

City of Newport Beach

Community Development Block Grant Program



**Substantial Amendment No. 1 to the
2008-2009 Annual Action Plan to
Program CDBG-R Funds**

Approved May 26, 2009

Table of Contents

Executive Summary	1
<i>Background</i>	<i>1</i>
<i>Ensuring Responsible Spending of Recovery Act Funds</i>	<i>1</i>
<i>Eligible and Ineligible Use of CDBG-R Funds</i>	<i>1</i>
<i>Substantial Amendment Submission Requirements</i>	<i>2</i>
CDBG-R Substantial Amendment Narrative	3
<i>Program Contact Information</i>	<i>3</i>
<i>Spreadsheet for Reporting Proposed CDBG-R Activities</i>	<i>3</i>
<i>CDBG-R Project: ADA Playground Resurfacing/ Accessibility Improvements</i>	<i>3</i>
<i>CDBG-R Project: CDBG-R Administration</i>	<i>5</i>
<i>Citizen Participation</i>	<i>6</i>
<i>Public Comments Received</i>	<i>6</i>
Appendices	
Appendix A:	CDBG-R Activity Data Spreadsheet
Appendix B:	Notice of 7-Day Public Review Period and Proof of Publication
Appendix C:	City Council Minutes
Appendix D:	City Council Resolution
Appendix E:	Local Government Certifications
Appendix F:	SF-424
Appendix G:	CDBG-R Substantial Amendment Grantee Checklist

Executive Summary

Background

On February 17, 2009, the President of the United States signed Title XII of the American Recovery and Reinvestment Act of 2009 (ARRA) into law. ARRA appropriates \$1 billion in supplemental funds for the Community Development Block Grant (CDBG) Program. The grant program under Title XII is commonly referred to as the Community Development Block Grant – Recovery (CDBG-R). The Agency responsible for the implementation of the program is the United States Department of Housing and Urban Development (HUD).

The supplemental CDBG-R funds have been allocated according to the current CDBG grant formula. Under the formula used, the City will receive \$96,603 in CDBG-R funds (approximately 27 percent of its 2008-2009 CDBG allocation).

Ensuring Responsible Spending of Recovery Act Funds

Funding available under the Recovery Act has a singular purpose – to stimulate the economy. HUD desires that Cities carefully evaluate proposed projects for consistency with the goals of the Recovery Act, especially the above-cited purpose. To this extent, HUD strongly urges Cities to use CDBG-R funds for hard development costs associated with infrastructure activities that provide basic services to residents or activities that promote energy efficiency and conservation through rehabilitation or retrofitting of existing buildings. While the full range of CDBG activities is available to Cities, HUD strongly suggests that Cities incorporate consideration of the public perception of the intent of the Recovery Act in identifying and selecting projects for CDBG-R funding.

Eligible and Ineligible Use of CDBG-R Funds

The use of this supplemental appropriation of CDBG-R funds under the Recovery Act is subject to all regular CDBG program regulations and the Uniform Administrative Requirements, except for the statutory and regulatory waivers granted to grantees under the Recovery Act as disseminated by HUD in the May 4, 2009 “Notice of Program Requirements for Community Development Block Grant Program Funding Under the American Recovery and Reinvestment Act of 2009.”

In the planning and administration of CDBG-R funds, the City will adhere to the special CDBG-R program requirements and maintain close contact with its local HUD Representative to ensure that funds are spent in full compliance with the regulations, applicable statutory and regulatory waivers and HUD policy.

While the City has the full range of CDBG-eligible activities at its disposal for CDBG-R, the intent of the Recovery Act is to stimulate the economy. In the Recovery Act, Congress states that “Recipients shall also use grant funds in a manner that maximizes job creation and economic benefit.” Congress clearly intends that CDBG-R funds should primarily be invested in economic

development, housing, infrastructure and other public facilities activities that will quickly spur further economic investment, increased energy efficiency, and job creation or retention.

The Recovery Act does not expand the list of eligible activities beyond those specified by the Housing and Community Development Act. However, HUD has determined that the overall intent of the Act, particularly regarding local fiscal stabilization, supersedes the requirement that CDBG funding not be used to substantially replace the amount of local financial support previously provided to community development activities.

Certain specified activities and/or projects which may not be funded with CDBG-R funds pursuant to the Recovery Act include: swimming pools, golf courses, zoos, aquariums, and casinos or other gambling establishments. Other activities generally prohibited under regulations governing the regular CDBG program are also prohibited under CDBG-R. This includes prohibitions on the construction of buildings for the general conduct of government, political activities, purchase of equipment, and operating and maintenance expenses. Other CDBG restrictions may also apply including bans on assistance to professional sports teams, recreational facilities that serve a predominantly higher income clientele, and general promotional activities for the grantee.

Title XII of Division A of the Recovery Act requires that in selecting CDBG-R projects to be funded, recipients shall give priority to projects that can award contracts based on bids within 120 calendar days from the date the funds are made available to the City.

Substantial Amendment Submission Requirements

In order to secure CDBG-R funding for the City's projects as designated in the Substantial Amendment Narrative and the Spreadsheet for Reporting Proposed CDBG-R Activities, the Substantial Amendment document submittal to HUD includes the:

- CDBG-R Substantial Amendment Narrative;
- CDBG-R Activity Data Spreadsheet;
- Signed and Dated Local Government Certifications; and
- Signed and Dated SF-424.

CDBG-R Substantial Amendment Narrative

Program Contact Information

The CDBG-R program will be administered by City staff with the assistance of a professional consultant. For consultation purposes, all matters related to CDBG-R shall be directed as follows:

Jurisdiction:	City of Newport Beach, CA
Jurisdiction Web Address:	http://www.city.newport-beach.ca.us
CDBG-R Contact Person:	Katie Bowden, Economic Development Coordinator
Address:	City of Newport Beach – Planning Department P.O. Box 1768 3300 Newport Boulevard Newport Beach, CA 92658-8915
Telephone:	(949) 644-3230
Fax:	(949) 644-3224
Email:	kbowden@city.newport-beach.ca.us

Spreadsheet for Reporting Proposed CDBG-R Activities

Grantees must provide information concerning CDBG-R assisted activities in an electronic spreadsheet provided by HUD. The information that must be reported in the spreadsheet includes activity name, activity description, CDBG-R dollar amount budgeted, eligibility category, national objective citation, additional Recovery Act funds for the activity received from other programs, and total activity budget. The CDBG-R Activity Data Spreadsheet is included in Appendix A.

CDBG-R Project: ADA Playground Resurfacing/ Accessibility Improvements

(1) Activity Name: ADA Playground Resurfacing/Accessibility Improvements Project.

(2) Activity Narrative:

This project involves the removal and replacement of existing ADA-compliant playground safety surfacing in four City Park facilities (Bob Henry Park, Cliff Drive Park, Bonita Canyon Sports Park, and the Community Youth Center), where the safety surfacing has hardened and no longer meets the safety requirements for impact attenuation. The project scope includes varying measures of the following for all four City parks: Grinding and removal of existing playground safety surfacing, construction of a 4-inch thick concrete base, construction of 3-inch thick safety surface base, construction of 1-inch thick safety surface with appropriate color and pattern and all other necessary work to complete the project in place. The safety surface is comprised of ground rubber (recycled shredded tire material) that is specially treated with a binding agent and sealed for durability.

One of the parks (Bob Henry Park) is not compliant with ADA entry/exit requirements. The project scope also includes accessibility improvements to the sidewalks/ pathways from the disabled parking to the play equipment, inclusive of the play equipment surface and existing accessible play facilities. This project will enable severely disabled adults to access the public play facilities and supervise their children at play.

CDBG-R funds will be used in a manner that maximizes job creation and economic benefit in relation to the CDBG-R funds obligated, and will address some or all of the Recovery Act objectives highlighted in bold, below, by:

- **Preserving and creating jobs and promoting economic recovery:**
 - The project will create 8 full time construction jobs and additional temporary jobs for periodic maintenance for the life of the proposed play surface (estimated 2 jobs over a period of 2 days, every 2 years).
- Assisting those most impacted by the recession
- **Providing investment needed to increase economic efficiency:**
 - All manufactured goods used in construction shall be produced in the United States. A major fabricator of the proposed playground safety surfacing materials has estimated their sales to be 35 percent below their 2007 sales figures.
- Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits
- **Minimizing or avoiding reductions in essential services:**
 - The existing safety surface no longer meets standards, taking it out of service for the disabled. Replacing the substandard surfaces avoids a reduction in service. Creating disabled access to Bob Henry Park creates new service. California general plan law (Section 65302 of the California Government Code) establishes the provision of open space and parks for outdoor recreation as an essential service.
- Fostering energy independence

(3) Jobs Created:

The project will create 8 full time construction jobs and additional temporary jobs for periodic maintenance for the life of the proposed play surface (estimated 2 jobs over a period of 2 days, every 2 years).

(4) Additional Activity Information:

This project promotes green principles. The safety surfacing is comprised of 100 percent recycled materials (shredded California waste tires) that is specially treated with a binding agent and sealed for durability. By diverting large amounts of tire waste from landfills for shredding and re-use as a recycled building material, the proposed project promotes green building technologies, reduces energy use, and conserves natural resources. Also, the full life of the recycled building material (through collection, transporting and recycling) should

be expected to create/retain employment in the green manufacturing sector in addition to the product sales and construction jobs mentioned above.

(5) Responsible Organization:

The City of Newport Beach Public Works Department, Attn: Dave Webb, Project Manager, (949) 644-3200, 3300 Newport Boulevard, Newport Beach, CA 92663.

CDBG-R Project: CDBG-R Administration

(1) Activity Name: CDBG-R Administration.

(2) Activity Narrative:

This project provides for the administration, oversight, tracking and reporting of all CDBG-R activities in accordance with the CDBG regulations found at 24 CFR Part 570 and in accordance with CDBG-R specific statutory and regulatory waivers detailed in the Federal Register Docket No. FR-5309-N-01 published May 4, 2009.

CDBG-R funds will be used in a manner that maximizes job creation and economic benefit in relation to the CDBG-R funds obligated, and will address some or all of the Recovery Act objectives highlighted in bold, below, by:

- **Preserving and creating jobs and promoting economic recovery:**
 - The project will help to preserve 1 permanent full time administrative job.
- Assisting those most impacted by the recession
- Providing investment needed to increase economic efficiency
- Investing in transportation, environmental protection, or other infrastructure that will provide long-term economic benefits
- Minimizing or avoiding reductions in essential services:
- Fostering energy independence

(3) Jobs Created:

It is anticipated that this activity will retain one (1) permanent job.

(4) Additional Activity Information:

N/A

(5) Responsible Organization:

Kathlyn Bowden, Economic Development Coordinator of the City of Newport Beach Planning Department's Economic Development Division will be responsible for the implementation of this project.

Citizen Participation

In accordance with the HUD Notice, the Notice of Public Hearing and 7-Day Public Review for the CDBG-R Substantial Amendment to the 2008-2009 One-Year Action Plan was published in the Daily Pilot newspaper on May 16, 2009 and posted on the jurisdiction's website for no less than 7 calendar days for public comment. The Public Comment period concludes upon the close of the Public Hearing at the regular meeting of the City Council held at 7:00 p.m. on Tuesday, May 26, 2009 in the Council Chambers located at 3300 Newport Boulevard, Newport Beach, CA 92663.

All comments to the proposed amendments to the FY 2008-2009 One-Year Action Plan were to be received in writing at the office of the Planning Department, 3300 Newport Blvd., Newport Beach, California 92663, no later than 5:00 p.m. on May 26, 2009. Comments could also be made orally during the City Council Public Hearing at 7:00 p.m. on May 26, 2009.

Beginning Tuesday, May 19, 2009, persons desiring information on this substantial amendment were able to view the draft document at the City of Newport Beach Public Library located at 1000 Avocado Avenue, Newport Beach, CA 92660, or at the City Clerk's Office located at City Hall, 3300 Newport Blvd, Newport Beach, CA 92663. The amendment was available on the City website located at <http://www.city.newport-beach.ca.us/> throughout the entire public comment period. For further information, interested parties were directed to contact Kathlyn Bowden, AICP, Economic Development Coordinator, at (949) 644-3230 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Public Comments Received

There were no public comments received on the Draft CDBG-R Substantial Amendment.

Appendix A: CDBG-R Activity Data Spreadsheet

CDBG-R
Activity Data Spreadsheet

Jurisdiction/Grantee Name: City of Newport Beach		CDBG-R Formula Grant Amount: \$96,603				Date: June 4, 2009	
<i>Activity Name</i>	<i>Activity Description</i>	<i>Eligibility (Regulatory or HCDA Citation)</i>	<i>National Objective Citation</i>	<i>CDBG-R Project Budget (\$)</i>	<i>Additional Recovery Funds (\$)</i>	<i>Other Leveraged Funding (\$)</i>	<i>Total Activity Budget</i>
ADA Playground Resurfacing/Accessibility Improvements Project	This project includes the removal of architectural barriers and the replacement of playground safety surfacing in four (4) City Park Facilities to meet ADA safety and accessibility requirements.	570.201(c)	570.208(a)(2)(ii)(A)	\$86,943.00	\$0.00	\$0.00	\$86,943.00
CDBG-R Administration	This project provides for the administration, oversight, tracking and reporting of all CDBG-R activities.	570.206	N/A	\$9,660.00	\$0.00	\$0.00	\$9,660.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00
							\$0.00

Appendix B:
Notice of 7-Day Public Review Period and Proof of Publication

**NOTICE OF
PUBLIC HEARING & 7-DAY PUBLIC REVIEW**

**CITY OF NEWPORT BEACH
PROPOSED AMENDMENT TO THE CITY'S
ONE-YEAR ACTION PLAN FOR FISCAL YEAR 2008-2009**

Pursuant to the United States Department of Housing and Urban Development (HUD) regulations, the City of Newport Beach is providing notice to the public of an amendment to the Fiscal Year 2008-2009 One-Year Action Plan for the purpose of programming Community Development Block Grant Funds from HUD pursuant to Title XII of Division A of the American Recover and Reinvestment Act (ARRA) of 2009, signed on February 17th 2009. This Act provides \$1 billion in Community Development Block Grant (CDBG-R) funds to states and local governments to carry out, on an expedited basis, eligible activities under the newly-formed CDBG-R Program.

Each year, the City submits to the U.S. Department of Housing and Urban Development the One-Year Action Plan for the fiscal year beginning July 1. The Action Plan details the programs, projects and activities through which the City intends to expend its federal Community Development Block Grant (CDBG) funds.

When a substantial change is proposed to any of the programs, projects or activities previously approved by HUD, the public must be notified and a Public Hearing must be held to allow the public an opportunity to comment on the proposed substantial changes.

The CDBG-R Final Rule published in the Federal Register indicates that a seven (7) day public review period shall be provided and that a public hearing shall be held whenever a substantial change in a HUD-approved program is proposed.

PROPOSED AMENDMENT

The City of Newport Beach, Economic Development Department, is proposing an amendment, which, if approved, will 1) program \$86,943 to fund ADA Playground Resurfacing and Accessibility Improvements, and 2) program \$9,660 to pay for the administrative cost to plan, implement, and report on the CDBG-R project.

BENEFIT TO THE CITY

The specific purpose of this amendment is to allocate CDBG-R funds to provide for ADA Playground Resurfacing and Accessibility Improvements.

Funds to be programmed:

<u>Activity</u>	<u>Programmed Funds</u>
ADA Playground Resurfacing and Accessibility Improvements	\$86,943
CDBG-R Administration	\$9,660
Total:	\$96,603

The City Council will hold a public hearing to receive comments from the public at the following date, time and location:

Date: Tuesday, May 26, 2009
Time: 7:00 P.M.
Location: City of Newport Beach
City Council Chambers
3300 Newport Blvd,
Newport Beach, CA 92663

All comments to the proposed amendments to the FY 2008-2009 One-Year Action Plan must be received in writing at the office of the Planning Department, 3300 Newport Blvd., Newport Beach, California 92663, no later than 5:00 p.m. on May 26, 2009. Comments may also be made orally during the City Council Public Hearing at or shortly after 7:00 p.m. on May 26, 2009.

Beginning Tuesday, May 19, 2009, persons desiring information on this substantial amendment may view the document at the City of Newport Beach Public Library located at 1000 Avocado Avenue, Newport Beach, CA 92660, or at the City Clerk's Office located at City Hall, 3300 Newport Blvd, Newport Beach, CA 92663. The amendment will also be posted on the City of Newport Beach website located at <http://www.city.newport-beach.ca.us/>. For further information, please contact Kathlyn Bowden, AICP, Economic Development Coordinator, at (949) 644-3230 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Leilani Brown, MMC
City Clerk

Authorized to Publish Advertisements of all kinds
Decree of the Superior Court of Orange County, C
September 29, 1961, and A-24831 June 11, 1963.

PROOF OF PUBLIC

STATE OF CALIFORNIA)

COUNTY OF ORANGE)

I am a Citizen of the United
resident of the County afo
over the age of eighteen yea
party to or interested in the t
matter. I am a principal
NEWPORT BEACH - CO
DAILY PILOT, a newspaper
circulation, printed and pub
City of Costa Mesa, County
State of California, and th
Notice is a true and comp
was printed and publish
following dates:

May 16, 2009

I declare, under penalty of perjury, that
the foregoing is true and correct.

Executed on May 18, 2009 at
Costa Mesa, California.



Signature

**NOTICE OF PUBLIC HEARING
AND 7-DAY PUBLIC REVIEW**

**CITY OF NEWPORT BEACH
PROPOSED AMENDMENT TO THE CITY'S
ONE-YEAR ACTION PLAN FOR FISCAL YEAR 2008-2009**

Pursuant to the United States Department of Housing and Urban Development (HUD) regulations, the City of Newport Beach is providing notice to the public of an amendment to the Fiscal Year 2008-2009 One-Year Action Plan for the purpose of programming Community Development Block Grant Funds from HUD pursuant to Title XII of Division A of the American Recover and Reinvestment Act (ARRA) of 2009, signed on February 17th 2009. This Act provides \$1 billion in Community Development Block Grant (CDBG-R) funds to states and local governments to carry out, on an expedited basis, eligible activities under the newly-formed CDBG-R Program.

Each year, the City submits to the U.S. Department of Housing and Urban Development the One-Year Action Plan for the fiscal year beginning July 1. The Action Plan details the programs, projects and activities through which the City intends to expend its federal Community Development Block Grant (CDBG) funds.

When a substantial change is proposed to any of the programs, projects or activities previously approved by HUD, the public must be notified and a Public Hearing must be held to allow the public an opportunity to comment on the proposed substantial changes.

The CDBG-R Final Rule published in the Federal Register indicates that a seven (7) day public review period shall be provided and that a public hearing shall be held whenever a substantial change in a HUD-approved program is proposed.

PROPOSED AMENDMENT

The City of Newport Beach is proposing an amendment, which, if approved, will 1) program \$86,943 to fund ADA Playground Resurfacing and Accessibility Improvements, and 2) program \$9,660 to pay for the administrative cost to plan, implement, and report on the CDBG-R project.

BENEFIT TO THE CITY

The specific purpose of this amendment is to allocate CDBG-R funds to provide for ADA Playground Resurfacing and Accessibility Improvements.

Funds to be programmed:

Activity	Programmed Funds
ADA Playground Resurfacing and Accessibility Improvements	\$86,943
CDBG-R Administration	\$9,660
Total:	\$96,603

The City Council will hold a public hearing to receive comments from the public at the following date, time and location:

Date: Tuesday, May 26, 2009
Time: 7:00 P.M.
Location: City of Newport Beach
City Council Chambers
3300 Newport Blvd,
Newport Beach, CA 92663

All comments to the proposed amendments to the FY 2008-2009 One-Year Action Plan must be received in writing at the office of the Planning Department, 3300 Newport Blvd., Newport Beach, California 92663, no later than 5:00 p.m. on May 26, 2009. Comments may also be made orally during the City Council Public Hearing at or shortly after 7:00 p.m. on May 26, 2009.

Beginning Tuesday, May 19, 2009, persons desiring information on this substantial amendment may view the document at the City of Newport Beach Public Library located at 1000 Avocado Avenue, Newport Beach, CA 92660, or at the City Clerk's Office located at City Hall, 3300 Newport Blvd, Newport Beach, CA 92663. The amendment will also be posted on the City of Newport Beach website located at <http://www.city.newport-beach.ca.us/>. For further information, please contact Kathlyn Bowden, Economic Development Coordinator, at (949) 644-3230 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Leilani Brown
City Clerk

RECEIVED
2009 MAY 22 AM 9:31
OFFICE OF
THE CITY CLERK
CITY OF NEWPORT BEACH

Clint Whited

From: Bowden, Katie [KBowden@city.newport-beach.ca.us]
Sent: Tuesday, May 19, 2009 2:45 PM
To: Clint Whited
Subject: FW: City of Newport Beach Broadcast Message
Attachments: Web Postings.pdf

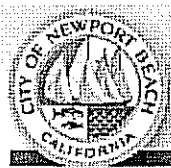
Clint-

Below you will find the E-Select Alert that went to all who have signed up to receive e-mail alerts of Planning Department news. I have also attached "print screens" of the two locations where the plan is posted on our website.

Thanks,

Kathlyn Bowden, AICP
 Economic Development Coordinator
 City of Newport Beach
 949.644.3230

From: City@city.newport-beach.ca.us [mailto:City@city.newport-beach.ca.us]
Sent: Tuesday, May 19, 2009 2:01 PM
To: Bowden, Katie
Subject: City of Newport Beach Broadcast Message



the following is a message from the
city of newport beach

Select Alert News From The Planning Department:

The City of Newport Beach is proposing an amendment the City's Fiscal Year 2008-2009 One-Year Action Plan. The specific purpose of this amendment is to allocate CDBG-R funds to provide for ADA playground resurfacing and accessibility improvements. The public is invited to review and comment on this amendment.

Copies of this document will be available to the public at the City's Central Library, and the City Clerk's Office. It is also available on the City's website at <http://www.city.newport-beach.ca.us/PLN/Planning.html> and then select Economic Development and the associated document.

or [Click here](#).

The period for public review will begin May 19, 2009, and end May 26, 2009. All comments must be received at the office of the Planning Department, 3300 Newport Blvd., Newport Beach, California 92663, no later than 5:00 pm on May 26, 2009. Comments may also be made orally during the City Council Public Hearing at

or shortly after 7:00 pm on May 26, 2009. For more information, please contact Katie Bowden, Economic Development Coordinator, at (949) 644-3230

This is an automated message from the City of Newport Beach. Subscription preferences may be changed by accessing your Select Alert account.##

City of Newport Beach, CA - Planning Department Home - Microsoft Internet Explorer

Address: http://www.city.newport-beach.ca.us/PLN/Planning.html

Navigation: CITY OFFICIALS | AGENDAS & MINUTES | CALENDAR | DEPARTMENTS | PROJECTS | NBTV | JOBS | e-onlineservices

RETURN HOME

Planning Department

- Historical Resource Assessment: Mariner's Medical Bid **Large File**
- Zoning Code Update
- Environmental Document Review for Pending Projects
- Planning Home
- C-Plan Check Status**
- C-Current Case Log**
- C-SelectAlerts**
- General Plan
- Zoning Code
- Municipal Code
- Planned Communities
- Local Coastal Program
- Projects
- Forms and Applications
- Fee Schedules
- Economic Development
- Housing Element Update**
- Housing
- Planning Commissioners / Agendas
- Environmental Quality

Economic Development

NEW! [DRAFT - Substantial Amendment to the 2008-2009 Annual Action Plan to Program CDBG-R Funds](#)

Increased Opportunity to Advertise your Business:

Meetings and Events:

Balboa Village

09/11/2008 - [Balboa Village Parking Management Study Kick-off Meeting](#)
[View Slides](#) [Balboa Village Steering Committee](#)

Balboa Island

02/12/2009 - [Balboa Island Parking Management Study - RESULTS MEETING](#)

12/19/2008 - [Balboa Island Parking Policy Plan - FINAL REPORT](#)

08/27/2008 - [Balboa Island Parking Management Study Kick-off Meeting](#)
[View Slides](#) [Balboa Island Steering Committee](#)

Mariner's Mile

07/29/2008 - [Mariner's Mile Parking Management Study Kick-off Meeting](#)
[View Slides](#) [Mariner's Mile Steering Committee](#)

Corona del Mar

Taskbar: Start | Sent Items - Microsoft... | Re: Catalina Flyer & D... | FW: Banner at Balboa... | FW: City of Newport B... | RE: POSTING & E-SEL... | City of Newport Bea... | Internet | 2:32 PM

Appendix C: City Council Minutes

CITY OF NEWPORT BEACH

City Council Minutes Regular Meeting May 26, 2009 – 7:00 p.m.

I. STUDY SESSION - 3:00 p.m.

II. CLOSED SESSION - 5:08 p.m.

A. Conference with Legal Counsel - Existing Litigation (Government Code § 54956.9 (a)): Four matters, all arising out of the IBC Litigation with Irvine:

1. Newport Beach/Tustin v. City of Irvine (Martin Street), Orange County Superior Court Case No. 07CC01264
2. Newport Beach/Tustin v. City of Irvine (2851 Alton), Orange County Superior Court Case No. 07CC01265
3. Newport Beach/Tustin v. City of Irvine (HCG), Orange County Superior Court Case No. 30-2008-0022885-CU-WM-CXC
4. Newport Beach/Tustin v. City of Irvine (Accessory Retail Business Regulations), Orange County Superior Court Case No. 30-2009-00264696

B. Conference with Legal Counsel - Anticipated Litigation - Exposure to Litigation (Government Code § 54956.9(b): Two matter(s):

1. Potential exposure to litigation on two matter(s) based upon facts and circumstances that might result in litigation against the City but which are not yet known to a potential plaintiff or plaintiffs and disclosure of the facts or circumstances would jeopardize the City's ability to resolve the matter.

C. Conference with Real Property Negotiator (Government Code § 54956.8):

1. Property: 608 East Balboa Blvd. and 209 Washington Street; City Negotiator: Sharon Wood; Negotiating Parties: City and Levon Gugasian, Property Owner; Under negotiation: Instruct negotiators on terms, price and conditions.

III. RECESS

IV. RECONVENED AT 7:00 P.M. FOR REGULAR MEETING

V. ROLL CALL

Present: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

VII. PLEDGE OF ALLEGIANCE - Council Member Curry

VIII. INVOCATION - Reverend Karl Stuckenberg, Newport Center United Methodist Church

IX. PRESENTATIONS

Disneyland Scholarship Award Presentation - Mayor Selich presented the proclamation to

Andrew Morrow (Corona del Mar High School) who thanked Council for their support and Disneyland for the honor. Danielle Dubois (Disneyland Resort) commended Andrew for his hard work and thanked Council for their support.

Invitational Regatta for the Hoag Cup - Mayor Selich presented the proclamation to Jake Rohrer (Hoag Hospital) and Glen Highland. Mr. Highland thanked Council for their support and announced that proceeds will be donated to the Hoag Heart and Vascular Institute.

VI. CLOSED SESSION REPORT

City Attorney Hunt reported that Item C1 of the Closed Session Agenda was removed with no action or discussion.

X. NOTICE TO THE PUBLIC

XI. CITY COUNCIL ANNOUNCEMENTS OR MATTERS WHICH COUNCIL MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION OR REPORT (NON-DISCUSSION ITEM):

Council Member Daigle announced that temporary changes were made to the docks for the Hoag Cup and noted that the dredging of the Bay is continuing.

Council Member Gardner announced that the Corona del Mar 5K will be on June 6 and invited residents to visit the website at action.com or contact the Recreation and Senior Services Department to sign up. She requested a report from staff on the property tax action. In response to her question, City Clerk Brown clarified that Boards and Commissions applicants will receive a letter notifying them of their application status.

Council Member Webb announced that the Balboa Island parade will be on Sunday, June 7, at 11:00 a.m. and Mayor Selich invited everyone to attend and enjoy the community spirit.

Council Member Henn announced that the Relay for Life event was held on May 16 - 17 and estimated that \$127,000 was raised so far. He noted that the Council Critters raised \$6,600, and thanked and congratulated City Manager Bludau for initiating the event. He reported that the City hosted a large number of visitors during the Memorial Day Holiday weekend and commended the Police, Fire, and Lifeguards. He noted that the first Boardwalk Safety Program was a success and congratulated the Police Department for a very well organized event. He also noted that there was a 4.7 magnitude earthquake and encouraged residents to register for the OC Alert System which will inform registrants via phone in the event of an emergency.

Mayor Pro Tem Curry thanked Council Member Henn for organizing the Relay for Life's Council Critters team. He expressed concern about coyotes and snakes and asked staff to provide a report to Council that would re-visit policies and provide information to residents on safety.

XII. CONSENT CALENDAR

A. READING OF MINUTES/ORDINANCES AND RESOLUTIONS

1. **MINUTES OF THE REGULAR MEETING AND ADJOURNED REGULAR MEETING OF MAY 12, 2009. [100-2009]** Waive reading of subject minutes, approve as written and order filed.

Study Session Minutes

Regular Meeting Minutes

2. **READING OF ORDINANCES AND RESOLUTIONS.** Waive reading in full of all ordinances and resolutions under consideration, and direct City Clerk to read by

title only.

B. CONTRACTS AND AGREEMENTS

3. **ON-CALL REPAIR SERVICES FOR OIL PRODUCTION WELLS - APPROVAL OF REPAIR SERVICES AGREEMENTS WITH HARBOR RESOURCES, INC. AND ALLENCO (C-4208 and C-4209). [38/100-2009]** Approve On-call Repair Services Agreements with Harbor Resources, Inc. and AllenCo for on-call repair services for City's oil production wells, and authorize the Mayor and City Clerk to execute the agreements.

Staff Report

4. **JAMBOREE ROAD WIDENING OVER SR-73 - APPROVAL OF A CONSTRUCTION COOPERATIVE AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (C-4210). [38/100-2009]** Approve a Cooperative Agreement between the City of Newport Beach and the California Department of Transportation (Caltrans) for the construction of the Jamboree Road Widening over State Route 73 (SR-73) project.

Staff Report

5. **KINGS ROAD/KINGS PLACE PAVEMENT RECONSTRUCTION - AWARD OF CONTRACT (C-4095). [38/100-2009]** a) Approve the project plans and specifications; b) award the contract (C-4095) to The R.J. Noble Company for the total bid price of \$647,404.20, and authorize the Mayor and the City Clerk to execute the contract; c) establish an amount of \$65,000 to cover the cost of unforeseen work; and d) approve a budget amendment (09BA-057) designating Kings Road/Kings Place Pavement Reconstruction (7251-C2002020) to receive \$282,600 in County of Orange CAP funds which were previously designated for Dover/Westcliff Street Rehabilitation and designating Dover/Westcliff Street Rehabilitation (7181-C2002018) to receive \$282,600 in Gas Tax funds previously designated for Kings Road/Kings Place Pavement Reconstruction.

Staff Report

6. **APPROVAL OF TEMPORARY EMPLOYMENT AGREEMENT WITH RON GARRETT FOR TRAFFIC TECHNICIAN SERVICES (C-4212). [100-2009]** Removed from the Consent Calendar.

Staff Report

7. **SURVEY ON-CALL SERVICES - APPROVAL OF AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT WITH COAST SURVEYING, INC. AND PROFESSIONAL SERVICES AGREEMENT WITH GEOMATICS TRANSPORTATION SERVICES, INC. (C-3673 and C-4213). [38/100-2009]** a) Approve Amendment No. 2 to Professional Services Agreement with Coast Surveying, Inc., for on-call surveying and mapping services and authorize the Mayor and City Clerk to execute Amendment No. 2.; and b) approve Professional Services Agreement with Geomatics Transportation, Inc. for on-call surveying and mapping services and authorize the Mayor and City Clerk to execute the Professional Services Agreement.

Staff Report

C. MISCELLANEOUS

8. **LEGAL PUBLICATIONS FOR ONE-YEAR CONTRACT COVERING FISCAL**

YEAR JULY 1, 2009 TO JUNE 30, 2010. [100-2009] Authorize the City Clerk to publish a notice advertising for bids to be received on or before the hour of 4:00 p.m., on Friday, June 12, 2009, for a one-year contract covering the publishing and printing of legal notices, or other material required to be published and circulated in the City of Newport Beach.

Staff Report

- 9. 2009-10 PROPOSED BUDGET HEARING; 2009-10 APPROPRIATION LIMIT HEARING. [100-2009]** a) Schedule a public hearing of the City's Proposed Budget and Appropriation Limit for the 2009-10 fiscal year on June 9, 2009 at 7:00 p.m.; and b) direct the City Clerk to publish a notice of said hearing.

Staff Report

- 10. CONTRACT FOR ENVIRONMENTAL CONSULTING SERVICES ASSOCIATED WITH THE CONEXANT AND KOLL COMPANY (C-4206 and C-4207). [38/100-2009]** Receive and file notice of permit application.

Staff Report

Motion by Mayor Pro Tem Curry to approve the Consent Calendar, except for the Item removed (6).

The motion carried by the following roll call vote:

Ayes: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

XIII. ITEMS REMOVED FROM THE CONSENT CALENDAR - None

XIV. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Council Member Henn reported that the use permit for the Ocean Recovery group homes facility at 1115 Balboa Boulevard was approved by the Hearing Officer, the re-hearing for Newport Coast Recovery is scheduled for the week of June 15, the reasonable accommodation request for Balboa Recovery (3206 W. Balboa) was approved, Balboa Recovery's (124 30th Street) reasonable accommodation request was denied, and Kramer Center's reasonable accommodation hearing is scheduled for Wednesday, June 3.

Council Member Henn noted that the Economic Development Committee (EDC) approved a re-draft of the EDC Strategic Plan and formed a sub-committee to recommend a clearing house for retail vacancies in the City which will be staffed by Craig Batley, Richard Luehrs, Lloyd Ikerd, Jim Donnell, and Jeff Cole.

XV. PUBLIC HEARINGS

- 11. AWARD OF NON-EXCLUSIVE SOLID WASTE COLLECTION FRANCHISE - JD DEMOLITION AND GRADING, INC. [42/100-2009]**

Staff Report

General Services Director Harmon reported that all requirements are met and staff recommends approval. In response to Council Member Rosansky's question, General Services Director Harmon stated that staff is working on changing the procedure for approving franchise agreements.

Motion by Council Member Rosansky to adopt Ordinance No. 2009-11 granting a Non-exclusive Solid Waste Franchise to JD Demolition and Grading, Inc.

The motion carried by the following roll call vote:

Ayes: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

12. PROPOSED AMENDMENT TO THE CITY'S ONE-YEAR PLAN FOR FISCAL YEAR 2008-2009 TO PERMIT RECEIPT OF SUPPLEMENTAL COMMUNITY DEVELOPMENT BLOCK GRANT - RECOVERY (CDBG-R) FUNDS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA). [100-2009]

Staff Report

Economic Development Coordinator Bowden reported that the City is scheduled to receive \$96,603 in supplemental funds through the Community Development Block Grant Recovery (CDBG-R) Fund to stimulate the economy and staff has identified projects that meet all of the requirements needed to receive the funds.

Motion by Council Member Rosansky to a) approve the substantial amendment to the 2008-2009 CDBG Action Plan; b) authorize the City Manager or his designee to execute the substantial amendment to the FY 2008-2009 CDBG Program Grant Agreement and all related documents (SF-424 form and CDBG-R certifications) on behalf of the City; and c) adopt Resolution No. 2009-27 authorizing the City Manager to submit the SF-424 application for CDBG-R funds and substantial amendment to the One-Year Action Plan to HUD.

The motion carried by the following roll call vote:

Ayes: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

XVI. PUBLIC COMMENTS - None

XVII. PLANNING COMMISSION AGENDA AND ORAL STATUS REPORT

13. PLANNING COMMISSION AGENDA FOR MAY 21, 2009. [100-2009]

Staff Report

Action Agenda

Assistant City Manager Wood reported on the following items: Newport Healthcare Center LLC (PA2009-017); Santa Ana Heights Horse Licensing Code Amendment Initiation; and AERIE Condominiums (PA2005-196).

XVIII. CONTINUED BUSINESS

14. CITY HALL AND PARK MASTER PLAN PROJECT - APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT WITH CW DRIVER FOR PROGRAM MANAGEMENT SERVICES - SCHEMATIC DESIGN AND DESIGN DEVELOPMENT; AND AMENDMENT NOS. 1 AND 2 TO PROFESSIONAL SERVICES AGREEMENT WITH LEIGHTON CONSULTING, INC. FOR GEOTECHNICAL SERVICES (C-4137 and C-4150). [38/100-2009]

Staff Report

Public Works Director Badum reported that staff is seeking Council's approval for amendments to continue to the schematic design, design development, and geotechnical service phases of the project.

Motion by Council Member Rosansky to a) approve Amendment No. 1 to the

Professional Services Agreement (PSA) with CW Driver of Irvine, for Schematic Design and Design Development Phases of City Hall and Park program management services at a not to exceed price of \$647,018, and authorize the Mayor and City Clerk to execute the agreement; b) approve Amendment No. 1 to the PSA with Leighton Consulting, Inc. of Irvine to provide supplemental geotechnical exploration and consulting services at a not to exceed price of \$18,555, and authorize the Mayor and City Clerk to execute the agreement; c) approve Amendment No. 2 to the PSA with Leighton Consulting, Inc. of Irvine, to prepare a design-level geotechnical report at a not to exceed price of \$33,574, and authorize the Mayor and City Clerk to execute the agreement; and d) approve a budget amendment (09BA-054) authorizing \$954,000 in additional funding for the Schematic Design and Design Development Phases of City Hall and Park for program management, environmental services, and geotechnical services from unappropriated Major Facilities Master Plan fund to the City Hall and Park Account No. 7410-C1002009.

The motion carried by the following roll call vote:

Ayes: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

XIX. CURRENT BUSINESS

15. CHANGE TO NBMC 11.08.010 - OBSTRUCTION ON PUBLIC BEACHES PROHIBITED. [100-2009]

Staff Report

Police Captain Johnson reported that the use of easy-ups and other tent-like devices on the beach takes up space, obstructs views, are an eyesore, and prohibits Police personnel from observing all areas of the beach, which is a safety concern. He stated that the amendment to the Code will ban the use of such devices.

In response to Council Member Gardner's question, Captain Johnson stated that Council can consider other regulatory options. Council Member Rosansky stated that the shade devices should be regulated, not banned, and suggested that the item be continued for further discussion. Council Member Henn stated that sun exposure is an issue and believed that umbrellas would not supply sufficient shade to beachgoers. Mayor Selich noted that residents of Big Corona should be notified to discuss the issue further.

Motion by Council Member Rosansky to continue the item to the June 9 meeting.

The motion carried by the following roll call vote:

Ayes: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

16. COUNCIL REVIEW OF STAFF STATUS PROGRESS REPORT ON SEVEN OF THE CITY COUNCIL'S 2009 PRIORITIES. [100-2009]

Staff Report

City Manager Bludau showed a PowerPoint presentation to discuss the following Council priorities: minimizing the adverse impacts of John Wayne Airport (JWA), the organizational performance improvement effort, the development and adoption of the FY 2009-2010 budget, the Facilities Financing Plan (FFP), enforcement of the City's group homes regulations, the General Plan, and fire hazard reduction in Lower Buck Gully.

In response to Council Member Gardner's question, City Manager Bludau confirmed that in order to invoke the borrowing of property tax revenues via Proposition 1A, a 2/3 vote of the State Legislature is needed.

Council Member Henn expressed support for the proposed legislation relating to group homes since it would assist the City with this issue.

Assistant City Manager Wood provided information relative to aligning the City's Code, regulations, and policies with the General Plan.

Council Member Webb requested a report from the Battalion Chiefs that were at the Santa Barbara fire. He expressed concern about the similarities of the burned area to areas of this City, and believed that educating residents and staff would be helpful.

17. CITY COUNCIL CONSIDERATION OF A REVISED CITY MANAGER JOB DESCRIPTION. [100-2009]

Staff Report

City Manager Bludau reported that the job description has not been revised in 10 years. He noted that Council Member Henn, on behalf of the Council sub-committee, worked with him and Human Resources Director Cassidy, and recommended that Council approve the changes.

Council Member Henn stated that the job duties are consistent with the City Charter's general description and includes essential attributes that go beyond technical job responsibilities and qualifications. Mayor Selich thanked Council Member Henn for incorporating Council's ideas into the job description.

Motion by Council Member Gardner to approve the revised City Manager job description.

The motion carried by the following roll call vote:

Ayes: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

S18. FORMATION OF AN AD HOC COMMITTEE FOR NEGOTIATING THE INTERNATIONAL BAY CLUBS' NEWPORT BEACH COUNTRY CLUB DEVELOPMENT AGREEMENT (C-4169). [38/100-2009]

Staff Report

Mayor Selich appointed himself and Council Member Rosansky to the committee.

Motion by Mayor Pro Tem Curry to a) adopt Resolution 2009-28 forming the Ad Hoc Committee to Negotiate the International Bay Clubs' Newport Beach Country Club Development Agreement; and b) confirm the Mayor's appointment of Mayor Selich and Council Member Rosansky to the committee.

The motion carried by the following roll call vote:

Ayes: Council Member Henn, Council Member Rosansky, Mayor Pro Tem Curry, Mayor Selich, Council Member Webb, Council Member Gardner, Council Member Daigle

XX. MOTION FOR RECONSIDERATION - None

XXI. ADJOURNMENT - Adjourned at 7:58 p.m. to Tuesday, June 9, 2009, at 3:00 p.m. to continue the Fiscal Year 2009-2010 budget discussions.

The agenda for the Regular Meeting was posted on May 20, 2009, at 4:19 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration

Building. The supplemental agenda for the Regular Meeting was posted on May 22, 2009, at 4:00 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

Recording Secretary

Mayor

City Clerk

Appendix D: City Council Resolution

CITY COUNCIL RESOLUTION 2009-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING A SUBSTANTIAL AMENDMENT TO THE 2008-2009 ANNUAL ACTION PLAN WHICH IS PART OF THE CONSOLIDATED PLAN, AND THE PROJECTED USE OF COMMUNITY DEVELOPMENT BLOCK GRANT - RECOVERY (CDBG-R) FUNDS FOR FY 2008-2009, AND SUPERCEDING ALL PREVIOUS RESOLUTIONS WHICH ARE INCONSISTENT THEREWITH.

WHEREAS, on February 17, 2009, the President of the United States signed Title XII of the American Recovery and Reinvestment Act of 2009 (ARRA) into law, appropriating \$1 billion in supplemental funds for the Community Development Block Grant (CDBG) program.

WHEREAS, the City of Newport Beach participates in the Department of Housing and Urban Development's CDBG program; and

WHEREAS, the grant program under Title XII is commonly referred to as the Community Development Block Grant – Recovery (CDBG-R), and the City of Newport Beach anticipates receiving \$96,603 in supplemental CDBG-R funds for fiscal year 2008-2009; and

WHEREAS, the Department of Housing and Urban Development (HUD) requires a substantial amendment to the City's current approved Consolidated Plan and 2008-2009 Action Plan in order to receive CDBG-R funds; and

WHEREAS, on May 16, 2009, the City published a public notice in the Daily Pilot newspaper indicating that the proposed amendment would be available to the public for review and comment from May 19, 2009 to May 26, 2009; and

WHEREAS, on May 26, 2009, the City Council reviewed and approved the proposed amendment to the 2008-2009 Action Plan. The City will amend the Action Plan to include any comments and response to the comments that are accepted at the hearing; and

WHEREAS, the City Council has considered the community needs, priorities, and strategies set forth in the Consolidated Plan and the economic stimulus purposes of the ARRA, and concludes the proposed allocation of \$96,603 in CDBG-R funds is consistent with the Consolidated Plan and Housing Element; and

WHEREAS, pursuant to Section 15378 of the State Environmental Guidelines, the proposed project is exempt from the requirements of CEQA.

NOW, THEREFORE, the City Council of the City of Newport Beach DOES HEREBY RESOLVE as follows:

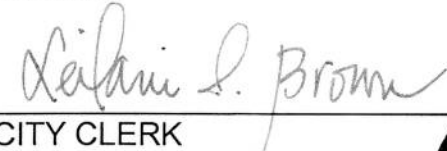
SECTION 1. The proposed amendment to the 2008-2009 Action Plan is hereby adopted, and the City Council DOES HEREBY AUTHORIZE the City Manager to be the official representative of the City of Newport Beach to submit the amended Action Plan and certification required to HUD.

SECTION 2. That the City Council DOES HEREBY AUTHORIZE the Economic Development Coordinator of the Planning Department, Economic Development Division, or his designee, to be the official representative of the City of Newport Beach to submit required environmental documentation for CDBG projects.

PASSED AND ADOPTED by the City Council of the City of Newport Beach at a regular meeting held on the 26th day of May 2009.


MAYOR

ATTEST:


CITY CLERK



STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2009-27 was duly and regularly introduced before and adopted by the City Council of said City at a regular meeting of said Council, duly and regularly held on the 26th day of May, 2009, and that the same was so passed and adopted by the following vote, to wit:

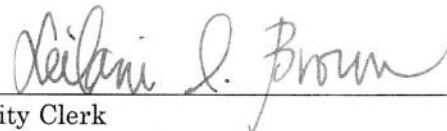
Ayes: Henn, Rosansky, Curry, Webb, Gardner, Daigle, Mayor Selich

Noes: None

Absent: None

Abstain: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27th day of May, 2009.



City Clerk
Newport Beach, California

(Seal)



Appendix E: Local Government 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-displacement and relocation plan.** 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; and it has in effect and is following a residential anti-displacement and relocation assistance plan required under section 104(d) of the Housing and Community Development Act of 1974, as amended, in connection with any activity assisted with funding under CDBG-R.

(3) **Drug Free Workplace.** The jurisdiction will or will continue to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
2. Establishing an ongoing drug-free awareness program to inform employees about –
 - (a) The dangers of drug abuse in the workplace;
 - (b) The grantee's policy of maintaining a drug-free workplace;
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph 1;
4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will -
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted

employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted:

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

(4) **Anti-lobbying.** To the best of the jurisdiction's knowledge and belief:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. It will require that the language of paragraph 1 and 2 of this anti-lobbying certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

(5) **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.

(6) **Consistency with Plan.** The housing activities to be undertaken with CDBG-R funds are consistent with its consolidated plan.

(7) **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.

(8) **Community development plan.** The jurisdiction certifies that the consolidated housing and community development plan identifies housing and community development needs and specifies both short-term and long-term community development objectives that have been developed in accordance with the primary objective of the statute authorizing the CDBG program.

(9) **Following a plan.** The jurisdiction is following a current consolidated plan that has been approved by HUD.

(10) **Use of funds.** The jurisdiction has developed activities so as to give the maximum feasible priority to activities that will benefit low- and moderate-income families or aid in the prevention of slums or blight. Additional activities may be included that are designed to meet other community development needs having particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs

It has complied with the following criteria:

1. **Maximum Feasible Priority.** With respect to activities expected to be assisted with CDBG-R funds, it certifies that it has developed its Action Plan so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. The Action Plan may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available);

2. **Special Assessments.** The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG-R 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 CDBG-R funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with CDBG-R 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-R funds. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG-R funds, unless CDBG-R funds are used to pay the proportion of fee or assessment attributable to the capital costs of public improvements financed from other revenue sources. In this case, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG-R 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 CDBG-R funds if the jurisdiction certifies that it lacks CDBG-R or CDBG funds to cover the assessment.

(11) **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.

(12) **Compliance with anti-discrimination laws.** The CDBG-R 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.

(13) **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.

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

(15) **Compliance with ARRA.** The jurisdiction will comply with Title XII of Division A of the American Recovery and Reinvestment Act of 2009.

(16) **Project selection.** The jurisdiction will select projects to be funded, by giving priority to projects that can award contracts based on bids within 120 days from the date the funds are made available to the recipient, and that will ensure maximum job creation and economic benefit.

(17) **Timeliness of infrastructure investments.** When the jurisdiction uses CDBG-R funds for infrastructure investments, the grantee will give preference to quick-start and finish activities, including a goal to use at least 50 percent of the funds for activities within 120 days of enactment of the Recovery Act.

(18) **Buy American provision.** The jurisdiction will ensure that all iron, steel and manufactured goods used in construction, alteration, repair, or maintenance of a public building or public work project assisted with CDBG-R funds under the Recovery Act must be produced in the United States unless the Secretary finds that: (1) the requirement is inconsistent with public interest; (2) those goods are not reasonably available or produced in sufficient quantity in the U.S.; (3) or the use of the goods will increase the project cost by more than 25 percent.

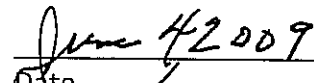
(19) **Appropriate use of funds for infrastructure investments.** The Governor, mayor, or other chief executive, as appropriate certifies, that any infrastructure investments have received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Alternatively, a grantee's chief elected official certifies that infrastructure investments will receive the full

review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars.

(20) **70% of CDBG-R for LMI.** The aggregate use of CDBG-R funds shall principally benefit persons of low and moderate income in a manner that ensures that at least 70 percent of the grant is expended for activities that benefit such persons over the life of the CDBG-R grant.



Homer Bludau, City Manager



Date

OPTIONAL CERTIFICATION – URGENT NEED

N/A

Submit the following certification only when one or more of the activities in the action plan are designed to meet other community development needs having a particular urgency as specified in 24 CFR 570.208(c):

Where the urgent need is the current economic conditions, the grantee certifies that the activity is alleviating current economic conditions which pose a threat to the economic welfare of the community in which the activity is being carried out, the recipient is unable to finance the activity on its own, and other sources of funding are not available.

Homer Bludau, City Manager

Date

Appendix F: SF-424

Application for Federal Assistance SF-424		Version 02
*1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	*2. Type of Application <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision	* If Revision, select appropriate letter(s) *Other (Specify) _____
3. Date Received:		4. Applicant Identifier:
5a. Federal Entity Identifier:		*5b. Federal Award Identifier:
State Use Only:		
6. Date Received by State:		7. State Application Identifier:
8. APPLICANT INFORMATION:		
*a. Legal Name: City of Newport Beach		
*b. Employer/Taxpayer Identification Number (EIN/TIN): 95-600075		*c. Organizational DUNS: 060752482
d. Address:		
*Street 1: <u>3300 Newport Boulevard</u>		
Street 2: _____		
*City: <u>Newport Beach</u>		
County: <u>Orange</u>		
*State: <u>CA</u>		
Province: _____		
*Country: <u>USA</u>		
*Zip / Postal Code <u>92663</u>		
e. Organizational Unit:		
Department Name: Planning Department		Division Name: Economic Development Division
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: <u>Ms.</u>	*First Name: <u>Kathlyn</u>	
Middle Name: _____		
*Last Name: <u>Bowden</u>		
Suffix: _____		
Title: <u>Economic Development Coordinator</u>		
Organizational Affiliation: City of Newport Beach		
*Telephone Number: (949) 644-3230		Fax Number: (949) 644-3250
*Email: <u>kbowden@city.newport-beach.ca.us</u>		

Application for Federal Assistance SF-424

Version 02

***9. Type of Applicant 1: Select Applicant Type:**

C. City or Township Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

*Other (Specify)

***10 Name of Federal Agency:**

U.S. Department of Housing and Urban Development

11. Catalog of Federal Domestic Assistance Number:

14.253 _____

CFDA Title:

CDBG-R Entitlement _____

***12 Funding Opportunity Number:**

N/A _____

*Title:

N/A _____

13. Competition Identification Number:

N/A _____

Title:

N/A _____

14. Areas Affected by Project (Cities, Counties, States, etc.):

City of Newport Beach

***15. Descriptive Title of Applicant's Project:**

Community Development Block Grant - Recovery (CDBG-R) through the American Recovery and Reinvestment Act of 2009.

Application for Federal Assistance SF-424

Version 02

16. Congressional Districts Of:

*a. Applicant: 48

*b. Program/Project: 48

17. Proposed Project:

*a. Start Date: 06/05/2009

*b. End Date: 06/30/2010

18. Estimated Funding (\$):

*a. Federal	96,603
*b. Applicant	0.00
*c. State	0.00
*d. Local	0.00
*e. Other	0.00
*f. Program Income	0.00
*g. TOTAL	96,603

*19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- a. This application was made available to the State under the Executive Order 12372 Process for review on _____
- b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- c. Program is not covered by E. O. 12372

*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)

- Yes
- No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)

** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions

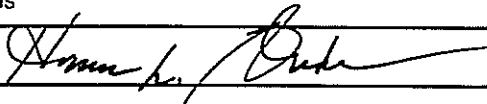
Authorized Representative:

Prefix: Mr. *First Name: Homer
Middle Name: _____
*Last Name: Bludau
Suffix: _____

*Title: City Manager

*Telephone Number: (949) 644-3000 Fax Number: (949) 644-3250

* Email: hbludau@city.newport-beach.ca.us

*Signature of Authorized Representative: 

*Date Signed: 6/4/09

Appendix G: CDBG-R Substantial Amendment Grantee Checklist

For the purposes of expediting review, HUD asks that applicants submit the following checklist along with the CDBG-R Substantial Amendment, Spreadsheet for Reporting Proposed CDBG-R Activities, and SF-424.

Jurisdiction:	City of Newport Beach, CA
Jurisdiction Web Address:	http://www.city.newport-beach.ca.us
CDBG-R Contact Person:	Katie Bowden, Economic Development Coordinator
Address:	City of Newport Beach – Planning Department P.O. Box 1768 3300 Newport Boulevard Newport Beach, CA 92658-8915
Telephone:	(949) 644-3230
Fax:	(949) 644-3224
Email:	kbowden@city.newport-beach.ca.us

The elements in the substantial amendment required for the CDBG recovery funds are:

A. SPREADSHEET FOR REPORTING PROPOSED CDBG-R ACTIVITIES

Does the submission contain a paper copy of the Spreadsheet for Reporting Proposed CDBG-R Activities?

Yes No Verification found on page **Appendix A**

Does the submission include an electronic version of the Spreadsheet for Reporting Proposed CDBG-R Activities sent to the email box CDBG-R@hud.gov?

Yes No Date Spreadsheet was emailed: **06/04/2009**

Does the Spreadsheet for Reporting Proposed CDBG-R Activities include, for each activity:

- amount of funds budgeted for each activity, including CDBG-R funds, any additional Recovery Funds used and total activity budget,
Yes No Verification found on page(s) **Appendix A**
- the Eligibility citation (eligibility regulatory cite or HCDA cite),
Yes No Verification found on page(s) **Appendix A**
- the CDBG national objective citation,
Yes No Verification found on page(s) **Appendix A**

B. CDBG-R INFORMATION BY ACTIVITY

Does the submission contain information by activity describing how the grantee will use the funds, including:

- a narrative for each activity describing how CDBG-R funds will be used in a manner that maximizes job creation and economic benefit,
Yes No Verification found on page(s) **3-5**
- projected number of jobs created for each activity,
Yes No Verification found on page(s) **4 & 5**
- whether an activity will promote energy efficiency and conservation,
Yes No Verification found on page(s) **4 & 5**
- the name, location, and contact information for the entity that will carry out the activity,
Yes No Verification found on page(s) **5**
- evidence that no more than 10% of the grant amount will be spent on administration and planning,
Yes No Verification found on page (s) **Appendix A**
- evidence that no more than 15% of the grant amount will be spent on public services,
Yes No Verification found on page (s) **Appendix A**
- evidence that at least 70% of the grant amount will benefit persons of low and moderate income,
Yes No Verification found on page (s) **Appendix A**

C. PUBLIC COMMENT PERIOD

Was the proposed action plan amendment published via the jurisdiction’s usual methods and on the Internet for no less than 7 calendar days of public comment?

Yes No Verification found on page(s) **Appendix B**

Is there a summary of citizen comments included in the final amendment?

Yes No Verification found on page(s) **Appendix C and Page 6**

D. CERTIFICATIONS

The following certifications are complete and accurate:

- | | | |
|---|---|-----------------------------|
| (1) Affirmatively furthering fair housing | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (2) Anti-displacement and relocation plan | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (3) Drug-free Workplace | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (4) Anti-lobbying | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

- | | | |
|--|---|-----------------------------|
| (5) Authority of jurisdiction | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (6) Consistency with plan | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (7) Section 3 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (8) Community development plan | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (9) Following a plan | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (10) Use of Funds | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (11) Excessive Force | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (12) Compliance with anti-discrimination laws | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (13) Lead-based paint procedures | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (14) Compliance with laws | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (15) Compliance with ARRA | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (16) Project selection | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (17) Timeliness of infrastructure investments | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (18) Buy American provision | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (19) Appropriate use of funds for infrastructure investments | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (20) 70% of CDBG-R for LMI | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

Optional Certification

- | | | |
|------------------|------------------------------|--|
| (21) Urgent Need | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
|------------------|------------------------------|--|

D. STATE CERTIFICATIONS N/A

The following certifications are complete and accurate:

- | | | |
|--|------------------------------|-----------------------------|
| (1) Affirmatively furthering fair housing | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (2) Anti-displacement and relocation plan | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (3) Drug-free Workplace | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (4) Anti-lobbying | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (5) Authority of State | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (6) Consistency with plan | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (7) Section 3 | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (8) Community development plan | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (9) Consultation with Local Governments | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (10) Use of Funds | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (11) Excessive Force | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (12) Compliance with anti-discrimination laws | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (13) Compliance with laws | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (14) Compliance with ARRA | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (15) Project selection | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (16) Timeliness of infrastructure investments | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (17) Buy American provision | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (18) Appropriate use of funds for infrastructure investments | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (19) 70% of CDBG-R for LMI | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

Optional Certification

- | | | |
|------------------|------------------------------|-----------------------------|
| (20) Urgent Need | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
|------------------|------------------------------|-----------------------------|