

Meeting Date
12/05/2017



Deleted

Replacement	
AGENDA	
Section	Unfinished Business
Item No.	V.A.

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	North Brevard Development District /Blue Origin Validation
DEPT/OFFICE:	County Attorney's Office/County Manager's Office

Requested Action:

Request authorization to retain bond counsel, Nabors, Giblin, to file validation suit seeking court approval of County's borrowing \$8 million to satisfy the grant incentive payable to Blue Origin; approval of proposed resolution authorizing the borrowing; authorize attached form of the note; approve the attached retainer agreement with Nabors, Giblin.

Summary Explanation & Background:

As part of an economic incentive approved by resolution of the the County Commission on March 26, 2015 implemented by an agreement dated March 1, 2016, (attached as Composite Exhibit A), the Commission in conjunction with the North Brevard Development District, agreed to make its best efforts to pay a total cash incentive to Blue Origin in the amount of \$8 million within 120 days of the issuance of a Certificate of Occupancy on a 250,000 square foot rocket manufacturing facility at Exploration Park. The company is close to obtaining the Certificate of Occupancy on, what has turned out to be, a manufacturing facility of about 630,000 square feet.

In order to make the cash payment, it is recommended that the County seek a loan in the grant amount. Since the \$8 million in borrowed funds would be payable to a private company as an economic incentive grant, the Florida Constitution requires the County to establish a paramount public purpose for borrowing the funds. Establishing a paramount public purpose will require validation of that purpose by the Circuit Court. An example of a paramount purpose approved by the courts, is financing of sports stadiums.

The proposed Resolution authorizing the borrowing and the proposed note are attached as Exhibit B. The note would be repaid from North Brevard Development District funds.

The proposed Nabors, Giblin retainer agreement is set forth in the attached retainer letter. (Exhibit C) Nabors, Giblin has indicated that the fees for circuit court validation should not exceed \$25,000. Should an appeal be filed by the State of Florida, which is the Respondent to the validation suit through the State Attorney's Office, the law firm has agreed that the not to exceed amount of the fee will be \$35,000.

Contact: Scott Knox
Phone/email: 321-633-2090 / scott.knox@brevardfl.gov

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached): Reviewed by County Attorney Yes No PR

County Manager Frank Abbate <i>FBA</i>	Interim Assistant County Manager Jim Liesenfelt	Department Director / Extension <i>COUNTY ATTORNEY</i> <i>[Signature]</i>
	Assistant County Manager John Denninghoff	