



# City of San Leandro

Meeting Date: September 4, 2018

## Staff Report

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**File Number:** 18-390 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.O.

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Adoption of a City of San Leandro City Council Resolution to Substitute Collateral for the Section 108 Guaranteed Loan from the United States Department of Housing and Urban Development (HUD) for the Construction of the San Leandro Senior Community Center by Designating as Collateral \$190,635.20 in the City's General Fund Reserves

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### SUMMARY AND RECOMMENDATIONS

Staff recommends adoption of a resolution to substitute collateral for the Section 108 guaranteed loan from the United States Department of Housing and Urban Development ("HUD") for the construction of the San Leandro Senior Community Center by designating as collateral \$190,635.20 in the City's General Fund Reserve. In 2009, the City Council authorized the City Manager to submit an application to HUD for a Section 108 loan to finance construction of the San Leandro Senior Center. The 20-year Section 108 loan was awarded to the City of San Leandro in 2010 in the amount of \$2,500,000 (the "Section 108 Loan"). Annual loan repayments began in 2011 and are paid out of the City's annual HUD Community Development Block Grant (CDBG) allocation.

### BACKGROUND

In 2009, the City Council approved City Council Resolution No. 2009-054, and authorized the City Manager to submit an application to HUD for a Section 108 loan to finance construction of the San Leandro Senior Center. The 20-year loan was awarded to the City of San Leandro in 2010 for \$2,500,000 with annual loan repayments beginning in 2011 and paid out of the City's annual Federal HUD Community Development Block Grant (CDBG) allocation. The Section 108 Loan is regulated by the Housing and Community Development Act of 1974, as Amended, 42 U.S.C. § 5308.

In late 2017, HUD informed City staff that the Section 108 Loan was part of an ongoing nation-wide review by HUD's Financial Management Division. Documents required as a part of

the City's contract for the Section 108 Loan were missing from HUD's files since the inception of the loan. Additionally, HUD stated that since HUD did not have these required documents, San Leandro was considered in noncompliance with the terms of the Section 108 Loan and at risk of default. Among other things, HUD requested the City provide certain required collateral for the Section 108 Loan. Under the terms of the Section 108 Loan, the City was required to record a deed of trust on the Senior Center property to secure the Section 108 Loan. However, California law prevents the City from recording a lien on publically owned property. The City Attorney's Office and HUD's legal counsel met in June 2018 to discuss alternate means to comply with this contractual requirement.

After discussions between HUD's counsel and the City Attorney's Office, staff determined that the best option to provide the collateral requested by HUD is for the City to restrict \$190,635.20 of the General Fund Reserve (the "Restricted Amount"), an amount equal to one annual Section 108 Loan debt service payment. The funds must be restricted within the General Fund Reserve until the Section 108 Loan is fully repaid, which is currently anticipated to occur in August 2029.

### **Analysis**

Under the terms of the City's Section 108 Loan, the City was required to record a deed of trust on the Senior Center Property to secure the Section 108 Loan. However, California law prevents the City from recording a lien on publically owned property. The City needs to provide substitute collateral for the Section 108 Loan, or else HUD may declare the City of San Leandro in default under the note for this Section 108 Loan. City staff, in consultation with the City Attorney's Office and HUD, determined that the best option to provide the required collateral is for the City to restrict \$190,635.20 of the General Fund Reserve, an amount equal to one annual Section 108 Loan debt service payment. Such funds would be restricted within the General Fund Reserve until the Section 108 Loan is fully repaid. As long as the City continues to make its annual Section 108 Loan debt service payments, these funds will remain in the City's General Fund Restricted Reserves. In the unlikely event that the City does not receive CDBG funds, or is unable to otherwise meet its repayment obligations during the term of the Section 108 Loan, the General Fund Restricted Reserve Amount would be utilized to cover the deficiency.

Additionally, the City will need to execute amendments to various documents related to the Section 108 Loan to allow the City to satisfy its obligation to provide collateral for the loan in the manner described above.

### **Previous Actions**

- HUD Section 108 Loan approved April 20, 2009 by City Council Resolution No. 2009-054.

### **Fiscal Impacts**

This proposed resolution will restrict \$190,635.20 of the City's General Fund Reserve until the Section 108 Loan has been fully repaid, which is currently anticipated to occur in August 2029. By restricting this portion of the General Fund Reserve, the City will not be able to use these funds to meet other needs until the Section 108 Loan has been fully repaid. However, the City's loan repayment (principal plus interest) amount is reduced annually due to declining interest payments.

The final loan repayment in 2029 will be approximately \$138,000, of which \$132,000 is principal and the remainder interest.

**Budget Authority**

Approval of the proposed resolution will not change the City of San Leandro's total General Fund balance. However, it will restrict \$190,635.20 of the General Fund Reserve as a debt service restricted reserve as collateral for the Section 108 Loan. In the unlikely event that the City does not receive CDBG funds, or is unable to otherwise meet its repayment obligations during the term of the Section 108 Loan, the Restricted Amount would be utilized to cover the deficiency.

**ATTACHMENT(S)**

**Attachment(s) to Related Legislative File**

- Resolution

**PREPARED BY:** Maryann Sargent, Senior Housing Specialist, Community Development Department

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# City of San Leandro

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## Resolution - Council

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**File Number:** 18-391 **Agenda Section:** CONSENT CALENDAR

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**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** RESOLUTION of the City of San Leandro City Council to Substitute Collateral for the Section 108 Guaranteed Loan from the United States Department of Housing and Urban Development (HUD) for the Construction of the San Leandro Senior Community Center by Designating as Collateral \$190,635.20 in the City's General Fund Restricted Reserve

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**WHEREAS**, the City previously applied for and received a two million five hundred thousand dollars (\$2,500,000) Section 108 guaranteed loan from the United States Department of Housing and Urban Development ("HUD") for the construction of the San Leandro Senior Community Center ("Section 108 Loan"); and

**WHEREAS**, as part of the Section 108 Loan, the City executed a promissory note numbered B-08-MC-06-0017, whereby the City promised to repay the Section 108 Loan ("Section 108 Loan Note"); and

**WHEREAS**, repayment of the Section 108 Loan Note is to come from federal Community Development Block Grant ("CDBG") Funds provided to the City; and

**WHEREAS**, the terms of the original Section 108 Loan required the City to record a deed of trust against the Senior Community Center property as collateral for the Section 108 Loan Note. However California law prohibits the City from recording a lien against publically owned property; and

**WHEREAS**, since the City has never provided the deed of trust on the Senior Community Center property, HUD requests that the City provide alternate collateral in the event that CDBG Funds are not available to the City for loan repayment; and

**WHEREAS**, the City has proposed, and HUD has agreed, that the City can provide restricted General Fund Reserves as collateral; and

**WHEREAS**, in order to provide collateral for the Section 108 Loan, City staff recommends restricting \$190,635.20 (the “Restricted Amount”), an amount equal to one annual Section 108 Loan debt service payment, in the General Fund Restricted Reserves as collateral for the Section 108 Loan Note; and

**WHEREAS**, the Restricted Amount must be restricted within the General Fund Reserves until the Section 108 Loan is fully paid in August 2029; and

**WHEREAS**, in the unlikely event that the City is unable to otherwise meet its repayment obligations during the term of the Section 108 Loan’s Note, the Restricted Amount would be utilized to cover the deficiency.

**NOW, THEREFORE IT IS RESOLVED** by the City Council of the City of San Leandro that:

1. The above recitals are true, correct, and incorporated by reference into this Resolution.
2. The City Council hereby agrees to substitute collateral for the Section 108 Loan, such that the City covenants that it will restrict One Hundred Ninety Thousand Six Hundred Thirty Five Dollars and Twenty Cents (\$190,635.20), an amount equal to one year’s debt service on the Section 108 Loan, of the General Fund Restricted Reserves, until such time as the Section 108 Loan is repaid in full. In the event that the City is unable to otherwise meet its repayment obligations during the term of the Section 108 Loan’s Note, such funds would be utilized to cover the deficiency.
4. The City Manager is authorized to execute any and all documents, in such form as approved by the City Attorney, and to take such actions, as are necessary to effectuate the intent and purpose of this Resolution.
5. This Resolution shall take effect and be in full force from the date of its adoption.

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