

(R-99-77)

RESOLUTION NUMBER R- 290486

ADOPTED ON JUL 27 1998

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SETTING FORTH THE LEGAL AUTHORITY AND CERTIFICATIONS NECESSARY TO MAKE APPLICATION FOR SECTION 108 LOAN GUARANTEE FUNDS FOR THE BARRIO LOGAN BROWNFIELD PROJECT.

WHEREAS, The City of San Diego, in order to acquire property and assist with
→ relocation of property owners, must apply for United States Department of Housing and Urban Development (“HUD”) Section 108 funds to finance the acquisition and relocation activities associated with the Barrio Logan Brownfield Project; and

WHEREAS, the Agreement calls for the aforementioned loan funds necessary for assembly and transfer of land; and

WHEREAS, the Section 108 Loan Guarantee program, implemented by HUD, is designed to provide funds to assist with special economic development projects; and

WHEREAS, The City of San Diego is requesting a total of Four Hundred Fifty Thousand Dollars (\$450,000) in Section 108 Loan Guarantee funds; and

WHEREAS, under the City’s request, the Section 108 Loan Guarantee funds repayment will be the responsibility of The City of San Diego through Community Development Block Grant (“CDBG”) funds; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

1. That The City of San Diego possesses the legal authority to submit this application for assistance under 24 C.F.R., part 570, subpart M, and to use the guaranteed loan funds in accordance with the requirements of this subpart.

2. That the City Council has duly adopted a resolution authorizing the City Manager, or designee, as the official representative to submit the Section 108 application and amendments thereto and all understandings and assurances contained therein, and directing and authorizing the City Manager, or designee, as the official representative of the City to act in accordance with the applications to provide such additional information as may be required.

3. That The City of San Diego hereby certifies and assures with respect to its application for a loan guarantee pursuant to Section 108 of the Housing and Community Development Act of 1974, as amended, that it possesses the legal authority to make the pledge of grants required under 24 C.F.R. 570.705 (b)(2).

4. That The City of San Diego hereby certifies that it furnished citizens with information required by Section 570.704(a)(2)(i) of Title 1 of the Housing and Community Development Act of 1974, as amended.

5. That The City of San Diego hereby certifies that it held at least one public hearing, on May 27, 1998, to obtain the views of citizens on community development and housing needs.

6. That The City of San Diego hereby certifies that it prepared its application in accordance with Section 570.704(a)(1)(iv) of Title 1 of the Housing and Community Development Act of 1974, as amended, and made the application available to the public.

7. That The City of San Diego hereby certifies that it has and will continue to follow a detailed citizen participation plan which meets the requirements described in Section 570.704 (a) (2) of Title 1 of the Housing and Community Development Act of 1974, as amended.

8. That The City of San Diego hereby certifies that it has and will continue to affirmatively further fair housing and the guaranteed loan funds will be administered in compliance with:

(a) Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. 2000d et seq.); and

(b) The Fair Housing Act (42 U.S.C. 3601-20).

9. That The City of San Diego hereby certifies that it will expend in the aggregate, at least 71 percent of all CDBG funds, as defined in Section 570.303(e) of Title 1 of the Housing and Community Development Act of 1974, as amended, during the one, two, or three consecutive years specified by the City for its CDBG program on activities which benefit low/moderate income persons, as described in criteria in Section 570.208(a) of the Act.

10. That The City of San Diego hereby certifies that it has and will continue to comply with the requirements governing displacement, relocation, real property acquisition, and the replacement of low and moderate income housing described in Section 570.606.

11. That The City of San Diego hereby certifies that it has and will continue to comply with other provisions of the Act and with other applicable laws.

12. That The City of San Diego hereby certifies that it has and will continue to certify regarding debarment, suspension, and other responsibility as follows:

(a) The prospective recipients of the Section 108 Loan Guarantee funds and all of their contractors will certify to the best of their knowledge and belief, that they:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(2) Have not within a three year period preceding approval of their application, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three year period preceding approval of their application, had one or more public transactions (Federal, State or local) terminated for cause or default.

13. That The City of San Diego hereby certifies that with respect to its application for a loan guarantee pursuant to Section 108 of the Housing and Community Development Act of 1974 as amended, that it has made efforts to obtain financing for the activities described herein without the use of such guarantee, that it will maintain documentation of such efforts for the term of the loan guarantee, and that it cannot complete such financing consistent with the timely execution of the program without such guarantee.

14. That The City of San Diego hereby certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or

an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal amendment, or modification of any Federal contract, grant, loan or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress with respect to Federal loans, grants, contracts or agreements, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

(c) It will require that the language of paragraph (a) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

15. That The City of San Diego hereby certifies that it will continue to maintain a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibitions;

(b) Establishing an ongoing drug-free awareness program to inform employees about the following:

(1) The dangers of drug abuse in the workplace;

- (2) The grantee's policy of maintaining a drugfree workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee engaged in grant activity be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, and any other applicable Federal and State laws; and

(2) In appropriate circumstances, require an employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purpose by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Make a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

APPROVED: CASEY GWINN, City Attorney

By Elisa A. Cusato
Elisa A. Cusato
Deputy City Attorney

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07/09/98
Or.Dept:Comm.&Eco.Dev.
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