



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.6.

2/7/2023

Subject:

Board approval of an internal loan from the General Government Reserves to the Solid Waste Management Department not-to-exceed \$1,900,000

Fiscal Impact:

This fiscal impact of this request will enable the Solid Waste Department to pay the contractors for debris collection caused by Hurricanes Nicole. The General Government Reserves will receive interest based on the County's consolidated investment earnings rate.

Dept/Office:

County Manager

Requested Action:

It is requested that the Board of County Commissioners approve an internal loan from the Board's General Government Reserves to the Solid Waste Management Department, on an as needed basis, not-to-exceed \$1,900,000, authorize the County Manager to have the internal loan documents executed, and authorize the County Manager to approve all necessary budget change requests to implement this request.

Summary Explanation and Background:

On November 10, 2022, Brevard County suffered damages from Hurricane Nicole. This event produced over 100,000 cubic yards of debris that the Solid Waste Management Department is responsible for collecting. On November 15, 2022, the Board adopted Resolution 22-155, declaring it is in the public interest to remove debris from certain public and private rights-of-way in Brevard County.

In order to pay the contractors for their services to clean up the debris caused by Hurricane Nicole, an internal loan from the County's General Government Reserves is requested. This loan will fund debris collection costs. Upon receipt of FEMA reimbursements, the reimbursements will be returned to the General Fund Reserves as repayment of this temporary loan.

ATTACHMENTS:

Resolution 22-155

Internal Loan Agreement

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

February 8, 2023

MEMORANDUM

TO: Frank Abbate, County Manager

RE: Item F.6., Approval of Internal Loan from the General Government Reserves to the Solid Waste Management Department, not-to-exceed \$1,900,000

The Board of County Commissioners, in regular session on February 7, 2023, approved an Internal Loan from the Board's General Government Reserves to the Solid Waste Management Department, on an as needed basis, not-to-exceed \$1,900,000; authorized the County Manager to have the Internal Loan documents executed; and authorized the County Manager to approve all necessary Budget Change Requests to implement this request. Enclosed is an executed Internal Loan Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, appearing to read "Kimberly Powell", is written over the typed name and title.

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Solid Waste Management
Finance
Budget

INTERNAL LOAN
Solid Waste Management Department

WHEREAS, The County's General Government Reserves are set-aside in part to respond to emergencies; and

WHEREAS, The Solid Waste Management Department requests a temporary loan to fund the collection of storm-generated debris throughout the County; and

WHEREAS, Policy No BCC-56, Budget and Financial Policies provide for inter-departmental/fund loans.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein, the parties hereby agree, as follows:

- I. **AUTHORIZATION:** The County's General Government Fund Reserves will provide a temporary loan to the Solid Waste Management Department. The Solid Waste Management Department will request funds, on an as needed bases, with the approval of the County Manager. Once approval is received from the County Manager, funds will be transferred from the County's General Government Operating Reserves, to the Solid Waste Management Department's Collections Fund.
- II. **AMOUNT OF LOAN:** Not-to-exceed \$1,900,000.
- III. **TERMS AND PAYMENTS:** The initial Principal shall be repaid within 30 days of receipt of Federal Emergency Management Agency (FEMA) reimbursements for Hurricanes Ian and Nicole. The Solid Waste Management Department shall make payments of principal and interest to the County's General Fund annually over a period of four years for non-reimbursable expenses until the loan and interest are repaid.
- IV. **INTEREST RATES:** The interest rate the Solid Waste Management Department shall pay on the outstanding Principal shall be the rate of the County's Consolidated Investment Earning Rate (CCIER). The amount of the annual interest payment will be calculated based on the average monthly CCIER, as determined by the County Finance Department. It is the specific intent of this agreement that the interest charged to the Solid Waste Management Department shall be equal to the interest income lost by the County General Fund. Because the CCIER is a variable rate; the amount of the annual payment will vary.
- V. **SOURCE OF FUNDS:** The Solid Waste Management Department Program and FEMA reimbursements from Hurricanes Ian and Nicole shall be the source of funds for the repayment of this loan.



Frank Abbate Date
County Manager

Tom Mulligan Date
Department Director

RESOLUTION 22-155

WHEREAS, the Board of County Commissioners has enacted Chapter 94, Article VII of the Brevard County Code of Ordinances declaring the collection and removal of disaster debris from all properties, whether public lands, public or private roads, or within gated communities in the interest of elimination of threat to life, public health, and safety of the residents of Brevard County and authorizing right of entry into private communities as well as private streets, roads, and roadways for storm-generated debris removal, also allowing extension of debris removal services to incorporated areas of Brevard County through interlocal agreements; and

WHEREAS, the Governor of the State of Florida issued Executive Order Number 22-253 on November 7, 2022, declaring a State of Emergency in numerous counties in the State of Florida, Including Brevard; and

WHEREAS, on November 8, 2022, the Brevard County Board of County Commissioners declared a State of Local Emergency for all territory within the legal boundaries of Brevard County, including all unincorporated and incorporated areas through Emergency Proclamation Tropical Storm Nicole 2022 - #1 as authorized by Florida Law; and

WHEREAS, on November 10, 2022, Brevard County encountered tropical storm conditions from Tropical Storm Nicole and a threat continues to exist to the lives and property of the people of Brevard County due to damage caused by Tropical Storm Nicole including excessive debris on public right of ways and private roads; and

WHEREAS, Tropical Storm Nicole caused extensive damage to the unincorporated area and within all cities and municipalities contained within the geographic area of Brevard County; and

WHEREAS, the Board of County Commissioners declares the large amounts of disaster-related debris located on public right-of-ways and certain private road right of ways poses an immediate threat to life, public health and safety, welfare of the community and that it is in the public interest for the County to remove such debris, including within gated communities in unincorporated and incorporated Brevard County without delay; and

NOW, THEREFORE, IT IS RESOLVED THIS 15th day of November, 2022, that the Board of County Commissioners of Brevard County, pursuant to its authority under State and Local law including Chapter 94, Article VII of the Brevard County Code of Ordinances, determines and finds disaster generated debris in unincorporated and incorporated Brevard County meet the criteria of Section 94.332 (a)(3), (a)(4), (a)(8), (a)(9), (a)(12), (a)(13), and (a)(15) and pose an immediate threat to the life, public health and safety, welfare, and economic recovery of the community and that it is in the public interest to have such debris removed from certain private road right of ways in order to eliminate immediate threats to life, public health and safety, welfare, significant damage to improved property, and ensure the economic recovery of the affected community to

benefit the community-at-large and that the highest priority shall be initially given to immediate threats to life, public health, and safety.

The Board of County Commissioners further finds that the disaster generated debris is so widespread that the removal is in the public interest and not merely benefiting an individual or a limited group of individuals within the community.

BE IT FURTHER RESOLVED that the Board of County Commissioners of Brevard County does hereby:

1. Request the Federal Emergency Management Agency (FEMA) to approve the removal of debris from certain private road right of ways within unincorporated and incorporated Brevard County, pursuant to the terms and conditions of the Stafford Act, 42 U.S.C. 5121 et seq., FEMA Regulations as published at 44 CFR 206.222 - 206.224, and the Public Assistance Program and Policy Guide FP 104-009-2.
2. Recognize and respect all laws and regulations regarding historic preservation and environmental protection.
3. Acknowledge that no reconstruction debris, vehicles, vessels, or other non-related storm debris will be removed under this request.
4. Agree that it shall indemnify and hold harmless the Federal Government and its respective employees, agents, contractors, and subcontractors from any claims arising from debris removal.
5. Acknowledge that, in accordance with section 305 of the Stafford Act (42 U.S.C. § 5148), the Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of the Act.

RESOLVED AND ADOPTED this 15th day of November, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF BREVARD
COUNTY, FLORIDA


Rachell M. Sadoff, Clerk


Kristine Zonka
Chair, Brevard County Commission