



## Legislation Text

File #: 19-0293, Version: 1

**Dept/ Agency:** Economic and Housing Development

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Loan Agreement/Promissory Note Pursuant to Section 108 Loan Guarantee Program

**Purpose:** To authorize the execution and delivery of a Variable/Fixed Rate Note in the amount of \$617,000.00 and related documents; to request advances for funds awarded under the United States Department of Housing and Urban Development ("HUD") Section 108 Loan Guarantee Program for the benefit of United Muslim, Inc. proposed Redevelopment Project located at 807-837 Hunterdon Street in the South Ward, identified on the City Tax Maps as Block 3589, Lot 40.

**Entity Name:** United States Department of Housing and Urban Development

**Entity Address:** 451 7th Street S.W., Washington, DC 20410

**Loan Amount:** \$617,000.00

**Funding Source:** United States Department of Housing and Urban Development

**Loan Term:** Twenty (20) years from the date of execution and delivery of the Loan Agreement by and between the City of Newark and HUD

**Contract Basis:** ( ) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS

( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant ( ) Sub-recipient (X) n/a

**List of Property: (Address/Block/Lot/Ward)**

807-837 Hunterdon Street/3589/40/South Ward

**Additional Information:**

Application for loan funds authorized by Resolution 7R2-a(as) adopted on November 1, 2017.

Contract for Loan Guarantee Assistance authorized by Resolution 7R2-k (as) adopted on July 11, 2018.

**WHEREAS**, Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) ("Section 108"), authorizes the U.S. Department of Housing and Urban Development ("HUD") to guarantee loans as part of its Community Development Block Grant ("CDBG") program; and

**WHEREAS**, HUD has designated the City of Newark, State of New Jersey ("City"), as an Urban Entitlement Area under the CDBG program; and

**WHEREAS**, the City has been receiving CDBG program funds since the program's inception in 1974; and

**WHEREAS**, HUD administers the Section 108 Loan Guarantee Program, which provides communities who receive CDBG funds with an additional source of financing for economic development, housing rehabilitation, public facilities, and other physical development projects as outlined by 24 CFR 570.202 and 24 CFR 570.702 (the "Section 108 Regulations"); and

**WHEREAS**, in order to receive loan guarantees under Section 108, an applicant pledges its

current and future CDBG funds as the principal security for the loan guarantee, and may be required to pledge additional security for each loan, as determined by HUD on a case by case basis; and

**WHEREAS**, on October 26, 2012, on behalf of the City, the Business Administrator submitted an application to HUD (the "Section 108 Application", annexed herein as Exhibit "A"), requesting loan funding in the amount of \$12,000,000.00 from the Section 108 Program; and

**WHEREAS**, as a result of the Section 108 Application, on July 29, 2013, HUD awarded to the City a loan guarantee commitment (the "Section 108 Loan Guarantee Commitment" annexed herein as Exhibit "B") also known as Funding Approval/Agreement, Grant Number B-12-MC-34-0111, in the amount of \$12,000,000.00 from the Section 108 program; and

**WHEREAS**, in accordance with the Section 108 Regulations, the City may utilize the loan proceeds to fund certain economic development projects, or may lend those loan proceeds to qualified entities to fund economic development projects, which meet certain criteria as determined by HUD; and

**WHEREAS**, upon approval of the Municipal Council of a redevelopment agreement and associated loan and collateral documents, which are in accordance with HUD requirements (the "United Muslim Documents"), the City intends to lend a portion of the Section 108 Loan Guarantee Commitment to United Muslim, Inc., in order to provide partial funding in an amount not to exceed Six Hundred Seventeen Thousand Dollars and Zero Cents (\$617,000.00), for a redevelopment project to include a community center and event space at 807-837 Hunterdon Street in the South Ward of the City, as shown on the tax maps of the City as Block 3589, Lot 40 (the "United Muslim Project"); and

**WHEREAS**, by letter dated February 8, 2018, and annexed herein as Exhibit "C", HUD has determined that the Project as proposed meets eligibility, national objective, public benefit, and additional security requirements of the CDBG and Section 108 Loan Guarantee Assistance Programs (24 CFR 570); and

**WHEREAS**, by Resolution 7R2-k(AS), adopted July 11, 2018, and annexed herein as Exhibit "D", the Municipal Council authorized the City to enter into a Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974 with HUD, (the "Contract") and to execute related documents and certifications, which were needed for the establishment of deposit and loan repayment accounts with financial institutions (the "Section 108 Deposit Account" and the "Section 108 Loan Repayment Account", collectively, the "Section 108 Accounts") and to execute other documents necessary to authorize the City to borrow \$3,709,000.00 in order to fund the redevelopment project located at 505 Clinton Avenue (the "505 Clinton Loan"); and

**WHEREAS**, the City executed the Contract on August 28, 2018, which Contract is annexed herein as Exhibit "E"; and

**WHEREAS**, the Section 108 Loan Guarantee Commitment provided that the full amount of \$12,000,000.00 was to be disbursed no later than September 30, 2018, (the "Funding Deadline"), at which time the Section 108 Loan Guarantee Commitment would expire; and

**WHEREAS**, the City received disbursement of the 505 Clinton Loan by the Funding Deadline;

and

**WHEREAS**, the City then adopted Resolution 7R2-c (S/AS), on September 25, 2018, annexed herein as Exhibit 'F', authorizing the execution of a promissory note with HUD in order to secure the Loan for the United Muslim Project; and

**WHEREAS**, despite the City's adoption of the Resolution, HUD was unable to disburse the Loan prior to the Funding Deadline of September 30, 2018, and the Section 108 Loan Guarantee Commitment expired; and

**WHEREAS**, by letter from the Deputy Mayor/Director of Economic and Housing Development, dated October 1, 2018, and annexed hereto as Exhibit 'G', the City requested a re-issuance of the remaining balance, \$8,291,000.00, of the Section 108 Loan Commitment in order to fund the United Muslim Project, among others; and

**WHEREAS**, by Funding Approval/Agreement, Grant No. B-18-MC-34-0111 dated December 20, 2018, and annexed as Exhibit "H", HUD authorized the re-issuance of the Section 108 Loan Commitment in the amount of \$8,291,000.00, which amount represents the initial \$12,000,000.00 commitment, less the funds disbursed for the 505 Clinton Loan (\$3,709,000.00); and

**WHEREAS**, HUD then provided to the City updated documents including a Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974 (the "Updated Contract", which is annexed herein as Exhibit "I") and Promissory Note (the "United Muslim Note", attached herein as Exhibit "J") and related documents and certifications, which are needed for the establishment of deposit accounts with financial institutions with HUD in the amount of Six Hundred and Seventeen Thousand Dollars and Zero Cents (\$617,000.00) in order to finance a part of the United Muslim Project; and

**WHEREAS**, the Contract governs all notes issued under the Funding Approval/Agreement, Grant No. B-18-MC-34-0111, up to the amount of \$8,291,000.00 in HUD Section 108 Program funds, including the Six Hundred Seventeen Thousand Dollars and Zero Cents (\$617,000.00) (the "Loan") for the United Muslim Project; and

**WHEREAS**, the Contract was approved through the City's adoption of Resolution 7R2-c(AS) on March 6, 2019, which authorized the execution of Section 108 Loan Documents including but not limited to the Contract and Note in the amount of Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00) to provide partial funding for a redevelopment project located at 36-54 Rector Street; and

**WHEREAS**, the Contract governs the use of all of the HUD Section 108 Program funds, the terms and conditions of the Loan, and provides that the City will open and maintain separate bank accounts and maintain separate records for the Section 108 loan funds in accordance with the Section 108 Regulations; and

**WHEREAS**, the Contract provides that the City may expend the Loan funds in accordance with the Section 108 Regulations, or may lend the funds to other entities upon the approval of HUD; and

**WHEREAS**, the Contract further provides that a fee of 2.23% of the total loan amount is to be charged to cover the credit subsidy costs as announced in the Federal Register on October 5, 2018, and that such fee will be due each time an advance is made on the loan (the “Guarantee Fee”); and

**WHEREAS**, upon approval of the Municipal Council of a loan agreement and note with the Redeveloper, United Muslim, Inc., which loan agreement and note will provide for the loan and repayment of Section 108 funds to the City, the collection of the Guarantee Fee, and the provision of other security, which the City may require as collateral for the United Muslim Loan, in accordance with HUD requirements (the “United Muslim Loan Documents”), the City intends to lend a portion of the Section 108 Loan Guarantee Commitment to the Redeveloper, in order to provide partial funding in the amount of Six Hundred and Seventeen Thousand Dollars and Zero Cents (\$617,000.00) for the United Muslim Project; and

**WHEREAS**, the City wishes to authorize the Mayor and/or his designee, the Interim Deputy Mayor/Director of the Department of Economic and Housing Development, to execute the United Muslim Inc., Note in the amount of Six Hundred Seventeen Thousand Dollars and Zero Cents (\$617,000.00) in order to provide partial funding for the Project, and to request and receive the Loan funds prior to the Funding Deadline, and to deposit the Loan funds into the Section 108 Accounts; and

**WHEREAS**, upon adoption of a resolution by the Municipal Council approving the execution of the United Muslim Inc. Documents and United Muslim Loan Documents, the City will then lend the funds to the Redeveloper, United Muslim, Inc.; and

**WHEREAS**, in the event that the Municipal Council does not approve the execution of the United Muslim Inc. Documents and United Muslim Inc. Loan Documents by June 30, 2020, the City will then transfer the Loan funds into the Section 108 Loan Repayment Account, in accordance with the terms of Part II of the Contract.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The United Muslim Inc. Note, annexed as Exhibit ‘J’ is hereby approved and authorized and that the Mayor, and/or his designee, the Interim Deputy Mayor/Director of the Department of Economic and Housing Development, are hereby authorized and directed to enter into, execute and deliver the Note; Contract for Section 108 Guarantee Assistance, if not previously executed and delivered as a result of adoption of 7R2-C (AS) March 6, 2019; and related documents and certifications with HUD having its principal place of business at 451 7th Street S.W., Washington, DC 20410, Section 108 Loan Guarantee Assistance Program funds in an amount not to exceed Six Hundred and Seventeen Thousand Dollars and Zero Cents (\$617,000.00) to subsidize the United Muslim Inc. Project.

2. The Mayor and/or his designee, the Interim Deputy Mayor/Director of the Department of Economic and Housing Development, are authorized to request advances from HUD pursuant to the terms and conditions of the Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. §5308).

3. Disbursement of the HUD Section 108 Loan Guarantee Program funds to United Muslim Inc. for the United Muslim Inc. Project in the amount of Six Hundred Seventeen Thousand Dollars and Zero Cents (\$617,000.00) shall be subject to the terms and conditions set forth in the Contract, which is attached hereto and made a part hereof, and subject to the approval of the Municipal Council of a redevelopment agreement with United Muslim Inc., and United Muslim Inc. Loan Documents.

4. The term of the Note shall be for a period of twenty (20) years from the date of execution and delivery of the Agreement by the City and HUD.

5. In the event that the Municipal Council does not approve the execution of the United Muslim Inc. Documents and the United Muslim Inc. Loan Documents by June 30, 2020, the City will then transfer the Loan funds into the Section 108 Loan Repayment Account, in accordance with the terms of Part II of the Contract.

6. A copy of the fully executed Contract, Note, and any related documents and certifications authorized by this resolution shall be placed on file with the Office of the City Clerk by the Interim Deputy Mayor/Director of the Department of Economic and Housing Development.

#### **STATEMENT**

This Resolution authorizes the Mayor and/or his designee, or the Interim Director of Economic and Housing Development to enter into, execute, and deliver the Note and Contract for Loan Guarantee Assistance, if not previously executed and delivered, and related documents and certifications under Section 108 of the Housing and Community Development Act of 1974 with the United States Department of Housing and Urban Development, 451 7th Street S.W., Washington, DC 20410, for HUD Section 108 Loan Guarantee Assistance Program funds in the amount of Six Hundred Seventeen Thousand Dollars and Zero Cents (\$617,000.00), and to request advances for funds awarded under the Section 108 Loan Guarantee Program for the benefit of the United Muslim, Inc., proposed redevelopment project located at 807-837 Hunterdon Street in the South Ward, as shown on the tax maps of the City of Newark as Block 3589, Lot 40.