



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Shola Olatoye  
Director, Housing &  
Community Development

**SUBJECT:** Resolution To Authorize The City  
Administrator To Apply For, Accept,  
And Appropriate Approximately \$34  
Million In Section 108 Funds

**DATE:** January 21, 2022

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City Administrator Approval

Date:

Feb 10, 2022

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## **RECOMMENDATION**

**Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Authorize The City Administrator To Apply For, Accept, And Appropriate Funds From The United States Department Of Housing And Urban Development Under The Section 108 Loan Guarantee Program For Approximately \$34 Million, Not To Exceed Five Times The City's Current Community Development Block Grant Less Outstanding Section 108 Loans And Commitments; (2) Award Section 108 Funds To Projects Without Returning To Council; And, (3) Prepare And Submit To HUD A Substantial Amendment To The City's 2021/22 Annual Action Plan To Include A Summary Of Section 108 Planned Activities.**

## **EXECUTIVE SUMMARY**

In Spring of 2021, the City of Oakland was approached by Enterprise Community Partners, Inc (Enterprise) under their "Supporting Catalytic Equity Focused Investments With Section 108 Financing" project, for a Technical Assistance Program offered by Enterprise to small and medium Section 108-eligible cities.

The City of Oakland responded to Enterprise's overture with a Letter of Interest (LOI) in June of 2021 to further explore the opportunities available under Enterprise's technical assistance program to assist the City of Oakland in strategically applying for Section 108 funding. See Attachment A..

Section 108 is a U.S. Department of Housing & Urban Development (HUD) loan guarantee program that allows local governments to leverage portions of their Community Development Block Grant (CDBG) funds into federally guaranteed loans large enough to pursue physical and

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economic revitalization projects capable of redeveloping entire neighborhoods. The City of Oakland has a current borrowing authority of approximately \$34 million under the Section 108 program to support such activities.

Staff proposes authorization to apply for and appropriate Section 108 funding to support Section 108- eligible activities suitable for City of Oakland and in line with the City's Housing & Community Development (HCD) 2021-2023 Strategic Action Plan promoting Protection, Preservation, and Production housing and community development activities for low- and moderate- income Oakland households. Proposed activities will include, but not limited to acquisition of real property, housing rehabilitation, public facilities, economic development and other community development activities.

Staff requests City Council authorization for the City to apply to the United States Department of Housing & Community Development (HUD) for approximately \$34 million with the intent and purpose to establish a Section 108 Loan Pool available to prospective and eligible borrowers citywide, providing a ready source of long-term, fixed-rate and reasonably priced financing that is not available conventionally.

## **BACKGROUND / LEGISLATIVE HISTORY**

HUD's Section 108 Loan Guarantee Program is authorized under Section 108 of the Housing and Community Development Act of 1974 as a loan guarantee component of the Community Development Block Grant (CDBG) Program. The specific regulations governing the Section 108 Program may be found at 24 CFR 570, Subpart M, "*Loan Guarantees.*"

The Section 108 Loan Guarantee Program (Section 108) provides CDBG recipients with the ability to leverage their annual grant allocation of CDBG to access low-cost, flexible financing for economic development, housing, public facility, infrastructure projects and other physical and economic revitalization projects capable of redeveloping entire neighborhoods.

Section 108 projects must comply with all CDBG rules and regulations, including Cross-Cutting Federal Regulations listed in the CDBG Crosscutting Issues Toolkit including environmental review, labor standards, acquisition and relocation, fair housing and civil rights. Said toolkit can be viewed at <https://www.hudexchange.info/resource/34/cdbg-crosscutting-issues-toolkit-contents/>.

Section 108 Projects must meet one of the CDBG Program's three national objectives:

- Benefit low- and moderate-income persons (various ways as described below)
- Aid in the elimination or prevention of slums or blight
- Meet urgent needs of the community

Section 108 activities must achieve the primary objective of CDBG of developing viable urban and rural communities, by expanding economic opportunities and improving the quality of life, principally for persons of low- and moderate-income, at least 70 percent of Section 108 loans, must be utilized to benefit low- and moderate-income persons (LMI). The following subcategories meet the LMI national objective:

- **Low/Mod Area Benefit (LMA)** - Activity will benefit all residents in a particular area, where at least 51 percent of the residents are LMI persons
- **Low/Mod Limited Clientele (LMC)** - At least 51 percent of the beneficiaries of the activity have to be LMI persons
- **Low/Mod Job Creation/Retention (LMJ)** - Activity will create or retain permanent jobs, at least 51 percent of which (computed on a full-time equivalent basis) will be made available to or held by LMI persons

The *2018-2022 HUD Strategic Plan Goals* target the Section 108 Program to implement two very important goals:

*Goal 2B: Meet the Need for Quality Affordable Rental Homes: Expand the supply of affordable rental homes where they are most needed*

*Goal 4A: Build Inclusive and Sustainable Communities Free From Discrimination: Catalyze economic development and job creation, while enhancing and preserving community assets*

As a CDBG recipient, the City of Oakland could potentially apply for five times its current CDBG allocation less prior Section 108 commitment balances. Based on the 2021 CDBG award of \$7.7M and existing Section 108 loan commitments, total potential Section 108 award to Oakland could be up to \$34 million.

Between 1994 and 1996, the Oakland City Council authorized the acceptance and appropriation of \$23,814,300 in Section 108 Loan Guarantee funds for the Martin Luther King Project and the former One Stop Capital Shop - Commercial Lending Program under HUD Section 108 grant number B-94-MC-06-0013.

## **ANALYSIS AND POLICY ALTERNATIVES**

The Section 108 Loan Guarantee would provide the City of Oakland a great opportunity to capitalize on this low interest twenty-year loan guarantee package that could potentially increase resources to meet HCD Strategic Plan goals of increasing housing units and support up to \$34 million of the current fund source gap of \$329,407,000 for the production of 4,760 housing units by year 2023. Other strategies potentially supported through this source would include housing rehabilitation, economic development, and public facilities. Approval of this proposed Resolution will help to support and advance the Citywide Priority of housing, economic and cultural security.

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The City of Oakland wishes to establish a Section 108 Loan Pool of approximately \$34 million. The Loan Pool will be available to prospective borrowers citywide and provides a ready source of long-term, fixed-rate and reasonably priced financing that is not available conventionally.

The Loan Pool will bridge financing gaps and enable borrowers to proceed with their respective transactions; create and retain jobs; increase affordable housing; advance equity and equitable development and expand the existing tax base. Although the Loan Pool will be available to eligible borrowers citywide, the City will target neighborhoods with higher levels of need or historical disinvestment, including but not limited to East Oakland.

Equitable development projects may include projects that support investments in communities and neighborhoods of color or provide financing to Black Indigenous People of Color (BIPOC)-led developers, businesses, or organizations.

The City anticipates the eligible activities it will fund are housing rehabilitation, acquisition of real property, economic development and public facilities eligible under the Section 108 program per 24 CFR § 570.703(a), (h), and (i), and 24 CFR § 570.203/204.

For each individual transaction, staff will properly document an eligible activity, a national objective and appropriateness. The City has developed Underwriting Guidelines to ensure the individual projects conform to a low risk profile as outlined in Exhibit F of the application. There are separate guidelines for income producing properties, business loans and public facilities. In addition, there is a 1% spread over the cost of funds for private borrowers. The spread will serve as a loan loss reserve for the Section 108 portfolio. The credit subsidy fee will be added to the fully loaded budget and funded in the capital structure.

The City will establish a delivery system for each component of the implementation process including hiring an additional project underwriter to analyze and close eligible deals. The City has procured technical assistance in preparing the Section 108 application and in establishing a delivery system to implement the program. The Enterprise Community Partners technical assistance team has extensive experience in each component of the delivery system and will provide staff with checklists and guides for each subsystem. As individual transactions are identified in the future, first staff will screen the proposed ventures for conformance to eligibility and credit thresholds. Those projects passing the screening process will then proceed to the completion of an Eligibility Determination to HUD. The Eligibility Determination will document how the project satisfies an eligible activity, a national objective, and the Underwriting Criteria.

#### Alternative

Without Section 108 funding, the City's current local housing capital gap remains at \$329 million and the City will opt out of an opportunity to increase and meet the housing, economic development and neighborhood development goals set forth in the HCD Strategic Plan, the

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City's Five-Year Consolidated Plan for 2020.21 through 2024/25, among other strategic plans of the City that could benefit from this low interest loan fund source.

### **FISCAL IMPACT**

If awarded, the Section 108 Loan Guarantee source will provide to the City a source of low-cost, long-term financing for economic and community development projects. Section 108 financing provides an avenue for the City to undertake larger, more costly projects, where there may be limited resources to invest in upfront. a fund source to fill a gap in the financing for larger development projects and will potentially provide the security necessary to catalyze investment from private lenders.

IHUD will forward to the City a loan package approved by the HUD Section 108 Loan Committee. HUD will offer interim financing at the current three-month Treasury Auction Bill rate plus 35 basis points (0.35).

The Section 108 loan granted is then converted to permanent (fixed) financing linked to yields on Treasury obligations of similar maturity to the principal amount. A small additional basis point spread, depending on maturity, will be added to the Treasury yield to determine the actual rate. Fixed-rate Financing Rates are set through a Public Offering of Section 108 obligations. For reference, the most recent public offering can be viewed at:

<https://files.hudexchange.info/resources/documents/Series-2019-A-Offering-Circular.pdf>

The City as borrower will be required to secure the loan by pledging current and future CDBG allocations to repay and secure the loan as done with the prior Section 108 loan received under grant number B94-MC-06-0013. Term of the Section 108 note is amortized over a 20 year period.

### **PUBLIC OUTREACH / INTEREST**

A Notice of Public Hearing is posted online at <https://www.oaklandca.gov/services/annual-action-plan-21-22>. Upon Council Approval to apply for and accept Section 108 Loan guarantee funds, the City will add Section 108 Loan Guarantee plans to the City's Annual Action Plan, presenting proposed use of CDBG, Emergency Solutions Grant, Home Investment Partnership, and Housing Opportunities for Persons With AIDS Formula Grant awards.

The Annual Action Plan will be made available for public review and comment for up to a 30-day period prior to submitting final Annual Action Plan or Substantial Amendment for HUD review. The public review period for the Annual Action Plan or Substantial Amendment will be publicly noticed in the East Bay Times, The Post, El Mundo and the Sing Tao news publications.

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## **COORDINATION**

In consultation and coordination with Enterprise Community Partners, Inc., Oakland's Housing Development Services division, Community Development & Engagement division and the Department of Economic Workforce Development for potential uses of Section 108 Loan Guarantee funds. DHCD's Fiscal staff, Budget Bureau, and Office of the City Attorney provided their review of this report and legislation as well.

## **SUSTAINABLE OPPORTUNITIES**

### ***Economic:***

Section 108 can fund economic development, housing, public facilities, infrastructure, and other physical development projects, including improvements to increase their resilience against natural disasters. This flexibility of uses makes it one of the most potent and important public investment tools that HUD offers to states and local governments.

Section 108 will allow the City to leverage portions of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects capable of redeveloping entire neighborhoods. Such public investment is often needed to inspire private economic activity, providing the initial resources or simply the confidence that private firms and individuals may need to invest in distressed areas.

### ***Environmental:***

By HUD mandate, each Section 108-funded activity will be reviewed its potential environmental impacts to be determined whether it meets federal, state, and local environmental standards. The environmental review process is required for all HUD-assisted projects to ensure that the proposed project does not negatively impact the surrounding environment and that the property site itself will not have an adverse environmental or health effect on end users. Not every project is subject to a full environmental review (i.e., every project's environmental impact must be examined, but the extent of this examination varies), but every project must be in compliance with the National Environmental Policy Act (NEPA), and other related Federal and state environmental laws.

### ***Race & Equity:***

As part of the 2018-2022 HUD Strategic Plan, a goal of the Section 108 Program is to build inclusive and sustainable communities free from discrimination: catalyzing economic development and job creation while enhancing and preserving community assets.


Section 108 loan guarantee resources will be utilized in a manner conducive to supporting Citywide Race and Equity goals, including but not limited to Identifying access points and obstacles for BIPOC residents and community members; targeting resources to the most

vulnerable; and using data disaggregated by race and ethnicity to view community needs by project and activity.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Authorize The City Administrator To Apply For, Accept, And Appropriate Funds From The United States Department Of Housing And Urban Development Under The Section 108 Loan Guarantee Program For Approximately \$34 Million, Not To Exceed Five Times The City's Current Community Development Block Grant Less Outstanding Section 108 Loans And Commitments; (2) Award Section 108 Funds To Projects Without Returning To Council; And, (3) Prepare And Submit To HUD A Substantial Amendment To The City's 2021/22 Annual Action Plan To Include A Summary Of Section 108 Planned Activities.

For questions regarding this report, please contact Greg Garrett, Community Development & Engagement Manager at (510) 697-6444.

Respectfully submitted  


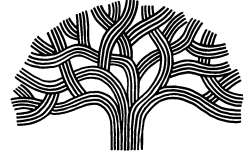
SHOLA OLATOYE  
Director, Department of Housing &  
Community Development

Reviewed by:  
Christina Mun  
Acting Deputy Director

Prepared by:  
Greg Garrett, Manager  
Community Development & Engagement

Attachment A: Letter of Interest

## CITY OF OAKLAND



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Housing and Community Development Department

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June 1, 2021

Mr. Christopher Kizzie, Vice President, Enterprise Advisors  
Enterprise Community Partners, Inc.  
10 G Street NE, Suite 580  
Washington, DC 20002

**RE: LETTER OF INTEREST –  
SECTION 108 TECHNICAL ASSISTANCE PROGRAM**

Dear Mr. Christopher Kizzie

Thank you for your recent presentation to the City of Oakland, “Supporting Catalytic Equity Focused Investments With Section 108 Financing” for a Technical Assistance Program offered by Enterprise to small and medium Section 108-eligible cities.

The City of Oakland is excited to explore the opportunities offered under the aforementioned program and submits this Letter of Interest (LOI) to receive technical assistance in Section 108 financing, implementation, best practices, staff capacity and the like in support of catalytic investments and projects that promote equity in Oakland, California.

In line with the City’s Housing & Community Development (HCD) Strategic Action Plan, use of Section 108 funds for which Oakland has a current borrowing authority of \$33M, will support affordable housing efforts through Housing Protection, Preservation, and Production activities to meet current housing needs of Oakland. This HCD Strategic Action Plan centers race and equity in the “how” of the City’s implementation.

The City’s 2018 Equity Indicators Report ranked Housing third in importance when compared to the other themes of Economy, Education, Public Health, Public Safety and Neighborhood and Community Life. Under Housing, there are twelve Indicators within the Housing-Theme - examined-inequities faced by racial and ethnic minorities across four Topic areas: Affordability, Displacement, Essential Services, and Housing Quality.



Under the HCD Strategic Action Plan a race and equity lens to the City's housing investments and services are applied in these four ways:

1. Transparent and regular reporting on outcomes disaggregated by race;
2. Clear, Americans with Disabilities Act (ADA)-compliant, accessible information provided in multiple languages to the public;
3. Anti-displacement and housing production programs, policies, and initiatives focused on the most impacted, most vulnerable populations; and
4. Access and opportunity pathways to and for Black, Indigenous and People of Color (BIPOC) developers, service providers, and other contractors to the resources the City has to offer in the conduct of its housing work.

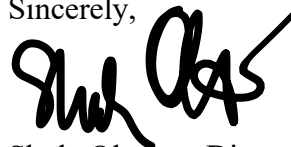
The City seeks to optimize Section 108 as a resource in supporting preservation and acquisition efforts to serve Low- and Moderate-Income (LMI) households, ensuring long term affordability for Oakland residents.

City of Oakland staff is committed and ready to support this technical assistance effort between Enterprise Community and the City of Oakland, ultimately culminating in the submission of a Section 108 application to HUD.

Through this LOI, as presented in Enterprise's May 2021 presentation to the City, there is no commitment of funds required of the City of Oakland to support this exercise. Said technical assistance is provided by Enterprise under Demonstration Program.

For additional information regarding this LOI, please contact Christina Mun, HCD Acting Deputy Director at [cmun@oaklandca.gov](mailto:cmun@oaklandca.gov) or Kenneth Jones, Landis Development (consultant to HCD) at [kjones@landisdevelopment.com](mailto:kjones@landisdevelopment.com).

Sincerely,



Shola Olatoye, Director  
Housing & Community Development

Cc: Ed Reiskin, City of Oakland City Administrator  
Christina Mun, HCD Acting Deputy Director  
Greg Garrett, HCD Community Development Block Grant Manager  
Kenneth Jones, Landis Development