSP will rent the property to a qualified household on an annual lease basis, with income levels recertified annually.

NSP will select an organization or a group of organizations through a RFP/Q to provide to low-income buyers pre-purchase counseling, general homebuyer education and post-purchase education. In addition buyers must receive education about the specifics of the program's resale formula and other restrictions to ensure they know what they are buying.

(c) Budget: \$7,375,668

(d) Performance Measures: units of abandoned or foreclosed housing to be acquired and rehabilitated in order to sell, rent, or redevelop for households with income levels as a percentage of AMI

(1) ≤50% of AMI:	\$2,150,000
(2) 51-80% of AMI:	\$2,612,834
(3) 81-120% of AMI:	\$2,612,834

CERTIFICATIONS

- (1) **Affirmatively furthering fair housing.** The jurisdiction will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.
- (2) **Anti-lobbying.** The jurisdiction will comply with restrictions on lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.
- (3) **Authority of Jurisdiction.** The jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.
- (4) **Consistency with Plan.** The housing activities to be undertaken with NSP funds are consistent with its consolidated plan, which means that NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted area set forth in the grantee's substantial amendment.
- (5) **Acquisition and relocation.** The jurisdiction will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the Notice for the NSP program published by HUD.
- (6) **Section 3.** The jurisdiction will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.
- (7) **Citizen Participation.** The jurisdiction is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.
- (8) **Following Plan.** The jurisdiction is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.
- (9) **Use of funds in 18 months.** The jurisdiction will comply with Title III of Division B of the Housing and Economic Recovery Act of 2008 by using, as defined in the NSP Notice, all of its grant funds within 18 months of receipt of the grant.
- (10) **Use NSP funds \leq 120 of AMI.** The jurisdiction will comply with the requirement that all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income.
- (11) **Assessments.** The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by

assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

(12) **Excessive Force.** The jurisdiction certifies that it has adopted and is enforcing: (1) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and (2) a policy of enforcing applicable State and local laws against physically barring entrance to or exit from, a facility or location that is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(13) **Compliance with anti-discrimination laws.** The NSP grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.

(14) **Compliance with lead-based paint procedures.** The activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

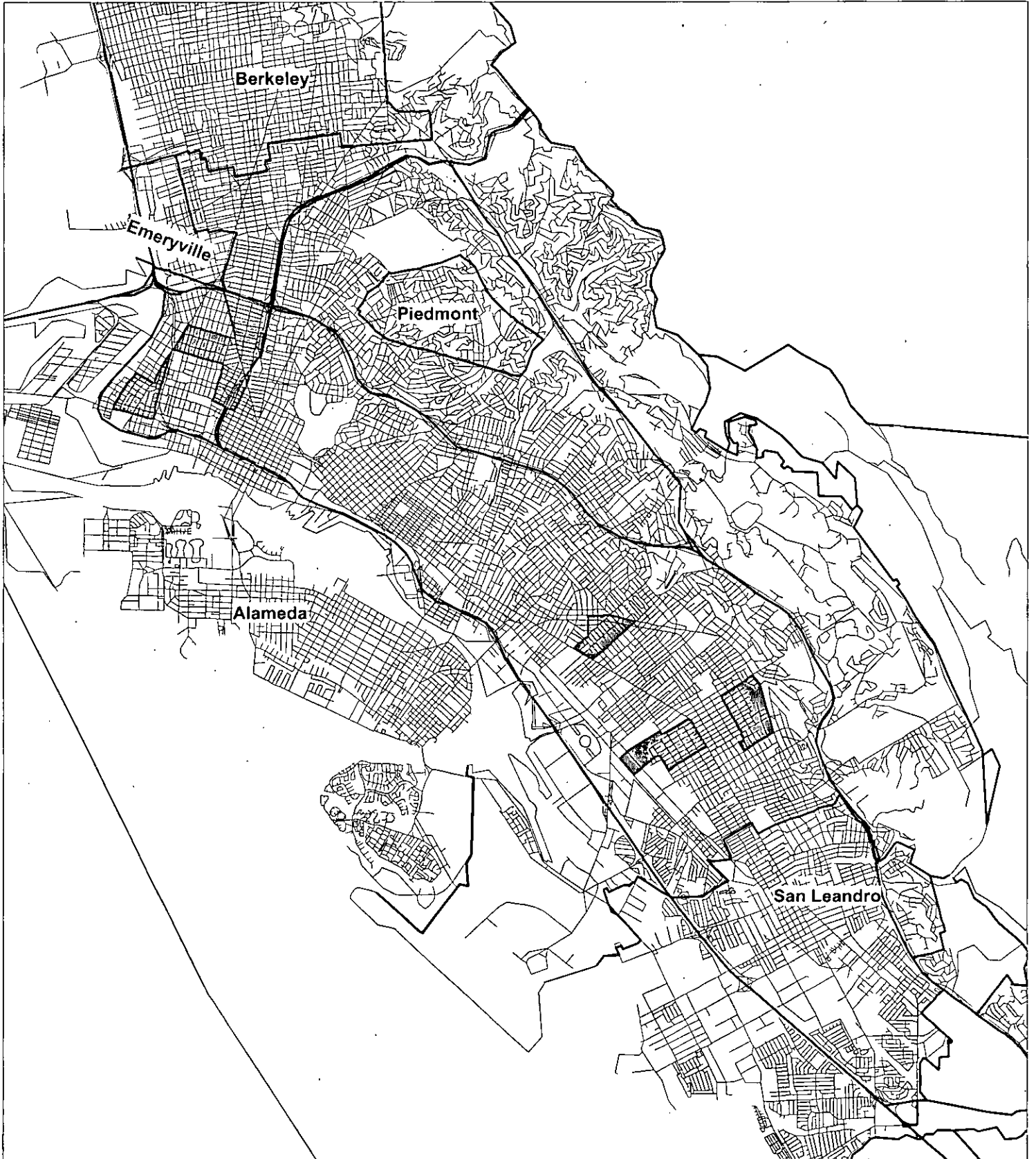
(15) **Compliance with laws.** The jurisdiction will comply with applicable laws.

Signature/Authorized Official

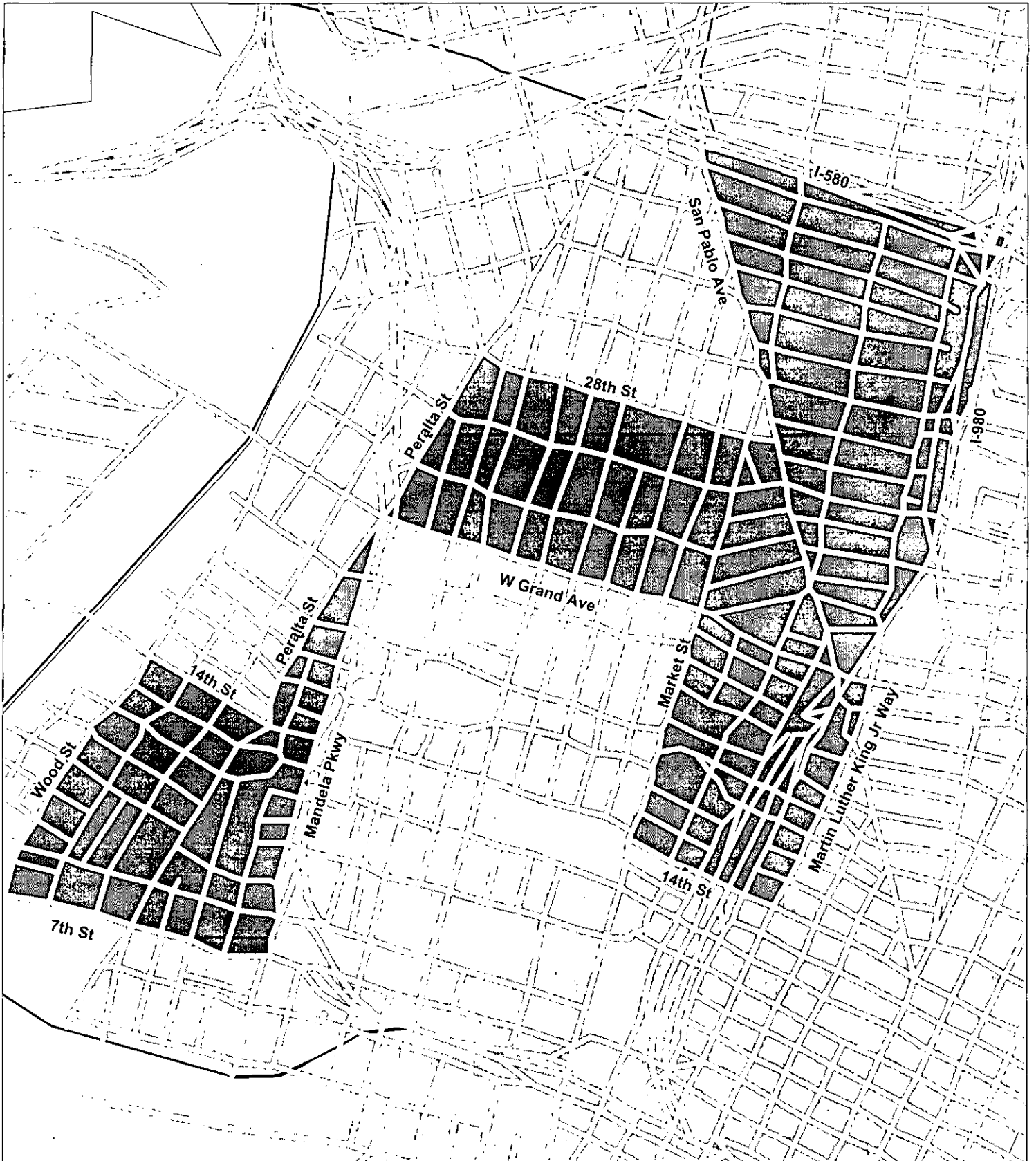
Date

Title

Target Areas for NSP Program (HUD-determined areas of highest risk)



West Oakland NSP Target Areas (HUD-determined areas of highest risk)



East Oakland NSP Target Areas (HUD-determined areas of highest risk)



**Community and Economic Development Agency of the City Oakland
Neighborhood Stabilization Program (NSP)
DRAFT Program Description**

Purpose: The **Neighborhood Stabilization Program (NSP)** provides financial assistance to purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell or rent such homes and properties to low, moderate and middle income households.

1. Eligibility Criteria

a. Eligible Applicants:

- Applicants can be individuals, partnerships, corporations, non-profit organizations or community land trusts.
- Applicants must demonstrate credit worthiness, financial capacity, and relevant past experience to undertake acquisition, rehabilitation and resale of homes. For rental projects, applicants must also demonstrate capacity to manage and maintain such properties as required by the program.

b. Eligible Properties:

- Single-family and multi-family residential structures.
- Properties must be (a) foreclosed and (b) vacant for at least ninety (90) days prior to submission of an application to the City.
- “Foreclosed” means that pursuant to applicable state and local laws, the mortgage or tax foreclosure process has been completed. Title must have been transferred from the former homeowner. Funds may not be used for foreclosure prevention activities or for acquisition of properties that have not been foreclosed upon.
- Properties must be located in areas with a high concentration of foreclosure activity as determined by the Community and Economic Development Agency’s Housing and Community Development Division.

c. Eligible uses of Funds:

- *Homeownership activities.* Funds must be used to benefit households whose income does not exceed one hundred percent (100%) of area median income.
- *Rental activities.* Funds must be used to benefit households whose income does not exceed fifty percent (50%) of area median income.
- *Acquisition.* Properties acquired under this program must be purchased at a price not to exceed eighty-five percent (85%) of the current market value of the property, taking into account its current condition, as determined by a City-approved appraisal.
- *Rehabilitation.* Funds may be used for the costs of rehabilitating properties to comply with State and local code requirements and all applicable property standards (see below) necessary to ensure housing safety, quality, and habitability. The City’s guidelines for “Eligible Repairs” under the Home Maintenance and Improvement Program (HMIP) will apply to all assisted single-

family homes. Rehabilitation may include improvements to increase the energy efficiency or conservation of such homes and properties or provide a renewable energy source or sources for such homes and properties. All work must be under the supervision of a licensed general contractor in good standing with Contractors State License Board (CSLB).

- **Related Soft Costs.** Funds may be used for related soft costs such as permits and fees, architectural and engineering fees, appraisal fees, title and escrow fees, marketing and sales costs, etc. The City will allow developers to receive a developer fee not to exceed an amount to be determined by the City.
- **Ineligible Costs.** Funds may not be used to provide improvements or finishes above standard quality. Funds may not be used to cover the costs of boarding up properties, mowing lawns, or otherwise maintaining the property in a static condition.

2. Property Standards

a. Local Codes

- Upon completion, properties must meet all applicable building codes, housing and planning standards.

b. Rehabilitation Standards

- Properties must be rehabilitated in conformance with the Performance Standards and Specifications for the Housing Rehabilitation Programs of the City of Oakland.

c. Lead-Based Paint

- Properties must comply with all applicable Federal standards for abatement of Lead-Based Paint Hazards.

d. Accessibility to Persons with Disabilities

- Accessibility to persons with disabilities to the extent required under applicable provisions of Section 504 of the Housing Rehabilitation Act of 1973, including compliance with Federal Uniform Accessibility Standards.

3. Affordability Requirements

a. Ownership Properties.

- Properties must be sold at a price at or below the total cost of acquisition and rehabilitation, including a reasonable developer fee as determined by the City.
- Properties must be occupied by households as their principal residence. Renting of such properties will not be permitted.
- Properties must be sold to households with incomes at or below 100 percent of area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development

- Properties will be subject to limitations on resale. Purchasers will be permitted to resell properties at the lesser of (a) fair market value or (b) a price sufficient to realize a modest rate of appreciation [formula to be determined by the City].
 - Properties must be resold to households with incomes not to exceed 100 percent of area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development. In the event that the restricted price is not affordable to such households, the City may, on a case by case basis, permit the home to be resold to a household with an income not to exceed 120 percent of area median income.
 - These restrictions shall remain in place for at least 15 years from the date of each sale. If a household remains in the home for 15 years, the restrictions shall expire.
- a. Rental Properties.
- Units must be rented to households with incomes not to exceed 50 percent of area median income, adjusted for household size, as determined by the U.S. Department of Housing and Urban Development.
 - Rents may not exceed 30% of 50% of area median income, less a reasonable allowance for tenant-paid utilities. Rents will be set in accordance with the guidelines for “Low HOME units” under the federal HOME program.
 - These restrictions shall remain in place for at least 15 years.
 - Assisted rental projects will be subject to annual monitoring and physical inspection by the City.

4. Other Requirements

- a. Projects must comply with all of the following requirements and conditions
- Projects involving eight (8) or more units are subject to federal prevailing wage requirements (i.e., Davis-Bacon requirements)
 - City of Oakland Living Wage Ordinance
 - City of Oakland contracting programs, including Local Construction Employment Referral Program, Local Business Enterprise Program, and Small Local Business Enterprise Program
 - City of Oakland Equal Benefits Ordinance
 - Applicants must ensure that there is no discrimination in employment or in the sale or rental of housing, on the basis of race, color, religion/religious creed, marital status, national origin/ancestry, gender, gender identity, pregnancy, sexual orientation, physical or mental disability, medical condition, AIDS/HIV status, military or veteran status, age, citizenship or on any other status protected by federal, state or local law.
 - City of Oakland Affirmative Fair Housing Marketing Guidelines
 - Projects must have met all applicable requirements (including HUD clearance) for under the National Environmental Policy Act (NEPA) prior to entering into a contract with the City. Once an application is filed with the City, applicants must refrain from undertaking any physical or choice-limiting activities until environmental review is completed. Failure to do so could disqualify an application.

- Projects must comply with the City of Oakland Resident and Worker Preference Policy for Affordable Housing
- Applicants must sign certifications of compliance with HUD Anti-Lobbying policies

5. Loan Terms

- a. Maximum Loan Amount:
 - Maximum loan amount shall be equal to or less than the total cost of acquisition, rehabilitation and related costs as defined above.
 - The final loan amount is to be determined after staff review of the developer's proposal.
- b. Interest Rate:
 - 0% interest on all loans.
- c. Loan Terms:
 - For ownership properties, the loan term is twenty four (24) months or two (2) years. Payments are deferred and due and payable upon sale or transfer of the property or at expiration of term. It is expected that all NSP funds will be repaid upon sale to an eligible homebuyer.
 - For rentals, the loan term is 15 years. Payments are deferred and due and payable on or before expiration of term.
- d. No Prepayment Penalty:
 - The loan may be prepaid without penalty at any time during the term of the loan. However, the affordability restrictions will remain in place.
- e. Collateral for Loan:
 - The loan will be secured by a Deed of Trust recorded against the subject property.

6. Preferential Criteria

- a. Preference will be given to applications that meet the following criteria
 - Demonstrated experience in having successfully completed comparable rehabilitation/construction projects within the past four (4) years
 - Properties that have been declared substandard by the City of Oakland
 - Properties that have been vacant for one (1) year or more
 - Projects with substantial neighborhood support
 - Projects that will address multiple properties within the same block
 - Projects that involve significant job training components
 - Leveraging of other funds for construction, and for rental projects, leveraging of funds for permanent financing
 - Affordability to income levels less than the maximum allowable income and/or for periods longer than the minimum specified periods.

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 NOV -7 AM 4:31

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C. M. S.

RESOLUTION 1) ADOPTING A SUBSTANTIAL AMENDMENT TO THE CONSOLIDATED PLAN ANNUAL ACTION PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT FOR FISCAL YEAR 2008-2009; 2) AUTHORIZING THE CITY ADMINISTRATOR TO SUBMIT THE AMENDMENT TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; 3) AUTHORIZING THE CITY ADMINISTRATOR TO ACCEPT AND APPROPRIATE FUNDS TOTALING \$8,250,668 TO THE HUD-CDBG FUND TO DEVELOP AND ADMINISTER THE NEIGHBORHOOD STABILIZATION PROGRAM; 4) AUTHORIZING THE COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY TO ISSUE A REQUEST FOR PROPOSALS/QUALIFICATIONS FOR THE NEIGHBORHOOD STABILIZATION PROGRAM; AND 5) AUTHORIZING THE REALLOCATION OF FUNDS FROM THE EXISTING NEIGHBORHOOD HOUSING REVITALIZATION PROGRAM AS NEEDED FOR THE NEIGHBORHOOD STABILIZATION PROGRAM.

WHEREAS, on July 30, 2008, President Bush signed into law the Housing and Economic Recovery Act of 2008 (H.R. 3221); and

WHEREAS, H.R. 3221 provides \$3.92 billion in Community Development Block Grant (CDBG) Neighborhood Revitalization funds for communities to purchase and rehabilitate foreclosed homes; and

WHEREAS, on September 29, 2008, the U. S. Department of Housing and Urban Development (HUD) released the implementation notice and the formula allocation of the CDBG Neighborhood Revitalization funds in the Federal Register; and

WHEREAS, the City desires to accept the \$8,250,668 HUD has allocated to the City of Oakland to implement a Neighborhood Stabilization Program (NSP); and

WHEREAS, HUD is requiring all NSP grantees to submit to the HUD local office by December 1, 2008, a Substantial Amendment to the Consolidated Annual Action Plan for FY 2008-09; and

WHEREAS, the City has published a draft of the Substantial Amendment and has provided for a public comment period of 15 days according to HUD requirements; and

WHEREAS, there is a need to develop and administer a Neighborhood Stabilization Program to include the requirements set forth by HUD; and

WHEREAS, there is a need to issue a Request For Proposals/Qualifications for implementation of the NSP; and

WHEREAS, the City may need to use funds from the Neighborhood Housing Revitalization Program (Fund 2999, Project G08760) to further implement the NSP; now, therefore, be it

RESOLVED: That the City Council hereby adopts the proposed Substantial Amendment to the Consolidated Plan Annual Action Plan including consideration of public comments received; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator, and/or his designee, to take any actions necessary to execute and submit the Substantial Amendment to HUD and any other materials that may be required to secure HUD approval; and be it

FURTHER RESOLVED: That the City Council hereby accepts and appropriates the HUD funds totaling \$8,250,668 and authorizes the City Administrator or his designee to amend the appropriated amounts for FY 2008/09 to reflect actual grant receipts for the programs identified in the final Consolidated Plan; and be it

FURTHER RESOLVED: That said funds, and any program income derived there from, shall be appropriated to the HUD-CDBG Fund (2108, Org 88949, Project to be Determined); and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator, and/or his designee to develop and administer a Neighborhood Stabilization Program to include the requirements set forth by HUD; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator, and/or his designee to issue a Request For Proposal/Qualifications for implementation of the NSP; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Administrator, and/or his designee, as needed, to reallocate funds from the Neighborhood Revitalization Program (Fund 2999, Project G08760) to help implement the NSP; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to approve any amendments to the Consolidated Plan, and any amendments, modifications or extensions of FY 2008-09 agreements, with the exception of the allocation of additional funds, and take any other action with respect to the agreements consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That prior to execution, agreements shall be reviewed and approved as to form and legality by the Office of the City Attorney, and copies filed with the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator to conduct negotiations, execute documents, and take any other action with respect to the project and the allocation of CDBG funds consistent with this Resolution and its basic purpose.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California