



## Legislation Details (With Text)

**File #:** 19-0326      **Version:** 1      **Name:** 36-54 Rector Street 108 Loan Agreement  
**Type:** Resolution      **Status:** Adopted  
**File created:** 2/22/2019      **In control:** Economic and Housing Development  
**On agenda:** 3/6/2019      **Final action:** 3/6/2019  
**Title:** Dept/ Agency: Economic and Housing Development  
Action: ☐ Ratifying ☒ Authorizing ☐ Amending  
Type of Service: Loan Agreement and acceptance of Promissory Note  
Purpose: To authorize the execution and delivery of a Note, Loan Agreement, Mortgage and related documents and certifications needed to establish deposit accounts with financial institutions and the United States Department of Housing and Urban Development ("HUD") for funds awarded under the Section 108 Loan Guarantee Program for the purpose of funding a redevelopment project to be undertaken by 36-54 Rector, LLC.  
Entity Name: United States Department of Housing and Urban Development  
Entity Address: 451 7th Street S.W., Washington, DC 20410  
Loan Amount: \$2,500,000.00  
Funding Source: United States Department of Housing and Urban Development  
Loan Term:  
Contract Basis: ☐ Bid ☐ State Vendor ☐ Prof. Ser. ☐ EUS  
☐ Fair & Open ☐ No Reportable Contributions ☐ RFP ☐ RFQ  
☐ Private Sale ☐ Grant ☐ Sub-recipient ☒ n/a  
Additional Information:  
Application for loan funds authorized by Resolution 7R2-a (as) adopted on November 1, 2017.

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
3/6/2019	1	Municipal Council	Adopt	Pass
3/6/2019	1	Municipal Council		

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**Additional Information:**

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

**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 of Newark ("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") 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**, by Resolution 7R7-n adopted August 6, 2008, and annexed herein as Exhibit "C", the Municipal Council of the City of Newark authorized the execution of a redevelopment and land sale agreement with 36-54 Rector, LLC, (the "Redeveloper") which was further amended by Resolution 7R3-h, adopted on July 3, 2012, annexed herein as Exhibit "D" to provide for the construction of a project to include 169 units of residential space, and two commercial/retail spaces at 36-54 Rector Street in the Central Ward of the City (the "Project"); and

**WHEREAS**, by letter dated August 17, 2018 and annexed herein as Exhibit "E", 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 “F”, 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 in the amount of \$12,000,000.00, (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 “G”; and

**WHEREAS**, the Contract 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 to the Funding Deadline; and

**WHEREAS**, the City then adopted Resolution 7R2-d(S/AS), on September 25, 2018, annexed herein as Exhibit ‘H’, authorizing the execution of a promissory note in order to secure the Loan for the Rector Street Project; and

**WHEREAS**, despite the City’s adoption of the Resolution, HUD was unable to disburse the Loan prior to the Funding Deadline, and the Section 108 Loan Guarantee Commitment would expire; and

**WHEREAS**, by letter from the Interim Deputy Mayor/Director of the Department of Economic and Housing Development, dated October 1, 2018, and annexed hereto as Exhibit ‘I’, the City requested a re-issuance of the remaining balance of the Section 108 Loan Commitment in order to fund the Project, among others; and

**WHEREAS**, by Funding Approval/Agreement dated December 20, 2018 and annexed herein as Exhibit “J”, HUD authorized the re-issuance of the Section 108 Loan Commitment in the amount of \$8,291,000.00, which amount represents the \$12,000,000.00, minus the funds disbursed for the 505 Clinton Loan; 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 “Rector Street Contract”, which is annexed herein as Exhibit “K”) and Promissory Note (the “Rector Street Note”, attached herein as Exhibit “L”) and related documents and certifications which are needed for the establishment of deposit accounts with financial institutions with HUD in the amount of Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00), in order to finance a part of the Rector Street Project; and

**WHEREAS**, the Contract governs all notes issued under the Funding Approval, up to the

amount of \$8,291,000.00 in HUD Section 108 Program funds including the Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00), in HUD Section 108 Program funds (the “Loan”) for the Rector Street Project; and

**WHEREAS**, the Contract governs the use of all of the HUD Section 108 Program funds (the “Loan”), 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 for the reissuance of the Section 108 Loan Guarantee Commitment, 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, 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 Rector Street Loan, in accordance with HUD requirements (the “Rector Street Documents”), the City intends to loan a portion of the Section 108 Loan Guarantee Commitment to the Redeveloper, in order to provide partial funding in the amount of Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00), for the Project; and

**WHEREAS**, the City wishes to authorize the Mayor and/or his designee to execute the Rector Street Contract, the Rector Street Note promissory note in the amount of Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00), 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 Rector Street Documents, the City will then loan the funds to the Redeveloper; and

**WHEREAS**, in the event that the Municipal Council does not approve the execution of the Rector Street 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, STATE OF NEW JERSEY, THAT:**

1. The form Section 108 Contract and Note, are hereby approved and authorized and that the Mayor, and/or his designee, the Interim 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 Department of Housing and Urban Development (HUD), 451 7th Street S.W., Washington, DC 20410, Section 108 Loan Guarantee Assistance Program funds in an amount not to exceed Two

Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00), to subsidize the Project.

2. The Mayor and/or his designee is 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 36-54 Rector, LLC for the Project in the amount of Two Million and Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00), shall be subject to the terms and conditions set forth in the Rector Street Contract, which is attached hereto and made a part hereof, and subject to the further approval of the Municipal Council of a loan agreement with 36-54 Rector, LLC.

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 Rector Street 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. The term of the 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 authorizes the Mayor and/or his designee, or the Interim Director of the Department of Economic and Housing Development to enter into and execute a Contract for Loan Guarantee Assistance 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 Two Million Five Hundred Thousand Dollars and Zero Cents (\$2,500,000.00) and related documents, and to request advances for funds awarded under the Section 108 Loan Guarantee Program for the benefit of the 36-54 Rector, LLC, proposed redevelopment project located at 36-54 Rector Street in the Central Ward, as shown on the tax maps of the City of Newark as Block 17, Lot 26.