

**Substantial Amendment to the Consolidated Plan 2008 Action Plan for the
Community Development Block Grant Program Funding Under the American
Recovery and Reinvestment Act of 2009 (CDBG-R)**

In accordance with a May 4, 2009 notice issued by the Office of the Assistant Secretary for Community Planning and Development, HUD, grantees eligible to receive funds pursuant to the Community Development Block Grant Program Funding Under the American Recovery and Reinvestment Act of 2009 (CDBG-R) are required to complete a substantial amendment to their Consolidated Plan 2008 Action Plan. This form sets forth the required format for this substantial amendment.

To aid grantees in meeting this submission deadline the referenced Notice reduces the requirement for a 30-day public comment period to 7 calendar days and requiring the substantial amendment materials to be posted on the grantee's official website (www.birminghamal.gov) as the materials are developed, published, and submitted to HUD.

A complete CDBG-R Substantial Amendment submission contains the following:

- 1) A signed and dated SF-424, and signed certifications as specified in section II. H. of the referenced Notice.
- 2) Required elements as specified in the Contents of a CDBG-R Action Plan Substantial Amendment as specified in Requirements, Item 2 of the referenced Notice.
- 3) Entitlement grantees are to submit the substantial amendments to their HUD filed office by June 5, 2009.

Interested parties may also visit the CDBG-R web page on HUD's Recovery Act website, <http://www.hud.gov/recovery>, for updated information and resources. Questions regarding the CDBG-R program may be submitted to HudRecoveryAct@hud.gov.

A. General Information

| | |
|--|--|
| Grantee Name | City of Birmingham, Alabama |
| Name of Entity or Department Administering Funds | Community Development Department |
| CDBG-R Contact Person (person to answer questions about this amendment and CDBG-R) | James F. Fenstermaker |
| Title | Director, Community Development Department |
| Address Line 1 | 710 North 20 th Street, 10 th Floor City Hall |
| Address Line 2 | |
| City, State, Zip Code | Birmingham, Al 35203 |
| Telephone | 205-254-2483 |
| Fax | 205-254-2282 |
| Email Address | jim.fenstermaker@birninghamal.gov |
| Authorized Official (if different from Contact Person) | Carole C. Smitherman |
| Title | City Council President |
| Address Line 1 | 710 North 20 th Street |
| Address Line 2 | |
| City, State, Zip Code | Birmingham, Al 35203 |
| Telephone | 205-254-2294 |
| Fax | 205-254-2603 |
| Email Address | Carole.smitherman@birninghamal.gov |
| Web Address where this Form is Posted | www.birninghamal.gov |
| | |
| | |

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|---|-----------------------|
| Amount Grantee is Eligible to Receive* | \$1,788,754.00 |
| Amount Grantee is Requesting | \$1,788,754.00 |

*Amounts are available at <http://www.hud.gov/recovery/cdblock.cfm>.

B. Citizen Participation and Public Comment

1. Briefly describe how the grantee followed its citizen participation plan regarding this proposed substantial amendment (limit 250 words).

Response: In accordance with the Consolidated Plan Amendment Policy as outlined in the City's Citizen Participation Plan (page 30), the City must amend its Consolidated Plan (Action Plan) whenever it decides not to carry out an activity described in the Plan, or decides to carry out an activity not previously described or decides to substantially change the purpose, scope, location, beneficiaries, or budgeted dollar amount of an activity. The amendment of a budgeted dollar amount of an activity in an existing final statement (Action Plan) by more than 25 percent, plus or minus, shall be considered to be a substantial change for purposes of requiring a written amendment. Prior to amending its Consolidated Plan, the City shall provide citizens with reasonable notice of, and opportunity to comment on such proposed changes in its use of funds. The City shall consider any such comments, and if the City deems appropriate, modify the proposed changes. The City shall make available to the public, and shall submit to HUD, a description of any changes adopted. Additionally, the City will provide a period, not less than thirty (30) days, to receive comments, written or oral, on the substantial amendment prior to its adoption. A summary of comments and views shall be attached to the substantial amendment of the Consolidated Plan.

This process was followed in the adoption of the development of this CDBG-R substantial amendment with one exception. Per the CDBG-R Notice of funding allocations and requirements, effective May 4, 2009, the minimum time period for citizens to comment on the substantial amendment was reduced to 7 calendar days.

2. Provide the appropriate response regarding this substantial amendment by checking one of the following options: (See item 3)
 - Grantee did not receive public comments.
 - Grantee received and accepted all public comments.
 - Grantee received public comments and did not accept one or more of the comments.
3. Provide a summary of the public comments regarding this substantial amendment. Include a summary of any comments or views not accepted and the reasons for non-acceptance.

Response: The City will consider all comments received in the development of its Final CDBG-R submission. A summary of all comments received will be attached to the City's Final CDBG-R submission to HUD.

C. Description of CDBG-R Activities

(1) Activity Name: Eligible Planning, Urban Environmental design and policy-planning-management-capacity building activities and Program Administration costs.

(2) Activity Description:

Payment of planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, and the reasonable administrative costs and carry charges related to the planning and execution of Community development activities assisted in whole or in part with CDBG-R funding and where applicable, housing activities and overhead costs directly related to carrying out eligible activities described herein.

(3) CDBG-R dollar amount budgeted: \$178,875.00

(4) Eligible Category (Regulatory or HCDA Citation): 24 CFR 570.205 and 24 CFR 570.206; Eligible Planning, Urban Environmental design and policy-planning-management-capacity building activities and Program Administration costs.

(5) National Objective Citation: In accordance with 24 CFR 570.200(a)(3)(i) cost of administration and planning eligible under 570.205 and 570.206 will be assumed to benefit low-and moderate-income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation.

(6) Additional Recovery Act funds for the Activity Received from Other Programs: \$0

(7) Other Leveraged Funding: \$0

(8) Total Activity Budget: \$178,875.00

(9) Additional Information:

For each activity, a written description of how the use of CDBG-R funds for the activity will maximize job creation and economic benefit in relation to the CDBG-R funds obligated, and will address the Recovery Act, by:

(i) Preserving and creating jobs and promoting economic recovery.

This activity is for CDBG-R Planning and Program Administration only and as such does not directly address the Recovery Act.

(ii) Assisting those most impacted by the recession.

This activity is for CDBG-R Planning and Program Administration only and as such does not directly address the Recovery Act.

(iii) Providing investment needed to increase economic efficiency.

This activity is for CDBG-R Planning and Program Administration only and as such does not directly address the Recovery Act.

(iv) Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits.

This activity is for CDBG-R Planning and Program Administration only and as such does not directly address the Recovery Act.

(v) Minimizing or avoiding reductions in essential services.

This activity is for CDBG-R Planning and Program Administration only and as such does not directly address the Recovery Act.

(vi) Fostering energy independence.

This activity is for CDBG-R Planning and Program Administration only and as such does not directly address the Recovery Act.

(vii) The number of full-and part-time jobs estimated to be created and retained by the activity (including permanent, construction and temporary jobs).

The City estimates that 2 full time equivalent administration positions will be retained by this activity.

(viii) A description of the activities that will be carried out with CDBG-R funds that promote energy conservation smart growth, green building technologies, or reduced pollution emissions.

This activity is for CDBG-R Planning and Program Administration only and as such does not directly address the Recovery Act.

(ix): For information on how to contact grantee program administrators, so that citizens and other interested parties know who to contact for additional information see Part A. General Information.

(1) Activity Name: CDBG-R Critical Repair Grant Program.

(2) Activity Description:

Provision of grants of eligible rehabilitation expenses to low-and moderate income homeowners up to \$5,000 per qualified homeowner for the rehabilitation of single family structures. The primary objective of this program is to deter neighborhood deterioration in Birmingham by providing incentives for rehabilitation of the residential housing stock which can be restored by moderate investment. The program is designed to restore housing before the costs of such repairs become prohibitive and more drastic action, such as demolition, becomes necessary. All rehabilitation is to be performed by licensed contractors of the eligible homeowner's selection. It is estimated 320 Housing Units can be assisted.

(3) CDBG-R dollar amount budgeted: \$1,609,879.00

(4) Eligible Category (Regulatory or HCDA Citation) : 24 CFR 570.202, Eligible rehabilitation and preservation activities.

(5) National Objective Citation: 24 CFR 570.208(a)(3), Housing Activities. An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low-and moderate-income households.

(6) Additional Recovery Act funds for the Activity Received from Other Programs: \$0

(7) Other Leveraged Funding: \$0

(8) Total Activity Budget: \$1,609,879.00

(9) Additional Information:

For each activity, a written description of how the use of CDBG-R funds for the activity will maximize job creation and economic benefit in relation to the CDBG-R funds obligated, and will address the Recovery Act, by:

(i) Preserving and creating jobs and promoting economic recovery.

It is estimated that 320 housing units can be assisted utilizing CDBG-R funding. This will result in employment opportunities for contractors to provide rehabilitation assistance that but for the CDBG-R program would likely not be possible. This activity directly assists contractors in preserving jobs and promoting economic recovery within Birmingham. Based on our history with this program, at least 80% of these projects will be carried out by very small contractors who have been significantly impacted by the economic downturn, especially in the housing sector. History also suggests that some

40% of these contractors will be minority contractors who have felt a great burden from the economic downturn.

(ii) Assisting those most impacted by the recession.

As previously stated, It is estimated that 320 housing units can be assisted utilizing CDBG-R funding. This will result in employment opportunities for contractors to provide rehabilitation assistance that but for the CDBG-R program would likely not be possible. This activity directly assists contractors in preserving jobs and promoting economic recovery within Birmingham. Based on our history with this program, at least 80% of these projects will be carried out by very small contractors who have been significantly impacted by the economic downturn, especially in the housing sector. History also suggests that some 40% of these contractors will be minority contractors who have felt a great burden from the economic downturn. CDBG-R funding for this activity directly assists contractors, building supply vendors, building tradesmen, and many others associated with the housing rehabilitation industry in Birmingham.

(iii) Providing investment needed to increase economic efficiency.

Clearly, the preservation of the City's housing stock is a vital pre-requisite to increasing economic efficiency within our community. The City's economic health is directly related to its housing stock and the preservation of homeownership for its citizens. This activity directly promotes investment in the City's housing stock and assists homeowners to preserve their residences and increase their economic viability and efficiency.

(iv) Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits.

The City of Birmingham has a significant problem with abandoned, vacant, blighted properties, in excess of 10,000 such properties in neighborhoods across the City. These abandoned properties create negative environmental circumstances in that they create breeding grounds for vermin including rats and mosquitoes. Preserving these 320 houses will mitigate this negative trend. In addition, homeownership through property taxation promotes all of these activities within any City. Without a stable homeownership base, Cities cannot invest in transportation, environmental protection, or other infrastructure as these activities are often financed through bond issues, general municipal revenues, and other tax revenues supported directly and indirectly through homeownership revenues such as property taxation, etc.

(v) Minimizing or avoiding reductions in essential services.

This activity by providing direct investments in the City's housing stock minimizes or avoids reductions in essential services through the maintenance of its housing stock. Decline and abandonment of deteriorated housing that would otherwise occur places a significant burden on City Public works crews to cut weeded lots and demolish abandoned structures. Essential municipal services are provide through tax revenues

including sales taxes, business licenses, property taxes, all promoted by investment in housing stock. This activity clearly promotes the stabilization of housing values which directly impact revenues available for essential services.

(vi) Fostering energy independence.

This activity by providing direct investments in the City's housing stock fosters energy independence through the rehabilitation of single family housing structures. Rehabilitation includes providing energy efficient heating and cooling systems, roofing and insulation upgrades, and other related energy saving rehabilitation.

(vii) The number of full-and part-time jobs estimated to be created and retained by the activity (including permanent, construction and temporary jobs).

Although this activity does not directly fund jobs, it is estimated this activity will enable contractors, building supply vendors, and others to retain employees that otherwise would be at risk of unemployment but for the business they receive as a result of this activity. Assuming 1 job per \$50,000 of assistance provided as referenced at 24 CFR 570.209(b)(3), the City estimates 32 jobs will be retained as a result of this activity.

(viii) A description of the activities that will be carried out with CDBG-R funds that promote energy conservation smart growth, green building technologies, or reduced pollution emissions.

This activity by providing direct investments in the City's housing stock fosters energy conservation smart growth, green building technologies, and reduced emissions through the rehabilitation of single family housing structures. Rehabilitation includes providing energy efficient heating and cooling systems, roofing and insulation upgrades, and other related energy saving rehabilitation. Replacement of inefficient energy consumption systems promotes not only energy conservation, but also reduced pollution emissions through more efficient consumption of water, gas, electricity, and other energy sources.

(ix): For information on how to contact grantee program administrators, so that citizens and other interested parties know who to contact for additional information see Part A. General Information.

D. Description of how the distribution and uses of the grantee's CDBG-R funds will meet the requirements of Title XII of Division A and Section 1602 of the Recovery Act: that, in selecting projects to be funded, recipients shall give priority that can award contracts based on bids within 120 calendar days from the date the funds are made available to the recipients; and that for CDBG-R funds being used for infrastructure investments, recipients shall give preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 calendar days after February 17, 2009.

The CDBG-R Planning and Administration activity includes no contractor procurement. The CDBG-R Critical Repair Grant Program will give priority to contractors of eligible homeowner's selection to undertake needed housing rehabilitation. Due to the \$5,000.00 limit, there is no requirement for a contractor formal bidding process under this program. However, the City requires competitive proposals (generally three (3)) for each Critical Repair Grant Activity for contractor selection. It is anticipated all CDBG-R funding proposed for the CDBG-R Critical Repair Grant Program can be made available to contractors within 120 days from the date the CDBG-R funds are made available to the City. The basis for this conclusion is the City's Housing Division has a backlog of demand for assistance under the City's CDBG Critical Repair Grant Program for which CDBG Critical Repair Grant funding is not available. Upon receipt of funds, this demand will be addressed in accordance with program guidelines utilizing CDBG-R funds. The City plans no infrastructure investments with CDBG-R funding.

E. Environmental Review Procedures:

HUD legislation and regulations (24 CFR 58.22) prohibit CDBG grantees and any party to the development process from committing HUD or non-HUD assistance to a project until the environmental compliance review process has been successfully completed.

The City has previously undertaken a Tiered review entitled Environmental Monitoring Strategy for Unspecified Sites for Single Family and Multi-Family Residential Rehabilitation Activities financed through its Community Development Block Grant (CDBG) and Home Investment Partnership (HOME) Programs (Reference PY 31 Environmental Review: Housing Rehabilitation-Unspecified Site Strategy for complete file). This review covered the time frame July 1, 2005 through June 30, 2010 and the attached Authority to Use Grant funds issued by HUD on June 28, 2005 for these programs remains valid.

In accordance with 24 CFR Part 58.35(b)(7), the referenced CDBG-R grant funds are deemed to be the approval of supplemental assistance under the CDBG program and as such the proposed CDBG-R program activities do not involve substantial changes in the nature, magnitude or extent of activities previously approved under the City's CDBG Program and previously reviewed as a part of the referenced Environmental Monitoring Strategy for Unspecified Sites. Accordingly, a new Request for Release of Funds (RROF) and Authority to Use Grant Funds will not be required.

Each specific CDBG-R project site will be individually cleared in accordance with the City's Environmental Monitoring Strategy for Unspecified Sites. Should any project activity be determined to be not covered under the City's referenced unspecified site strategy, a new environmental review and public notice will be undertaken.

F. Labor Compliance:

In accordance with the Statutory Provision, Section 110 of the Housing and Community Development Act of 1974, all laborers and mechanics employed by contractors and subcontractors in the performance of construction work financed in whole or in part with CDBG-R assistance shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); Provided, That this section shall apply to the rehabilitation of residential property only if such property contains not less than 8 units. HUD is reviewing this requirement with the Department of Labor and will provide further guidance.

ATTACHMENT A

PUBLICATION

PROPOSED SUBSTANTIAL AMENDMENT SUMMARY TO THE CONSOLIDATED PLAN PY 2008 ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDING UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (CDBG-R)

CITY OF BIRMINGHAM, ALABAMA

In accordance with 24 CFR Part 91, as amended, the City of Birmingham, Alabama (the City) is hereby publishing a summary of a Proposed Substantial Amendment to its Program Year (PY) 2008 (July 1, 2008 thru June 30, 2009) Action Plan One Year Use Of Funds for citizen comment for a period of at least seven (7) calendar days from the date of this publication. The Proposed Substantial Amendment is published in order to afford affected citizens an opportunity to examine its contents and to submit comments relating thereto.

INTRODUCTION:

In accordance with a May 4, 2009 notice issued by the Office of the Assistant Secretary for Community Planning and Development, HUD, grantees eligible to receive funds pursuant to the Community Development Block Grant Program Funding Under the American Recovery and Reinvestment Act of 2009 (CDBG-R) are required to complete a substantial amendment to their Consolidated Plan 2008 Action Plan. In the notice the City received a CDBG-R funding allocation of \$1,788,754.00

To aid grantees in meeting this submission deadline the referenced Notice reduces the requirement for a 30-day public comment period to 7 calendar days and requiring the substantial amendment materials to be posted on the grantee's official website (www.birminghamal.gov) as the materials are developed, published, and submitted to HUD.

A complete CDBG-R Substantial Amendment submission contains the following:

- 1) A signed and dated SF-424, and signed certifications as specified in section II.H. of the referenced Notice.
- 2) Required elements as specified in the Contents of a CDBG-R Action Plan Substantial Amendment as specified in Requirements, Item 2 of the referenced Notice.
- 3) Entitlement grantees are to submit the substantial amendments to their HUD filed office by June 5, 2009.

Interested parties may also visit the CDBG-R web page on HUD's Recovery Act website, <http://www.hud.gov/recovery>, for updated information and resources. Questions regarding the CDBG-R program may be submitted to HudRecoveryAct@hud.gov.

PROPOSED CDBG-R PROGRAM ACTIVITIES:

The City proposes the following CDBG-R Program Activities:

(1) Activity Name: Eligible Planning, Urban Environmental design and policy-planning-management-capacity building activities and Program Administration costs.

(2) Activity Description:

Payment of planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, and the reasonable administrative costs and carry charges related to the planning and execution of Community development activities assisted in whole or in part with CDBG-R funding and where applicable, housing activities and overhead costs directly related to carrying out eligible activities described herein.

(3) CDBG-R dollar amount budgeted: \$178,875.00

(4) Eligible Category (Regulatory or HCDA Citation): 24 CFR 570.205 and 24 CFR 570.206; Eligible Planning, Urban Environmental design and policy-planning-management-capacity building activities and Program Administration costs.

(5) National Objective Citation: In accordance with 24 CFR 570.200(a)(3)(i) cost of administration and planning eligible under 570.205 and 570.206 will be assumed to benefit low-and moderate-income persons in the same proportion as the remainder of the CDBG funds and, accordingly shall be excluded from the calculation.

(6) Additional Recovery Act funds for the Activity Received from Other Programs: \$0

(7) Other Leveraged Funding: \$0

(8) Total Activity Budget: \$178,875.00

(1) Activity Name: CDBG-R Critical Repair Grant Program.

(2) Activity Description:

Provision of grants of eligible rehabilitation expenses to low-and moderate income homeowners up to \$5,000 per qualified homeowner for the rehabilitation of single family

structures. The primary objective of this program is to deter neighborhood deterioration in Birmingham by providing incentives for rehabilitation of the residential housing stock which can be restored by moderate investment. The program is designed to restore housing before the costs of such repairs become prohibitive and more drastic action, such as demolition, becomes necessary. All rehabilitation is to be performed by licensed contractors of the eligible homeowner's selection. It is estimated 320 Housing Units can be assisted.

(3) CDBG-R dollar amount budgeted: \$1,609,879.00

(4) Eligible Category (Regulatory or HCDA Citation) : 24 CFR 570.202, Eligible rehabilitation and preservation activities.

(5) National Objective Citation: 24 CFR 570.208(a)(3), Housing Activities. An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low-and moderate-income households.

(6) Additional Recovery Act funds for the Activity Received from Other Programs: \$0

(7) Other Leveraged Funding: \$0

(8) Total Activity Budget: \$1,609,879.00

CITIZEN COMMENT PERIOD & NOTICE OF PUBLIC HEARING:

The City encourages citizens to participate in the development of the City's Final Substantial Amendments to its 2008 Action Plan described herein regarding its proposed use of CDBG-R funding and will accept written comments for a period of at least seven (7) calendar days from the date of this publication. Complete copies of the City's Proposed CDBG-R Substantial Amendment and required narratives and spreadsheets are available for inspection in the City's Community Development Department, 710 North 20th Street, Room 1000, Birmingham, Alabama from 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Copies are also available for inspection at the Birmingham Public Central Library, 2100 Park Place, Birmingham, Alabama, during regular business hours and a copy is posted on the City's website at www.birminghamal.gov under the Community Development Department.

The City's Community Development Department will conduct a public hearing on **Thursday, May 28, 2009 at 9:30 a.m. the Birmingham City Council Chamber, 710 North 20th Street, 3rd Floor City Hall; Birmingham, Alabama.** The purpose of the hearing will be to obtain comments regarding the proposed use of CDBG-R Program Funds. Also, citizens will be afforded an opportunity to 1) identify housing and community development needs and priorities; 2) review proposed uses of funds; and 3) comment on and review the City's program performance. All comments received will be

considered in the development of the City's Final CDBG-R Substantial Amendment and submission to HUD.

The hearing location is accessible to persons with disabilities; however, anyone who requires further information or has a disability which might require special materials, services, or assistance should notify the Community Development Department at the referenced address no later than 48 hours prior to the scheduled hearing dates. The City does not discriminate on the basis of disability in admissions to, access to, or operations of its programs, services, or activities. The City does not discriminate on the basis of disability in its hiring or employment practices as mandated by Title 11 of the Americans with Disabilities Act of 1990.

Written comments regarding the City's Proposed CDBG-R Submission should be submitted to James F. Fenstermaker, Director; Community Development Department at the address referenced herein. All written comments must be received at the referenced address **no later than Friday, May 29, 2009 by 5:00 p.m.** to be considered in the development of the City's Final PY 2008 Action Plan CDBG-R Substantial Amendment. No comments submitted by e-mail or fax transmission will be accepted or considered. The City's Final CDBG-R submission is due to HUD **no later than Friday, June 5, 2009.**

James F. Fenstermaker, Director
Department of Community Development
710 North 20th Street
10th Floor City Hall
Birmingham, Alabama 35203

May 21, 2009

Date of Publication

Birmingham News

Birmingham Times

Web Site Posting: www.birminghamal.gov

(File name: 5-21-09 CDBG-R publication)

ATTACHMENT B

HUD SPREADSHEET

ATTACHMENT C

STANDARD FORM 424 AND CDBG-R CERTIFICATIONS

(Not available in electronic form)

ATTACHMENT D

PUBLIC COMMENTS

(To be attached in the June 5, 2009 submission to HUD)