



Legislation Details (With Text)

File #: 18-0378 **Version:** 1 **Name:** Resolution: Note and Loan Agreement, Mortgage for HUD Section 108 Loan Guarantee Program for 505-509 Clinton Avenue
Type: Resolution **Status:** Adopted
File created: 3/19/2018 **In control:** Economic and Housing Development
On agenda: 7/11/2018 **Final action:** 7/11/2018

Title: Dept/Agency: Economic and Housing Development
Action: ☐ Ratifying ☒ Authorizing ☐ Amending
Type of Service: Loan Agreement
Purpose: Resolution authorizing the execution and delivery of a Note, Loan Agreement, Mortgage and related documents and certifications needed to establish deposit accounts with financial institutions with United States Department of Housing and Urban Development ("HUD") for funds awarded under the Section 108 Loan Guarantee Program.
Entity Name: United States Department of Housing and Urban Development
Entity Address: 451 7th Street S.W., Washington, DC 20410
Loan Amount: \$3,709,000.00
Funding Source: N/A
Loan Term: N/A
Contract Basis: ☐ Bid ☐ State Vendor ☐ Prof. Ser. ☐ EUS
☐ Fair & Open ☐ No Reportable Contributions ☐ RFP ☐ RFQ
☐ Private Sale ☐ Grant ☐ Sub-recipient ☒ n/a
Additional Information:
505-509 Clinton Avenue/Block 3000/Lot 21/South Ward
Application for loan funds authorized by Resolution 7R2-a(AS) adopted on November 1, 2017.

Sponsors: John Sharpe James

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
7/11/2018	1	Municipal Council	Adopt	Pass

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WHEREAS, Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (“Section 108”), authorizes the United States Department of Housing and Urban Development (“HUD”) to guarantee loans as part of its’ Community Development Block Grant (“CDBG”) Program; and

WHEREAS, the United States Department of Housing and Urban Development (“HUD”) has designated the City of Newark, State of New Jersey (“City”), as an Urban Entitlement Area under the Community Development Block Grant 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 Twelve Million Dollars and Zero Cents, (\$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”) in the amount of Twelve Million Dollars and Zero Cents, (\$12,000,000.00) from the Section 108 Program; and

WHEREAS, the City, through the Department of Economic and Housing Development, and Newark Community Economic Development Corporation (formerly Brick City Development Corporation) is preparing to rehabilitate the former Clinton Trust Building, located at 505-509 Clinton Avenue (the “Property”), which is owned by the City, into twenty-seven (27) affordable residential units with a multi-purpose gallery/performance space and cafe (the “Project”); and

WHEREAS, by letter dated March 29, 2017, and annexed herein as Exhibit “B”, 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, the City desires to enter into a Contract for Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974 (the “Contract”, which is annexed herein as Exhibit “C”) and Note (the “Note”, attached herein as Exhibit “D”) and related documents and certifications which are needed for the establishment of deposit accounts with

financial institutions with HUD for \$3,709,000.00, in order to finance a part of the Project; and

WHEREAS, the Contract is for the amount of Three Million, Seven Hundred, Nine Thousand Dollars and Zero Cents (\$3,709,000.00) in HUD Section 108 Program funds (the “Loan”) for the Project; and

WHEREAS, the Contract governs 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 shall enter into and record a Security Agreement (the “Security Agreement”) against the Property and in favor of HUD, in the form attached as Attachment 3 of Exhibit C; and

WHEREAS, in order to further secure the financing, and pursuant to the Contract, the City shall execute and record a mortgage in substantially the form annexed herein as Exhibit “E” on the Property in favor of HUD.

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

1. The form Section 108 Contract, Note, and Mortgage are hereby approved and authorized and that the Mayor, and/or his designee, the Acting Director of the Department of Economic and Housing Development, are hereby authorized and directed to enter into, execute, and deliver the Note and Contract for Section 108 Guarantee Assistance 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 Three Million, Seven Hundred, and Nine Thousand Dollars and Zero Cents (\$3,709,000.00) to subsidize the rehabilitation of the former Clinton Trust Building, located at 505-509 Clinton Avenue, which is owned by the City, into twenty-seven (27) affordable residential units with a multi-purpose gallery/performance space and cafe.

2. The City is authorized to request advances from HUD pursuant to the terms and conditions of the Contract for Section 108 Loan Guarantee Assistance Under Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. §5308), dated as of January 19, 2018 of the Loan.

3. The Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development shall be responsible for the recording of the final fully executed Mortgage and Security Agreement against the Property and any amendments thereto in the Office of the Essex County Register's Office.

4. Disbursement of the HUD Section 108 Loan Guarantee Program funds for the Project in the amount of Three Million, Seven Hundred, Nine Thousand Dollars and Zero Cents (\$3,709,000.00) shall be subject to the terms and conditions set forth in the Section 108 Contract, which is attached hereto and a made a part hereof.

5. A copy of the fully executed Contract, Note and Mortgage, Security Agreement, and related documents and certifications authorized by this resolution shall be placed on file with the

Office of the City Clerk by the Acting Director of the Department of Economic and Housing Development.

6. The term of the Section 108 Contract shall be for a period of twenty (20) years from the date of execution and delivery of the Agreement by the City and HUD.

STATEMENT

This resolution hereby authorizes the Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development, to enter into execute and deliver, the Note and Contract for Loan Guarantee Assistance 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 Three Million, Seven Hundred, Nine Thousand Dollars and Zero Cents (\$3,709,000.00) to subsidize the rehabilitation of the existing Clinton Trust Building into twenty-seven (27) affordable residential units with a multi-purpose gallery/performance space and cafe located at 505-509 Clinton Street, Newark, New Jersey.