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City of Las Cruces[®]
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Council Action and Executive Summary

Item # 9 Ordinance/Resolution# 10-009 Council District: N/A

For Meeting of July 6, 2009
 (Adoption Date)

TITLE: A RESOLUTION DELEGATING AUTHORITY TO THE CITY MANAGER TO APPROVE REAL ESTATE PURCHASE AGREEMENTS ON BEHALF OF THE CITY OF LAS CRUCES IN ORDER TO EXPEDITE AND COMPLETE TRANSACTIONS UNDER THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP).

PURPOSE(S) OF ACTION: To enable staff to complete NSP real estate transactions in a timely manner within program and other constraints.

Name of Drafter: Jerry Nachison		Department: Community Development		Phone: 528-3208	
Department	Signature	Phone	Department	Signature	Phone
Community Development		528-3067	Budget		541-2281
			Assistant City Manager		541-2271
Legal		541-2128	City Manager		541-2076

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS: In July 2008, President Bush signed the Housing and Economic Recovery Act of 2008 (HERA). HERA was created to provide neighborhood stabilization to communities throughout the United States due to rising foreclosures and abandoned residential properties due to tough economic times. HERA appropriated \$3.92 billion in funding as part of a special allocation of Community Development Block Grant (CDBG) funds for distribution to States and Local governments. The State of New Mexico received a total allocation of \$19.6 million. Las Cruces, received \$1.5 million from the State of New Mexico Department of Finance and Administration, Local Government Division.

In summary, the City's NSP Plan primarily focuses through partner agencies in two areas. To (1) acquire, rehab, and resale abandoned or foreclosed properties or build new housing on acquired, vacant parcels for homeownership to serve persons between 50% and 120% of Area Median Income (AMI); and (2) acquire, rehab, and donate to qualified non-profit agencies as rental housing for persons below 50% of AMI, primarily for those with special needs. Single family detached houses are preferred, though duplexes, single family attached properties and other small multi-family properties (generally less than 8 units) may be considered. All properties must be foreclosed and available or abandoned, blighted and unused, with owners willing to sell. Vacant lots for infill purposes may also be considered for new residential construction. The City's priority areas for purchase of properties are in areas so designated.

The NSP program is time sensitive for the City. In general, all funds must be obligated within 18-months of our grant with the State (ends October 31, 2010). This overall time limit is one with which staff has to consider all processing and approvals. However, staff was recently

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informed by knowledgeable real estate brokers that banks consider "time is of the essence" in the processing of foreclosed properties. The banks generally expect a two week (14 calendar days) turnaround from accepted offer to closing (and payment) in order to accept a reasonable offer. This can create serious problems for the City's NSP.

Therefore, to facilitate working within such a timeline, staff is requesting Council to give the City Manager the authority to approve and execute real estate purchase agreements for the NSP, without prior City Council approval, on qualified foreclosed properties that are either bank or real-estate owned. This will allow the City to work with banks and other sellers with foreclosed properties in a most expeditious manner. Again, this approval authorization is only for purchase of foreclosed properties owned by banks or real estate brokerages for the NSP.

The NSP foreclosure approval process is as follows:

- (1) Property and proposed City offer are considered reasonable for NSP, as determined through City internal review.
- (2) Offer is approved by City Manager and transmitted to the appropriate property owner.
- (3) If owning entity accepts offer and proposed timing, staff may proceed with actions necessary to complete the property purchase, including payment instrument with signature by the City Manager.
- (4) Closing takes place under the timeline identified in transaction paperwork.
- (5) Staff provides City Council a monthly report summarizing such transactions during each most recent reporting period.

Also, the City will be selling/disposing of the acquired properties in accordance with the City's NSP. The City Council will so do with appropriate review and consideration of a resolution.

SUPPORT INFORMATION:

Fund Name / Account Number	Amount of Expenditure	Budget Amount
N/A	N/A	N/A

1. Resolution
2. Attachment "A" - Map of priority Census tracts for Property Acquisition (background)

OPTIONS / ALTERNATIVES:

1. Vote YES and approve the Resolution granting authority to the City Manager to complete NSP transactions on foreclosed properties in a timely manner. Doing so ensures the NSP can move forward quickly in concert with the sellers of foreclosed property, City processes and State program constraints.
2. Vote NO and disapprove the Resolution, thus not approving purchase of foreclosed properties under the City's NSP without prior City Council approval. So doing may eliminate the possibility of most foreclosure sales to the City and drastically limit properties available for purchase from sellers under the NSP. This puts the City's ability to complete transactions and conform to established deadlines for the NSP in jeopardy.

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3. Modify the Resolution and vote YES to approve the modified Resolution. This action would be based on the Council's discretion.
4. Table or Postpone action on the requested Resolution. Direction would be required of the Council to staff. Tabling or postponing could jeopardize the City's ability to utilize the NSP funds from the State due to established deadlines.

RESOLUTION NO. 10-009**A RESOLUTION DELEGATING AUTHORITY TO THE CITY MANAGER TO APPROVE REAL ESTATE PURCHASE AGREEMENTS ON BEHALF OF THE CITY OF LAS CRUCES IN ORDER TO EXPEDITE AND COMPLETE TRANSACTIONS UNDER THE CITY'S NEIGHBORHOOD STABILIZATION PROGRAM (NSP).**

The City Council is informed that:

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) is implementing the Housing and Economic Recovery Act of 2008 (HERA); and

WHEREAS, The City of Las Cruces is operating its approved Neighborhood Stabilization Program (NSP) under HERA, through the New Mexico Department of Finance and Administration, Local Government Division; and

WHEREAS, due to the urgency expressed under HERA, the City of Las Cruces is committed to completing its obligation of all NSP funds for property acquisition, rehabilitation and resale/transfer within 18 months of the initial award of April 17, 2009; and

WHEREAS, the City of Las Cruces must simplify its internal processes in order to avail itself of short timelines for completing all property purchase transactions.

NOW THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT staff working on the City of Las Cruces' NSP are granted appropriate authority to complete said necessary property transactions with the City Manager's approval in accordance with the following restrictions: (1) such authority is limited to actions related to purchase of foreclosed property in the City NSP's priority areas or that are bank or real-estate owned; and (2) such authority is limited to total transactions that can be completed within the City's affordability cap of \$140,000/unit, composed of an estimated purchase price of \$70,000-100,000 for the property, related fees and a rehabilitation cost cap of \$50,000 per unit.

(II)

THAT the City Manager is authorized to execute all necessary documents, including payment to a qualified seller by check and is the City's designated signatory for all such NSP transactions.

(III)

THAT City staff shall inform the City Council of all such completed transactions by Monthly Report and that when the City disposes/resells the property in accordance with the City's NSP, the Council will do so with appropriate review and consideration of a resolution.

(IV)

THAT City staff is hereby authorized to do all deeds necessary to the accomplishment of the herein above.

DONE and APPROVED this ____ day of _____, 2009.

APPROVED:

Mayor

(SEAL)

ATTEST:

City Clerk

Moved by: _____

Seconded by: _____

VOTE:
Mayor Miyagishima: _____
Councillor Silva: _____
Councillor Connor: _____
Councillor Archuleta: _____
Councillor Small: _____
Councillor Jones: _____
Councillor Thomas: _____

Approved as to Form:



City Attorney

