



Legislation Text

File #: 18-1466, Version: 1

Dept/Agency: Economic and Housing Development

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

Type of Service: Loan Agreement

Purpose: To authorize the execution and delivery of a Variable/Fixed Rate Note in the amount of \$2,500,000.00 and related documents, and 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 Official Tax Maps of the City as Block 17, Lot 26.

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: Twenty (20) years from the date of execution and delivery of the Note and Loan Agreement by the City 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

Additional Information:

36-54 Rector Street/17/26/Central Ward

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, the U.S. 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, upon approval of the Municipal Council of a loan and collateral documents which are 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, 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 has 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", which was executed by the City on August 28, 2018, and will be executed by HUD upon the closing of the loan, which Contract is annexed herein as Exhibit "G") 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

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 the Loan must be disbursed no later than September 30, 2018 (the "Funding Deadline"); and

WHEREAS, the City wishes to authorize the Mayor and/or his designee, the Director of the Department of Economic and Housing Development, to execute a promissory note (the "Variable/Fixed Rate Note", or "Note", attached herein as Exhibit "H") in the amount of two million and five hundred thousand dollars (\$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 December 31, 2019, 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 form Note is hereby approved and authorized and that the Mayor, and/or his designee, the Director of the Department of Economic and Housing Development, are hereby authorized and directed to enter into, execute and deliver the Variable/Fixed Rate Note to HUD, 451 7th Street S.W., Washington, DC 20410, for the Section 108 Loan Guarantee Assistance Program funds in an amount not to exceed Two Million Five Hundred Thousand Dollars Zero Cents (\$2,500,000.00), to subsidize the Project to be located at 36-54 Rector Street, Block 17, Lot 26, Central Ward.

2. The Mayor and/or his designee, the Director of the Department of Economic and Housing Development, 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 no Cents (\$2,500,000.00) 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 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 December 31, 2019, 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

STATEMENT

This Resolution authorizes the Mayor and/or his designee, the Director of the Department of Economic and Housing Development to execute and deliver to the United States Department of Housing and Urban Development ("HUD") a Variable/Fixed Rate Note 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.