

## **RESOLUTION NO.**

**WHEREAS**, the City published notice of its Annual Action Plan (Action Plan) for Fiscal Year 2005-2006 and announced the 30 day public comment period for the Action Plan.

**WHEREAS**, the City conducted public hearings and received citizen input on April 7, 2005, and May 12, 2005, as required by Texas Local Government Code Section 373.006(4) and title 24 of the Code of Federal Regulations, for its Action Plan which included submission of an application to the U.S. Department of Housing and Urban Development (HUD) for a \$3,000,000 Section 108 guaranteed loan to fund business loans under the Neighborhood Commercial Management Program (NCMP).

**WHEREAS**, pursuant to Resolution No. 20050728-012 adopted July 28, 2005 (Authorizing Resolution), the City Council approved the City's Action Plan and authorized the City Manager to submit to HUD the application for the \$3,000,000 Section 108 HUD guaranteed loan to fund business loans under the NCMP.

**WHEREAS**, on August 28, 2006, the City submitted an application, B-05-MC-48-0500 to HUD for the \$3,000,000 Section 108 guaranteed loan to fund business loans under the NCMP.

**WHEREAS**, HUD notified the City that HUD approved the City's request for loan guarantee assistance, under Section 108 of the Housing and Community Development Act of 1974, in the principal amount of \$3,000,000, to be used to finance activities described in the City's application.

**WHEREAS**, the City is authorized to execute and deliver the contract, note and other documents relating to the HUD Section 108 guaranteed loan described in the City's application pursuant to Chapter 373 of the Texas Local Government Code.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

(1) The City Council authorizes and approves the negotiation and execution of a \$3,000,000 Section 108 HUD guaranteed loan for the Neighborhood Commercial Management Loan Program. The Mayor, the City Manager, the Director of Neighborhood Housing and Community Development, the Chief Financial Officer of the City, and all other officers of the City (Authorized Officers) are each individually authorized and

directed to take all actions necessary or desirable to complete the execution of this loan in accordance with the provisions of this Resolution and the Authorizing Resolution.

(2) The City Council authorizes and approves the Variable/Fixed Rate Note (Note) between the City and HUD in substantially the form attached as Exhibit A. This authorization is specifically conditioned on the interest rate for the Note, and any conversion of the Note from variable rate to fixed rate, being no more than the maximum net effective interest rate permitted by law to be paid on obligations issued or assumed by the City in the exercise of its borrowing powers, as prescribed by Texas law, including Texas Government Code, Chapter 1204 (Highest Lawful Rate). The actual principal amount of the Note and the interest on the Note shall be: (i) secured solely by, and payable solely from, the security described in the Note, and the contract relating to the Note; and (ii) payable in the manner provided in the Note. The Authorized Officers are each individually authorized to execute and deliver the Note, with such changes as may be approved by an Authorized Officer. The execution of the Note is conclusive evidence the City Council approved the Note.

(3) The City Council authorizes and approves the contract for loan guarantee assistance (Contract) between the City and HUD relating to the Note in substantially the form attached as Exhibit B. The Authorized Officers are each individually authorized to execute and deliver the Contract relating to the Note, with such changes as may be approved by an Authorized Officer, provided that the Contract contains provisions assuring compliance with Texas law relating to the maximum rate of interest, choice of law, and limitations on actions relating to ad valorem taxes, if any ad valorem taxes are pledged to secure payment of all or a portion of the Note. Execution of the Contract relating to the Note is conclusive evidence the City Council approved the Contract relating to the Note.

(4) The City Council authorizes and approves the Authorized Officers to execute and complete any custodial agreements, in substantially the form attached as Exhibit C, necessary to be executed and completed pursuant to the Contract for the Section 108 Note. The Authorized Officer executing and completing any custodial agreement may make insertions, deletions or modification to the custodial agreements as required to complete execution of this Section 108 guaranteed loan financing.

(5) The City Council authorizes and approves the Director of Neighborhood Housing and Community Development to approve and execute any documents necessary to complete the conversion of the Note from variable to fixed rate provided that such conversion is in compliance with the requirements and legal limitations contained in this Resolution, the Contract, and the Note.

(6) The City Council authorizes and approves the Authorized Officers to pay from the proceeds of the loan all expenses related to the issuance and delivery of the Note, the Contract, any conversion of the Note, and the related agreements.

(7) The City Council authorizes and approves the Authorized Officers to pay the City's share of all expenses of approval by the Texas Attorney General's Office, as well as the City's share of any expenses of any public offering.

(8) The City Council authorizes and approves each of the Authorized Officers to execute and deliver documents not mentioned in this Resolution if these documents are needed to complete the issuance and delivery of the Note, including any documents required to complete the conversion of the Note in accordance with the terms of the Note and the Contract, the

execution and delivery of the Contract, to obtain approval from the Texas Attorney General's Office, and to complete the documents specifically described in this Resolution.

**BE IT FURTHER RESOLVED,** that it is determined the City posted sufficient written notice of the date, hour, place, and subject of the meeting of the City Council at which this Resolution was adopted at a place convenient and readily accessible at all times to the general public at the Austin City Hall for the time required by the Open Meetings Act, Chapter 551, Texas Government Code. The meeting has been open to the public as required by law at all times during which this Resolution and its subject matter were discussed, considered, and formally acted upon. The City Council approves and confirms the written notice, the contents, and the posting.

**ADOPTED:** \_\_\_\_\_, 2008

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk