

City of Dayton



Neighborhood Stabilization Plan (NSP)

SUBSTANTIAL ACTION PLAN AMENDMENT 2008



City of Dayton

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City of Dayton, Ohio

101 West Third Street

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(937) 333-3670



THE NSP SUBSTANTIAL AMENDMENT

Jurisdiction(s): <u>City of Dayton, Ohio</u> Jurisdiction Web Address: <i>http://www.cityofdayton.org/departments/pcd/Pages/NeighborhoodStabilizationProgram,%20NSP.aspx</i>	NSP Contact Person: Valerie McIntosh Address: 101 West Third St. 6 th Floor Dayton, Ohio 45402 Telephone: 937-333-3816 Fax: 937-333-4281 Email: valerie.mcintosh@cityofdayton.org
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A. AREAS OF GREATEST NEED

Provide summary needs data identifying the geographic areas of greatest need in the grantee's jurisdiction.

Note: An NSP substantial amendment must include the needs of the entire jurisdiction(s) covered by the program; states must include the needs of communities receiving their own NSP allocation. To include the needs of an entitlement community, the State may either incorporate an entitlement jurisdiction's consolidated plan and NSP needs by reference and hyperlink on the Internet, or state the needs for that jurisdiction in the State's own plan. The lead entity for a joint program may likewise incorporate the consolidated plan and needs of other participating entitlement jurisdictions' consolidated plans by reference and hyperlink or state the needs for each jurisdiction in the lead entity's own plan.

HUD has developed a foreclosure and abandonment risk score to assist grantees in targeting the areas of greatest need within their jurisdictions. Grantees may wish to consult [this data](#), in developing this section of the Substantial Amendment.

Response:

The City of Dayton, Department of Planning and Community Development has analyzed and mapped five HUD and local data indicators to determine Areas of Greatest Need. Those five indicators are described below:

- ◆ **Percentage of Persons at or Below 120% AMI** – Based on data provided by the Department of Housing and Urban Development, the percentage of all persons per Census block group that are at or below 120 percent of the area median income, (Map 1).
- ◆ **HMDA High Cost Loans** – Based on data provided by the Department of Housing and Urban Development, the percentage of high cost loans according HMDA information, (Map 2).

- ◆ **Predicted 18 Month Underlying Foreclosure Rate** – As calculated by the Department of Housing and Urban Development, (Map 3).
- ◆ **Percentage of Property Two or More Years Tax Delinquent** – City of Dayton statistics were used to determine the percentage of property within each block group that is two or more years delinquent in taxes (total number of acres two or more years delinquent divided by the total acres in the block group). This information was included to account for areas that have been harmed by recent foreclosures and areas that will likely face increased foreclosures, (Map 4). Non-payment of property taxes is a good predictor of future abandonment.
- ◆ **Neighborhood Stability Score** – This value takes into account two factors:
 - 1.) Percentage of land in the block group that is maintained by the City of Dayton.
 - 2.) Percentage of all structures in the block group that has been given a Condition Rating of three or higher (on a scale of one to five, five being the worst condition) by the City of Dayton Division of Housing.

Block groups were then ranked by their combined performance in these two factors. Once each block group was evaluated by each of these five indicators, a single index was created to summarize the data. This index was then used to determine areas of greatest need. The table below describes how the index was established (Map 5):

Indicator	Point Value		
	1	2	3
Percent LMMA (Map 1)	<50%	>50%	--
Percent with High Cost Loan (Map 2)	<40%	>40%	--
Predicted Foreclosure Rate (Map 3)	<5%	5.1-10%	10.1% or Higher
2 Years Tax Delinquent (Map 4)	<4%	>4%	--
Neighborhood Stability (city maintained lots and structural conditions)(Map 5)	Most Stable – The top 50% of block groups in stability ranking	Marginal – between Most and Least Stable	Least Stable – The lowest 25% of all block groups in stability ranking

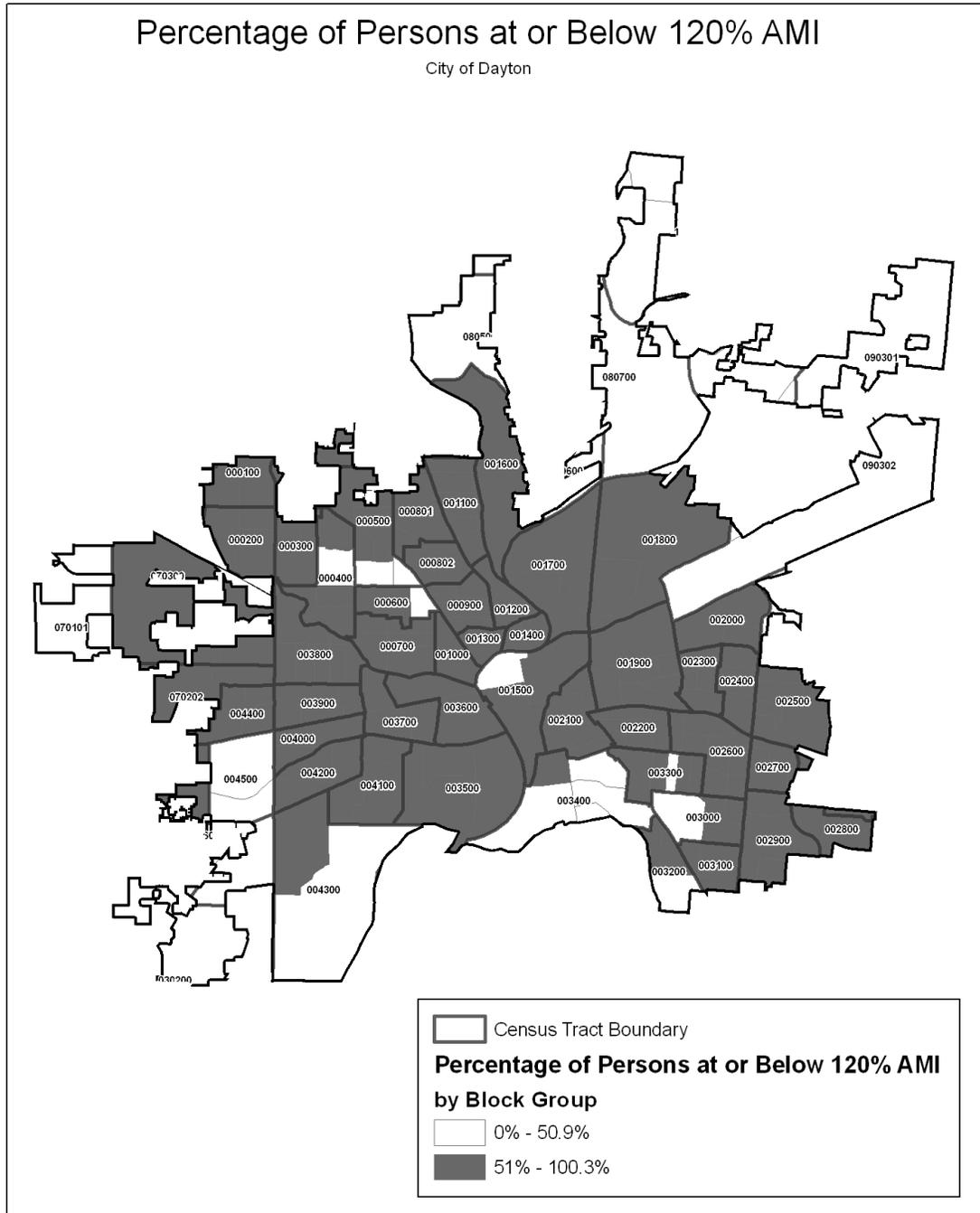
After point values were assigned, a Total Index Score was calculated for each block group by adding the point values from the individual indicators. The table below describes the significance of the Total Index Score value (Map 6):

Index Score	Title	Description
5 to 6	Limited Need	Block Groups that show limited signs of distress or risk of widespread foreclosure and/or abandonment
7 to 8	Moderate Need	Distress and risk factors are present, although not as pronounced as the Areas of Greatest Need
9 to 12	Area of Greatest Need	Multiple significant distress and risk factors are present and stabilization efforts are required.

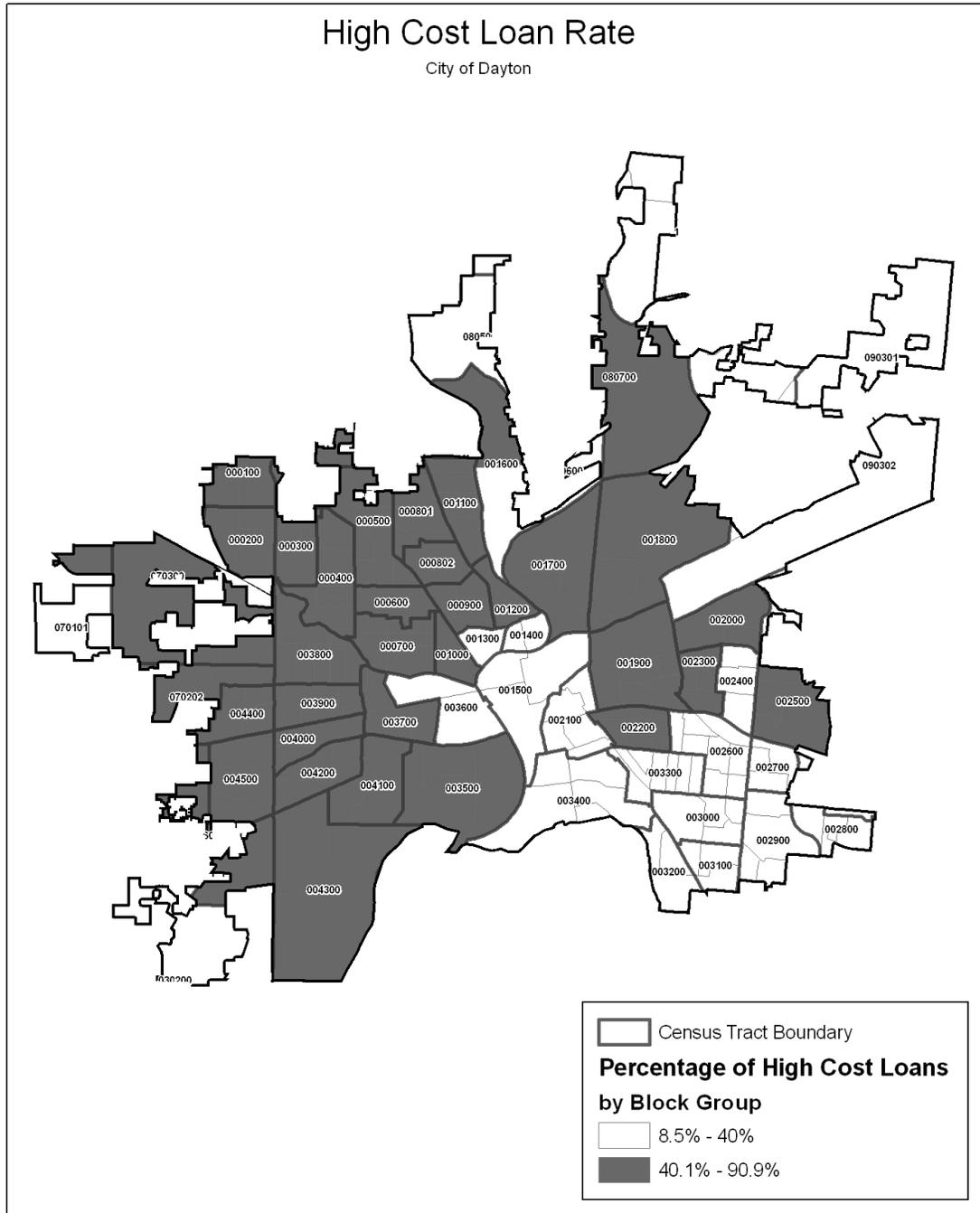
The following is an explanation of the data results used to determine eligible neighborhoods/project sites:

- 1.) Greatest Percentage of Home Foreclosures: The 38 Census Tracts in the City of Dayton that are highest in foreclosure rate are represented by the Areas of Greatest Need set forth in Section A of this document, either in part or in whole. The Areas of Greatest Need (Map 6) coincide greatly with those with the highest Predicted Foreclosure Rate shown in Map 3.
- 2.) Highest Percentage of Homes Financed by a Subprime Mortgage Related Loan: The 27 Block Groups that have the highest rate of High Cost Loans are represented in the Areas of Greatest Need set forth in Section A of this document. The Areas of Greatest Need (Map 6) coincide greatly with those areas that have the highest rate of high cost loans Map 2.
- 3.) Likely to face a significant rise in the rate of home foreclosures: The Areas of Greatest Need are strictly aligned with those areas identified by HUD and the City of Dayton as being at risk of foreclosure and abandonment. This conclusion is based on HUD provided data and calculations, as well as the incorporation of risk-associated criteria into the data model described in this section.

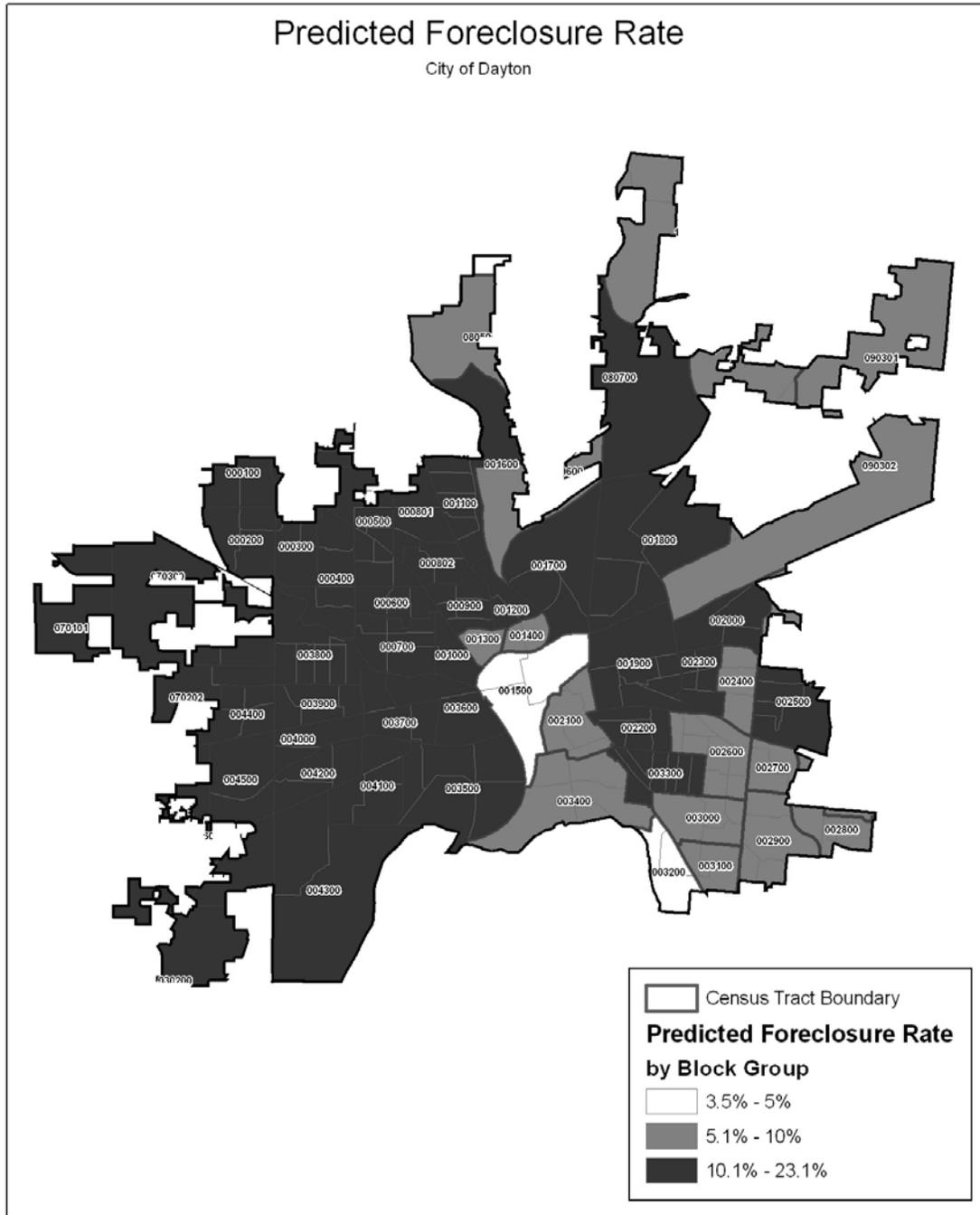
Map 1



Map 2



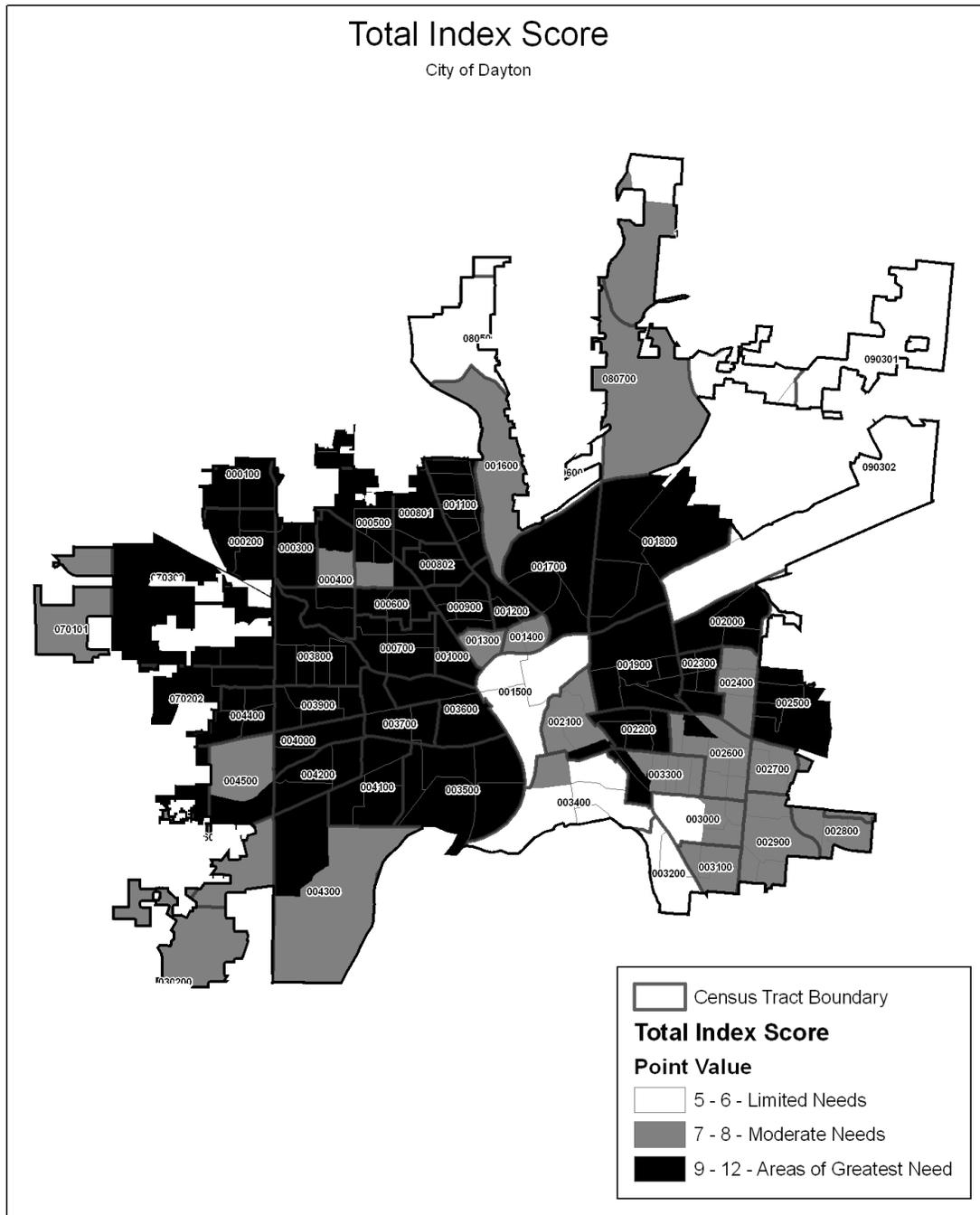
Map 3



Map 6 shows the geographic distribution of Greatest Need areas, which are listed below:

STATE	COUNTY	TRACT	BLKGRP
39	113	000100	1-2
39	113	000200	1-3
39	113	000300	1-3
39	113	000400	1
39	113	000400	3-4
39	113	000500	1-5
39	113	000500	7
39	113	000600	1-3
39	113	000700	1-5
39	113	000801	1-3
39	113	000802	1-3
39	113	000900	1-5
39	113	001000	1-2
39	113	001100	1-6
39	113	001200	1-2
39	113	001700	1-3
39	113	001800	1-4
39	113	001900	1-6
39	113	002000	1-3
39	113	002100	5
39	113	002200	1-4
39	113	002300	1-5
39	113	002500	1-5
39	113	002600	2
39	113	003300	2-3
39	113	003500	1-5
39	113	003600	1-2
39	113	003700	1-3
39	113	003800	1-6
39	113	003900	1-4
39	113	004000	1-2
39	113	004100	1-4
39	113	004200	1-3
39	113	004300	1
39	113	004400	1-4
39	113	004500	2
39	113	060300	1
39	113	070201	2
39	113	070202	1-2
39	113	070300	1-3
39	113	080100	2-4
39	113	080300	2
39	113	080400	2

Map 6



B. DISTRIBUTION AND USES OF FUNDS

Provide a narrative describing how the distribution and uses of the grantee’s NSP funds will meet the requirements of Section 2301(c)(2) of HERA that funds be distributed to the areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a subprime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures. *Note: The grantee’s narrative must address these three stipulated need categories in the NSP statute, but the grantee may also consider other need categories.*

Response:

Section 2301(c)(3) of HERA stipulates that funds be distributed to areas of greatest need, including those with the greatest percentage of home foreclosures, with the highest percentage of homes financed by a subprime mortgage related loan, and identified by the grantee as likely to face a significant rise in the rate of home foreclosures.

NSP funds will be allocated to projects such as the demolition of blighted/vacant structures; construction of new housing on vacant and abandoned lots in eligible areas for residents having incomes at or below 50% AMI; funding to support the purchase and rehab of single family units that have been foreclosed in NSP targeted neighborhoods; and, the recovery of vacant/abandoned lots to create new opportunities for development. To ensure that NSP funds are targeted and equitably distributed to meet program goals, the City will focus primarily on neighborhoods with a total Index Score of 9-12 (Map 6). However, the City may demolish significantly blighted structures in areas with moderate needs to arrest further deterioration in the affected neighborhoods.

C. DEFINITIONS AND DESCRIPTIONS

(1) Definition of “blighted structure” in context of state or local law.

Response:

The City of Dayton adheres to the following definition and guidelines for placing blighted structures in its Nuisance Abatement Program.

Ohio Code of Ordinances- Building Regulations (152.01)

Public Nuisance. Any underground container or storage tank, fence, wall, garage, shed, house, lot, building, structure, tree, pole, smoke stack, or any excavation, basement, cellar, well, cistern, sidewalk subspace, walks, driveways, terrace steps or parts thereof, which has any or all of the conditions or defects hereinafter described shall be deemed to be a public nuisance

I. The following conditions or defects shall constitute a public nuisance when they endanger the life, health, property, safety, or welfare of the public, or of any current or prospective occupants:

- (a) Whenever the premises are a deteriorating and blighting influence on nearby properties by reason of continued vacancy and a lack of reasonable or adequate maintenance of structures and grounds.
- (b) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.
- (c) Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or as defined by statute.
- (d) Whenever any building or structure is determined to be a fire hazard.
- (e) Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
- (f) Whenever any building or structure, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the:
 - 1. Strength;
 - 2. Fire-resisting qualities or characteristics; or
 - 3. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
- (g) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this city, as specified in the Unified Building Code or Housing Code, or of any law or ordinance of this state or city relating to the condition, location, or construction of buildings.
- (h) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become:
 - 1. An attractive nuisance to children;
 - 2. A harbor for vagrants, criminals or immoral persons; or as to
 - 3. Enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
- (i) Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (j) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

- (k) Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- (l) Whenever the building or structure, or any portion thereof, because of:
 - 1. Dilapidation, deterioration or decay;
 - 2. Faulty construction;
 - 3. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;
 - 4. The deterioration, decay or inadequacy of its foundation; or
 - 5. Any other cause; is likely to partially or completely collapse.
- (m) Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is reasonably safe.
- (n) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
- (o) Whenever any portion or member or appurtenance thereof is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- (p) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
- (q) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
- (r) Whenever the walking surface of any aisle, passageway, stairway or other element of a means of egress is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- (s) Whenever any door, aisle, passageway, stairway or other element of a means of egress is not of sufficient width or size or is not so arranged as to provide safe and adequate means of egress and creates a serious hazard.

II. The following conditions shall constitute a public nuisance:

- (a) That which is defined as a nuisance in R.C. § 3767.01(c), which is incorporated herein by reference and made a part hereof.
- (b) That which is defined as a nuisance in R.C. § 4301.73, which is incorporated herein by reference and made a part hereof.

(c) Premises or real estate, including vacant land, on which a felony violation occurs of Chapter 2925 or 3719 of the Ohio Revised Code occurs, regardless of whether there has been a conviction for said violation.

(2) Definition of “affordable rents.” *Note: Grantees may use the definition they have adopted for their CDBG program but should review their existing definition to ensure compliance with NSP program –specific requirements such as continued affordability.*

Response:

The City adheres to HUD’s generally accepted definition of affordability. A household is to pay no more than 30 percent of its annual income on housing. Families who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care.

(3) Describe how the grantee will ensure continued affordability for NSP assisted housing.

Response:

To ensure that affordability guidelines are adhered to, the City will enforce deed restrictions on applicable projects. The City will also conduct periodic monitoring of each project to verify that applicable rules and regulations (including affordability periods) are being followed.

Monitoring Goals

The City's Monitoring Plan for the Consolidated Plan and each annual Action Plan/Amendment will achieve three primary goals:

1. Ensure that all activities and initiatives funded, in part or in whole, with HUD funds are consistent with the approved Consolidated Plan.
2. Ensure that all activities and initiatives funded are implemented by an accountable subrecipient, in a timely and financially prudent manner; and that all funds expended are in compliance with federal regulations.
3. Ensure that all activities and initiatives funded are evaluated and monitored regularly, and that performance is assessed and reported.

(4) Describe housing rehabilitation standards that will apply to NSP assisted activities.

Response:

The City of Dayton will utilize rehabilitation and inspection standards that will comply with local applicable laws, codes and other requirements related to housing safety, quality and habitability, in order to sell the homes to qualified families. The City of Dayton will work in tandem with subrecipients that all repairs are done in accordance with local building code standards. Energy efficiency practices will be undertaken as appropriate to assist in the long-term sustained affordability of the housing unit.

D. LOW INCOME TARGETING

Identify the estimated amount of funds appropriated or otherwise made available under the NSP to be used 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: **\$59,800.00**.

FY 2008 Income Limits Summary
Dayton, OH HUD Metro FMR Area

FY 2008 Income Limits for 50% of HUD Area Median Income							
<u>1 person household</u>	<u>2 person household</u>	<u>3 person household</u>	<u>4 person household</u>	<u>5 person household</u>	<u>6 person household</u>	<u>7 person household</u>	<u>8 person household</u>
\$21,050.00	\$24,100.00	\$27,100.00	\$30,100.00	\$32,500.00	\$34,900.00	\$37,300.00	\$39,750.00
FY 2008 Income Limits for 120% of HUD Area Median Income							
<u>1 person household</u>	<u>2 person household</u>	<u>3 person household</u>	<u>4 person household</u>	<u>5 person household</u>	<u>6 person household</u>	<u>7 person household</u>	<u>8 person household</u>
\$50,550.00	\$57,800.00	\$65,000.00	\$72,250.00	\$78,000.00	\$83,800.00	\$89,600.00	\$95,350.00

Note: At least 25% of funds must be used for housing individuals and families whose incomes do not exceed 50 percent of area median income.

Response: The City will commit **\$1,395,725.00** of its NSP funds to purchase and/or 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 total amount represents 25% of the City’s NSP funding. The following is a brief description of the projects to be funded to meet this need:

1. Habitat for Humanity-the project will construct 10 single family homes on abandoned/vacant, scattered sites throughout the City. **Dayton NSP-\$350,000.00**
2. River Commons- the project will construct 83 permanent supportive housing units for homeless adult men and women. This project will be constructed on vacant land. **Dayton NSP-\$400,000.00**
3. Dayton Metropolitan Housing Authority- the project will construct seven ADA compliant, single family homes for rent by families at or below 50% AMI, on vacant land. **Dayton NSP-\$320,725.00**
4. Lyon’s Place- the project will construct 67 units of elderly housing targeted to homeless veterans. This project will be constructed on vacant land. **Dayton NSP-\$325,000.00**

E. ACQUISITIONS & RELOCATION

Indicate whether grantee intends to demolish or convert any low- and moderate-income dwelling units (i.e., ≤ 80% of area median income).

If so, include:

1. The number of low- and moderate-income dwelling units—i.e., ≤ 80% of area median income—reasonably expected to be demolished or converted as a direct result of NSP-assisted activities.
2. The number of NSP affordable housing units made available to low-, moderate-, and middle-income households—i.e., ≤ 120% of area median income—reasonably expected to be produced by activity and income level as provided for in DRGR, by each NSP activity providing such housing (including a proposed time schedule for commencement and completion).
3. The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income.

Response:

1. The number of low- and moderate-income dwelling units-The demolition of up to 1,000 vacant, blighted structures will occur in areas of greatest need and in other targeted eligible areas that are at 120% AMI and below. According to the 2006 American Community Survey, The City of Dayton has approximately 15,900 vacant housing units. This equates to a 20% vacancy rate, which leads to a decline in housing values, neighborhood stability and a loss of confidence among residents. The City of Dayton is proposing to demolish up to 1000 housing units to bring the vacancy rate down to a sustainable level.

The decision to focus on demolition versus rehabilitation is due to the fact that the 2007 American Community Survey estimates the Dayton Region has lost approximately 115,000 residents. Increasing the supply of housing may exasperate the vacant housing situation, and due to the population loss and credit crisis, there is a high probability that no buyers would exist for the renovated homes. The City of Dayton's greatest need is to reduce the number of vacant, blighted structures that are threatening the stability of our neighborhoods.

2. The number of NSP affordable housing units made available to low-, moderate-, and middle-income households, 3-4 (see Fall Soft project description).
3. The number of dwelling units reasonably expected to be made available for households whose income does not exceed 50 percent of area median income. 167 units (see D-Low Income Targeting). All projects will commence within 18 months, and will be completed within 36 months.

F. PUBLIC COMMENT

Provide a summary of public comments received to the proposed NSP Substantial Amendment.

Note: proposed NSP Substantial Amendment must be published via the usual methods and posted on the jurisdiction's website for no less than 15 calendar days for public comment.

Response:

On November 10, 2008, The City of Dayton held a special Community and Neighborhood Development Advisory Board (CNDAB) meeting to conduct a public hearing and presentation on the Draft Substantial Amendment. During the meeting the following comment was made by Mr. Ray Alexander: Will the City be able to afford to maintain vacant lots after the demolition proposed in this plan takes place?

The NSP Substantial Amendment is also posted on the City of Dayton's official website at: www.cityofdayton.org will be posted on the City of Dayton's website at: **www.cityofdayton.org** under the Department of Planning and Community Development. Comments were also taken in writing and via email until 5:00 p.m. on Monday, November 24, 2008. The following comments were received:

Page 1 of 1

McIntosh, Valerie

From: Dr. Rod Kennedy [rkennedy13@woh.rr.com]
Sent: Friday, November 21, 2008 1:58 PM
To: McIntosh, Valerie
Subject: Dayton's nsp 2008

Dear Ms. McIntosh:

As lead pastor of First Baptist Church Dayton and as a leader of VOTE DAYTON, I am puzzled that money related to foreclosure is currently targeted for demolition work. I believe that at least some of this money should be used to rehab homes that have already been foreclosed. These homes can then be sold and the neighborhood strengthened. Tearing down dilapidated buildings will not build or enhance a neighborhood.

Finding a way for this money to benefit the greatest number of citizens of Dayton would seem to be of greater value to the city. Reading through the regs of your nsp 2008, I noticed that you have the authority to purchase foreclosed properties from the banks, have them rehabbed (By a group like Rebuilding Together Dayton, for example), and then sell them to a new homeowner. I would strongly urge reconsideration of the decision to use this money for demolition work.

Thank you for your willingness to hear voices of dissent.

Blessings,

The Rev. Rodney Wallace Kennedy, Ph.D.
Lead Pastor First Baptist Church Dayton
President, Dayton Area Baptist Association
Director of Baptist Studies, United Theological Seminary



Evans, Mechwart, Hambleton & Tilton, Inc.
Engineers, Surveyors, Planners, Scientists

November 19, 2008

Ms. Valerie McIntosh
City of Dayton
Department of Planning and Community Development
101 West Third Street
Dayton, Ohio 45402

RECEIVED
08 NOV 24 AM 9:32
DEPT. OF PLANNING AND
COMMUNITY DEVELOPMENT

Subject: Response to Neighborhood Stabilization Program
Substantial Amendment

Dear Ms. McIntosh,

I would like to commend you and the staff of the Department of Planning and Community Development for developing the Action Plan for the Neighborhood Stabilization Program, especially in consideration of the short time frame in which you had to work. The City of Dayton has developed a plan to combat the downturn in the housing market and to provide solutions to the associated problems of rising foreclosures. The Plan created by Dayton will assuredly have a positive impact on the lives of hundreds of families and will allow neighborhoods to redevelop in a smart and strategic manner.

I encourage you, the staff of the Department of Planning and Community Development, the Dayton City Commission, and other interested parties to consider the infrastructure needs of the neighborhoods to be impacted by the Neighborhood Stabilization Program. The United States Congress, in enacting the Neighborhood Stabilization Program, has provided local communities an opportunity to wholly redevelop, improve, and make better neighborhoods of the greatest need, an effort not seen since Urban Development Action Grants of the 1970s.

The positive community effect realized by the improvements to the housing stock of the neighborhoods selected for the Neighborhood Stabilization Program will be mitigated in short time if the underlying infrastructure needs are not addressed for the same areas at the same time. What good will be served if the private sanitary service line from the house to the public sewer main in the street are repaired and brought to code, while the public sewer main line is left unrepaired? How are Neighborhood Stabilization Program funds maximized if housing units are brought to code and made more attractive for applicable families, but the streets, sidewalks, and storm structures leading to and serving these housing units are left in a state of disrepair? While

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the definition of "greatest need" is centered on the housing market, this program allows an opportunity to holistically redevelop neighborhoods, including infrastructure repairs and improvements.

Information provided by the Department of Housing and Urban Development indicates that those activities eligible under the "regular" Community Development Block Grant are generally eligible under the Neighborhood Stabilization Program, with specific reference made to "installing new infrastructure to support new housing construction." While the intent of the Neighborhood Stabilization Program is to improve neighborhoods through improving and redeveloping the housing stock, the use of the funds for associated infrastructure repairs could be an eligible expense, if done with a strategic approach. The use of Neighborhood Stabilization Program funds, when and where practical and possible, or the concentration of local efforts and resources in correcting infrastructure problems in the neighborhoods to be impacted by the applicable program is paramount to the continued success of this program and of these neighborhoods and is a wise governance of these and other public funds.

The efforts of the Department of Planning and Community Development are well demonstrated in the Action Plan for the Neighborhood Stabilization Program and assuredly, the impact to Dayton neighborhoods will be strongly felt by the residents of those communities. I encourage you to consider the infrastructure needs of area neighborhoods in further developing and implementing the City of Dayton Neighborhood Stabilization Program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ben Amick', written in a cursive style.

Benjamin W. Amick, MPA
Public Program Specialist



Advocates for Basic
Legal Equality, Inc.

ABLE

Dayton Office
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November 24, 2008

Via Email (Valerie.mcintosh@cityofdayton.org) and
U.S. Mail

Valerie McIntosh
Department of Planning and Community Development
City Hall – 6th Floor
101 W. Third St.
Dayton, Ohio 45402

Re: Comments on Draft Neighborhood Stabilization Plan

Dear Ms. McIntosh:

We are writing on behalf of Advocates for Basic Legal Equality, Inc. ABLE is submitting these comments in response to the draft 2008 Neighborhood Stabilization Plan. ABLE is a non-profit regional law firms that provide high quality, legal assistance in civil matters to help eligible low-income individuals and groups in western Ohio achieve self reliance, economic opportunity and equal justice. ABLE has represented clients who have been displaced for foreclosures, while countless others live in communities that have been hit harm by them. These comments are aimed to ensure the City's NSP funds provide the best benefit for our clients and the communities in which they live.

1. The City should establish a larger program for acquiring real estate owned properties in bulk from foreclosing lenders.

The City has the opportunity to obtain large numbers of real estate owned (REO) properties from loan-holders who are anxious to get rid of them. As you may know, REO homes are owned by lenders/loan-holders after foreclosure. Many of these homes will be in decent condition, appropriate to today's market and in neighborhoods where preventing a few blighted buildings from dragging everything else around it down. The need for affordable housing will continue to rise due to losses of subsidized housing in the City; DMHA is demolishing public housing units, while funding for Section 8 vouchers and project based housing may not be reliable.

There is a tremendous need for affordable housing that the City could meet, but it is doing little for the general population. The bulk of the money goes to demolition or helping special needs populations in proposals that are already in the works. While these are worthy causes, there is much more that needs to be done. The Tawawa CDC project will help only six families. The Habitat for Humanity project will only help ten.

2. The City should emphasize the goal of maintaining existing occupancy in foreclosed properties.

NERA establishes funding for work on abandoned and foreclosed, but not necessarily vacant, properties. Still, the draft Plan does not emphasize activities targeting foreclosed occupied properties. This is a serious omission. It is imperative that the City make all efforts to allow tenants and homeowners in foreclosed properties to remain in their homes and avoid displacement rather than going through the work of recapturing foreclosed housing only for new occupants.

The draft NSP takes a "musical chairs" approach to neighborhood stabilization where it focuses on demolition of vacant/blighted structures and redevelopment of demolished and vacant properties for new residents.

Targeting occupied properties would not only avoid the trauma of relocation for individual households, but would be a genuine stabilization effort for residents of properties and neighborhoods that are not yet abandoned.

Thus, the City should focus a substantial part of its efforts on housing where homeowners could remain as renters or re-purchasers and where tenants could stay to rent or purchase the foreclosed property in which they live.

3. The City should spend less money on demolition to accomplish more goals.

The draft Plan indicates that approximately \$3 million of the \$5.5 million NSP funds will be allocated to demolition activities. This amount should be reduced to allow for the activities described in these comments.

4. The City must certify it will affirmatively further the goals of the fair housing.

The Draft Plan does not contain certifications required by HUD in its Notice. Specifically, the City must certify it is affirmatively furthering fair housing. Such a certification should discuss how the Plan will ensure that its funds and programs will not serve to perpetuate racial and ethnic segregation and will instead contribute to choice and integration. The language below, or something similar, should be included in the certification:

The jurisdiction will describe how it will utilize NSP funds to further fair housing goals, including goals of racial and ethnic integration, and avoid perpetuating minority concentration in the neighborhoods where the funds will be spent.

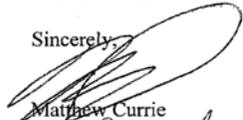
One approach to complying with this obligation is use a portion of the NSP funds for development of rental housing in relatively higher "opportunity areas" and to

prioritize tenant selection of households at or below 30% AMI. The City could also allow some NSP activities in areas that do not have high rates of abandoned or foreclosed properties; these NSP activities may serve well to advance fair housing.

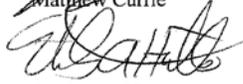
For the purposes of this program, "opportunity areas" could be defined generally as those neighborhoods with characteristics such as relatively low poverty concentrations, higher rates of economic and racial diversity and homeownership, higher state proficiency test scores, lower crime rates, and similar attributes.

We appreciate the opportunity to comment on the draft NSP.

Sincerely,



Matthew Currie



Stanley A. Hirtle
Attorneys at Law

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

- (1) Activity Name: Division of Housing and neighborhood Development
- (2) Activity Type: Planning and Administration- 24 CFR 570.202
- (3) National Objective: LMMI (Housing and Economic Recovery Act §2301(f)(3)(A)(i) & (ii))
- (4) Activity Description: This allocation provides staff to coordinate and facilitate the City's NSP funded activities
- (5) Location Description: City of Dayton eligible NSP areas.
- (6) Performance Measures: N/A
- (7) Total Budget: \$279,145.00
- (8) Responsible Organization: City of Dayton, Division of Housing and Neighborhood Development
- (9) Projected Start Date: March 2009
- (10) Projected End Date: September 2013
- (11) Specific Activity Requirements: N/A

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

- (1) Activity Name: Division of Housing Inspection/Code Enforcement
- (2) Activity Type: Planning and Administration 24 CFR 570.202(c)
- (3) National Objective: LMMI
- (4) Activity Description: This allocation provides staffing for the City's neighborhood conservation program that includes housing, zoning, and nuisance code enforcement.
- (5) Location Description: City of Dayton eligible NSP areas.
- (6) Performance Measures: N/A
- (7) Total Budget: \$279,145.00
- (8) Responsible Organization: City of Dayton, Division of Housing and Neighborhood Development
- (9) Projected Start Date: March 2009
- (10) Projected End Date: September 2013
- (11) Specific Activity Requirements: N/A

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

(1) Activity Name: River Commons

(2) Activity Type: Redevelop Demolished or Vacant Properties- 24 CFR 570.201(c)

(3) National Objective: LMMI

(4) Activity Description:

River Commons provides permanent supportive housing to 83 homeless single adult men and women.

(5) Location Description: Census Tract/Block Group CT17

(6) Performance Measures: 83 units of housing to be constructed for households that are 50 percent of area median income and below.

(7) Total Budget: \$14,000,000.00

(8) Responsible Organization: County Corp.
130 West 2nd Street, Suite 1420, Dayton, OH 45402
Contact-Jim Martone 937-225-6328

(9) Projected Start Date: July 2009

(10) Projected End Date: July 2010

(11) Specific Activity Requirements:

Housing related activities:

- duration or term of assistance--permanent
- tenure of beneficiaries--rental
- affordability to stay with property

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

- (1) Activity Name: Lyon's Place
- (2) Activity Type: Redevelop Demolished or Vacant Properties; 24 CFR; 570.201 (m)
- (3) National Objective: LMMI
- (4) Activity Description: NSP funds will be used for the construction of 67 unit apartment building located at the VA campus on West Third Street. The apartment units will be marketed to low and moderate income seniors and veterans.
- (5) Location Description: Veterans Administration Campus
- (6) Performance Measures: 67 units of housing to be constructed for households that are 50 percent of area median income and below.
- (7) Total Budget: \$8,557,992.00
- (8) Responsible Organization: St. Mary Development Corporation 713 W. Grand Ave. Dayton, OH 45406, Contact-Richard McBride
- (9) Projected Start Date: July 2009
- (10) Projected End Date: July 2010
- (11) Specific Activity Requirements:

Housing related activities:

- duration or term of assistance--permanent
- tenure of beneficiaries--rental
- income verification

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

(1) Activity Name: Nuisance Demolition

(2) Activity Type: Demolition of vacant/blighted structures- 24 CFR 570.201(d)

(3) National Objective: LMMI

(4) Activity Description: This activity involves the elimination of approximately 1,000 nuisance structures that are beyond repair, and pose a health and/or safety hazard in eligible neighborhoods.

(5) Location Description: The City will carry out demolition activities in identified “Areas of Greatest Need” and significantly blighted structures in areas with moderate needs.

(6) Performance Measures: 1,00 units of housing to be demolished for the income levels of households that are at or below 120% AMI.

(7) Total Budget: \$3,100,000.00

(8) Responsible Organization: City of Dayton, Department of Building Services
Contact-Bill Nelson

(9) Projected Start Date: March 2009

(10) Projected End Date: September 2013

(11) Specific Activity Requirements: N/A

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

- (1) Activity Name: Habitat for Humanity
- (2) Activity Type: Redevelop Demolished or Vacant Properties; 24 CFR 570.201 (a) (b) (c)
- (3) National Objective: LMMI
- (4) Activity Description:
Funds will be used to construct 10 single family homes on vacant property that will be made available to those earning 50% or below AMI.
- (5) Location Description: (Description may include specific addresses, blocks or neighborhoods to the extent known.)
- (6) Performance Measures: The construction of 10 single family homes for the income levels of households that are 50 percent of area median income and below.
- (7) Total Budget: \$350,000.00
- (8) Responsible Organization: Dayton Habitat for Humanity
1041 S Patterson Blvd, Dayton, OH 45402, (937) 586-0860, Contact Diane Graham
- (9) Projected Start Date: June 2009
- (10) Projected End Date: December 2010
- (11) Specific Activity Requirements:

Housing related activities:

To ensure affordability, a deed restriction will be placed on each property

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

(1) Activity Name: Fitch & Hawthorne Housing Project

(2) Activity Type: Redevelop Demolished or Vacant Properties; 24 CFR 570.201 (a) (b) (c)

(3) National Objective: LMMI

(4) Activity Description:

NSP funds will be used to assist in the construction of up to 7 single family homes that will be fully ADA compliant, and rented to disabled households earning at or below 50% AMI.

(5) Location Description: Corner of Germantown and Hawthorne Street (Southwest Priority Board Area)

(6) Performance Measures: The construction of 7 fully compliant ADA, single family homes for the income levels of households that are 50 percent of area median income and below.

(7) Total Budget: \$1,120,000.00

(8) Responsible Organization: DMHA 400 Wayne Ave, Dayton, Ohio 45402
Contact- Mary DelRaso (937)910-7500

(9) Projected Start Date: July 2009

(10) Projected End Date: July 2010

(11) Specific Activity Requirements:

For housing related activities, include:

- tenure of beneficiaries--rental
- 20 year affordability period (owned by Public Housing Authority)

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

(1) Activity Name: Neighborhood Greening Program

(2) Activity Type: NSP-Land bank; Acquisition 24 CFR 570.201(a)

(3) National Objective: LMMI

(4) Activity Description:

The Neighborhood Greening Program consists of three projects that seek to recover vacant and abandoned land in Areas of Greatest Need. Vacant open grass lots are typically associated with trash debris and loitering. The objective of this program is to create an environmentally conscience and sustainable alternative that will involve the development of one or more of the following: woodlands, prairie, alternative “no-mow” land cover, public park expansion, or new green space development.

(5) Location Description: Activities related to this program will take place in three locations to be determined, but in any case will be Areas of Greatest Need that will benefit most from this type of project.

(6) Performance Measures Three vacant areas transformed into environmentally-sensitive demonstration projects that will provide area-wide benefit and exhibit the potential of alternatives to strictly growing grass.

(7) Total Budget: \$249,610,00.

(8) Responsible Organization: City of Dayton, Department of Planning and Community Development

(9) Projected Start Date: March 2009

(10) Projected End Date: August 2011

(11) Specific Activity Requirements:
N/A

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

(1) Activity Name: Tawawa Fall Soft Program

(2) Activity Type: The purchase/rehabilitation of homes and residential properties that have been abandoned or foreclosed upon, in order to sell or rent to households with incomes at or below 120% AMI; 24 CFR 570.201 (a) (b), and 570.202

(3) National Objective: LMMI

(4) Activity Description:

The program will provide rental-housing opportunities for;

- former home-owners who lost their existing homes through mortgage foreclosure
- for families that are engaged in a first time home-buyer program.

The “Fall Soft Program” is structured as an accelerated “Lease-Purchase Program” that will assist participating families in becoming home-owners within a two to five year period.

(5) Location Description: City of Dayton NSP eligible areas

(6) Performance Measures: The purchase and rehab of 3-4 homes

(7) Total Budget: \$540,000

(8) Responsible Organization: Tawawa Community Development Corp.
Central State University, 1400 Brush Row Road, Wilberforce, OH 45384
Contact- Jeffrey Payne Phone: (937) 376-6536

(9) Projected Start Date: July 2009

(10) Projected End Date: September 2011

(11) Specific Activity Requirements:

For acquisition activities, include:

- discount rate

Housing related activities:

- duration or term of assistance--for qualified homebuyers, affordability remains with the property until sold, not to exceed 10 years; for qualified renters; rents will remain affordable with income qualification.
- tenure of beneficiaries--rental or homeownership
- purchase discount will apply

City of Dayton-
2008 Neighborhood Stabilization Plan (NSP)
Proposed Spending Plan

NSP Allocation	\$ 5,582,900.00	
Administration	\$ 558,290.00	To administer NSP grant and manage projects. (Housing & Neighborhood Development \$279,145) (Housing Inspection \$279,145)
25% Set-Aside Requirement		Description
Habitat for Humanity	\$ 350,000.00	Construct 10 Single Family Homes on scattered sites in eligible areas.
River Commons	\$ 400,000.00	Construct 83 Permanent Supportive Units (Helena).
DMHA (Fitch & Hawthorne)	\$ 320,725.00	Construct 7 single family homes that are fully ADA Compliant.
Lyon's Place	\$ 325,000.00	Construct 67 Units @ VA for homeless Veterans.
	\$ 1,395,725.00	167-total units
Demolition	\$ 3,100,000.00	Demolition of approximately 1,000 units in areas of greatest need and in targeted areas of moderate need.
Greening Projects (2 or 3)	\$ 228,885.00	Demonstration project for using vacant land after large blighted structures have been demolished. Project goal is to create environmentally friendly, low maintenance developments.
Tawawa Fall Soft	\$ 300,000.00	Partnership with Tawawa CDC and Bethel Credit Union to create a lease-purchase program that purchases & rehabs 3-4 foreclosed properties; participants lease properties until they are credit ready and mortgageable.
Remaining	\$ -	

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

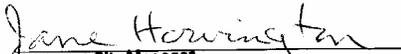
assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the 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.


Assistant City Manager
Authorized Official
Assistant City Manager


Date

Title

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approved No. 3076-0006

Version 7/03

1. TYPE OF SUBMISSION: Application		2. DATE SUBMITTED November 25, 2008		Applicant Identifier B-08-MN-39-0006	
<input type="checkbox"/> Construction		<input type="checkbox"/> Construction		3. DATE RECEIVED BY STATE	
<input checked="" type="checkbox"/> Non-Construction		<input type="checkbox"/> Non-Construction		State Application Identifier	
5. APPLICANT INFORMATION		4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier B-08-MN-39-0006	
Legal Name: City of Dayton, Ohio			Organizational Unit: Department: Department of Planning and Community Development		
Organizational DUNS: 00-447-8194			Division: Housing and Neighborhood Development		
Address: Street: 101 West Third Street			Name and telephone number of person to be contacted on matters involving this application (give area code)		
City: Dayton			Prefix: Mr.		
County:			First Name: Aaron		
State: Ohio			Middle Name K.		
Zip Code 45402			Last Name Sorrell		
Country: USA			Suffix:		
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 31-6000175			Phone Number (give area code) 937-333-4209		Fax Number (give area code) 937-333-4281
8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input checked="" type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify) <input type="checkbox"/> <input checked="" type="checkbox"/> A			7. TYPE OF APPLICANT: (See back of form for Application Types) Local Government Other (specify)		
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program): Community Development Block Grant (NSP)			9. NAME OF FEDERAL AGENCY: Housing and Neighborhood Development		
12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): City of Dayton			11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: 2008 Neighborhood Stabilization Program (NSP) The NSP grant addresses foreclosed and vacant/abandoned properties. NSP provides funds to purchase foreclosed or abandoned homes and to rehabilitate, resell, or redevelop these homes in order to stabilize neighborhoods and stop the decline of house values of neighboring homes.		
13. PROPOSED PROJECT Start Date: March 2009			14. CONGRESSIONAL DISTRICTS OF: a. Applicant Ohio 3rd		
Ending Date: March 2013			b. Project Ohio 3rd		
15. ESTIMATED FUNDING:			16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?		
a. Federal	\$	5,582,900 ⁰⁰	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON		
b. Applicant	\$	⁰⁰	DATE:		
c. State	\$	⁰⁰	b. No. <input checked="" type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372		
d. Local	\$	⁰⁰	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW		
e. Other	\$	⁰⁰	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?		
f. Program Income	\$	⁰⁰	<input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No		
g. TOTAL	\$	5,582,900 ⁰⁰	18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.		
a. Authorized Representative					
Prefix Mr.		First Name Rashad		Middle Name M.	
Last Name Young		Suffix			
b. Title City Manager		c. Telephone Number (give area code) 937-333-3609			
d. Signature of Authorized Representative		e. Date Signed 11-24-08			

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Standard Form 424 (Rev.9-2003)
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Dayton Daily News

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Cincinnati, OH 45264-3080
937-225-2107

CITY OF DAYTON PLANNING & DEVE
101 W. THIRD ST
DAYTON, OH 45202

STATE OF OHIO

PUBLIC NOTICE

CITY OF DAYTON, OH
Presentation of the City of Dayton's Draft
2008 Neighborhood Stabilization Program Sub-
stantial Amendment

The City of Dayton will hold a public hearing and present draft needs and activities for the 2008 Neighborhood Stabilization Program (NSP) Substantial Amendment. The Substantial Amendment describes the City's planned use of HUD NSP funds. The City will receive an allocation of approximately \$5.5 million in NSP funds through the 2008 Housing and Economic Recovery Act (HERA). HUD requires cities that receive NSP funds to submit a Substantial Amendment to their annual Action Plan. The Substantial Amendment will be submitted to HUD no later than December 1, 2008.

Beginning November 10, 2008, the Substantial Amendment will be posted on the City of Dayton's website at www.cityofdayton.org under the Department of Planning and Community Development. Copies of the draft are available by contacting Valerie McIntosh, in the Department of Planning & Community Development, 6th Floor, City Hall, 101 W. 3rd Street, Dayton, Ohio 45402, (937) 333-3816. The City will take comments on the proposed plan until 5:00 p.m. on Monday, November 24, 2008. Written comments may be forwarded to Mrs. McIntosh.

The City of Dayton's Public Hearing and Presentation will be on Monday, November 10, 2008 at 5:30 p.m. in the 6th Floor Training Room, City Hall, 101 W. 3rd Street, Dayton, Ohio 45402.

11109367

11-10/08

Signed *N. Vagedes*

Sworn or affirmed to, and subscribed before me, this 11/10/2008. In Testimony Whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Notary Public



Lorna M. Foer
LORNA M. FOER, Notary Public
In and for the State of Ohio
My Commission Expires July 4, 2010

Before me, the undersigned, a Notary public in and for said County, personally came Nadia Vagedes who being first duly sworn says he/she is the Legal Advertising Agent of the Dayton Daily News, which he/she says is a newspaper of general circulation in Montgomery, Clark, Warren, Butler, Clinton, Greene, Preble, Miami, Darke, Mercer, Shelby, Fayette, Logan, Hamilton, Clermont, Auglaize, and Champaign Counties, and State of Ohio, and he/she further says that the Legal Advertisement, a copy of which is hereunto attached, has been published in the said Dayton Daily News 38 Lines, 1 Time(s), last day of publication being 11/10/2008, and he/she further says that the bona fide daily paid circulation of the said Dayton Daily News was over (25000) at the time the said advertisement was published, and that the price charged for same does not exceed the rates charged on annual contract for the like amount of space to other advertisers in the general display advertising columns.

Invoice No.	11109367
Ad Cost	\$201.40
Paid	\$0.00
Due	\$201.40