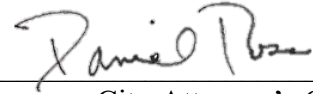


Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO (1) APPLY FOR, ACCEPT, AND APPROPRIATE FUNDS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) 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

WHEREAS, the U. S. Department of Housing and Urban Development (HUD) Section 108 Loan Guarantee Program (Section 108) is authorized under Section 108 of the Housing and Community Development Act of 1974 as the loan guarantee component of the Community Development Block Grant (CDBG) Program and governed by Title 24, Part 570, Subpart M – Loan Guarantees of the Code of Federal Regulations (24 C.F.R. § 570, M); and

WHEREAS, Section 108 provides communities with a source of low-cost, long-term financing for economic and community development projects, providing an avenue for communities to undertake larger, more costly projects, where they may have limited resources to invest in upfront; and

WHEREAS, the City of Oakland, as a recipient of Community Development Block Grant (CDBG) Funds, may apply for up to five times its latest approved CDBG Entitlement award amount, minus any outstanding Section 108 commitments and/or principal balances on Section 108 loans; and

WHEREAS, the following proposed activities included in Oakland's Section 108 Application are eligible under 24 C.F.R. § 570.703, including but not limited to: acquisition of real property, housing rehabilitation, public facilities, economic development and other neighborhood development activities; and

WHEREAS, Enterprise Community Partnerships, Inc. selected the City for technical assistance under the Supporting Catalytic Equity Focused Investments With Section 108 Financing Project to assist the City in accessing Section 108 funds; and

WHEREAS, per Section 108 Citizen Participation Requirements, the proposed applicaton must be published community wide and must be submitted to HUD as an amendment to the Annual Action Plan (AAP); and

WHEREAS, pursuant to Title 24, Part 91, Section 91.505 of the Code of Federal Regulations (24 C.F.R. § 91.505), the City must amend its AAP whenever it decides to (1) make a change in its allocation priorities or a change in the method of distribution of funds; (2) carry out an activity, using funds from any program covered by the AAP, not previously described in the AAP; or (3) change the purpose, scope, location, or beneficiaries of an activity; and

WHEREAS, the City's Citizen Participation Plan defines a substantial amendment to the AAP as (1) a change in the use of funding from one activity to another; (2) funding of an activity type not described in the AAP; (3) changing the priorities contained in the Five-Year Strategy; and (4) an increase or reduction in the amount allocated to an activity by more than twenty-five percent (25%); and

WHEREAS, 24 C.F.R. § 91.105(c)(2) requires the City to provide not less than 30 calendars days for public comment on consolidated annual action plan amendments; and

WHEREAS, a public hearing will be held on March 1, 2022, on the Second Substantial Amendment to the City's FY 2021-22 AAP to add planned Section 108 activities; now, therefore, be it

RESOLVED: That the City Council hereby authorizes to the City Administrator to apply for, accept and appropriate Section 108 Program funds of approximately \$34 million, in a maximum amount not to exceed five times the City of Oakland's current CDBG Entitlement award less current Section 108 commitments and balances; and be it

FURTHER RESOLVED: That the Section 108 funds, if awarded, shall be appropriated to Fund 2107, Organization 89949, Account 54011, Project "To Be Determined" (TBD); and be it

FURTHER RESOLVED: That administration costs of the Section 108 program shall be either chargeable to the CDBG Program within the limited CDBG 20% administration cap or to Section 108 as a delivery costs for specific cost to carrying out Section 108 activities; and be it

FURTHER RESOLVED: That the City has provided a period of not less than thirty (30) days for public review and comment on the Section 108 Application and Second Substantial Amendment to the 2021-22 AAP; and be it

FURTHER RESOLVED: That the City Council hereby directs the City Administrator or designee to review and consider all public comments for the Section 108 Application submitted as a Second Substantial Amendment to the 2021/22 AAP; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to prepare, approve, and submit a Second Substantial Amendment to the 2021/22 AAP; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator to award Section 108 funds and enter into agreements for projects, program delivery and/or third party loans based on type of project funded, for eligible projects and activities as set forth in **Exhibit A** attached hereto and included in the City’s Second Substantial Amendment to the FY 2021-22 AAP, without returning to Council, on such terms and conditions determined by the City Administrator to be in the best interests of the City in his or her discretion; and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to negotiate and execute any Section 108 loan agreements and any amendments, modifications or extensions to Section 108 agreements, and to take any other action with respect to the Section 108 program consistent with this Resolution and its basic purpose; and be it

FURTHER RESOLVED: That prior to execution, all agreements shall be reviewed and approved as to form and legality by the City Attorney; and be it

FURTHER RESOLVED: That executed copies of all agreements shall be filed with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, FORTUNATO BAS, GALLO, KALB, REID, TAYLOR, THAO, AND
PRESIDENT KAPLAN

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
Acting City Clerk and Clerk of the
Council of the City of Oakland,
California

EXHIBIT A – Section 108 Resolution

(Second Amendment to the 21/22 Annual Action Plan)

CITY OF OAKLAND PROPOSED SECTION 108 ACTIVITIES 24 C.F.R. § 570.703

Acquisition of real property	24 C.F.R. § 570.703 (a)
Housing rehabilitation eligible under CDBG	24 C.F.R. § 570.703 (h)
Special Economic Development	24 C.F.R. § 570.703 (i) and 24 C.F.R. § 570.203/204
Public Facilities	24 C.F.R. § 570.703(l)

As individual projects are identified, staff will document compliance with one of the eligible activities. For transactions utilizing the eligible activity of special economic development, staff will document conformance with the appropriateness criteria, including public benefit.

24 C.F.R. § 570.703 – SECTION 108 SUMMARY OF ELIGIBLE ACTIVITIES

Acquisition of real property
Rehabilitation of publicly owned real property
Housing rehabilitation
Construction, reconstruction, or installation of public facilities (including streets, sidewalks, and other site improvements)
Related relocation, clearance, and site improvements
Loans to for-profit businesses for economic development purposes
Payment of interest on the guaranteed loan and issuance costs of public offerings
Debt service reserves
Finance fees
Affordable housing construction if eligible under CDBG