

ADD ON



ADD ON

AGENDA	
Section	UNFINISHED BUSINESS
Item No.	V.C

Meeting Date
4/19/2016

AGENDA REPORT

BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	APPROVALS RE: SECTION 108 LOAN RESOLUTIONS
DEPT/OFFICE:	COMMUNITY SERVICES GROUP / HOUSING AND HUMAN SERVICES

Requested Action:

It is requested that the Board of County Commissioners (BOCC) approve two (2) Resolutions from the United States Department of Housing and Urban Development (HUD) pledging Community Development Block Grant (CDBG) funds to the repayment of the Section 108 Loan Guarantee and making provisions for the payments of any deficiency from the General Fund, and authorizing the County Manager to execute a HUD Section 108 Loan Guarantee Contract, Note, and any related documents containing that pledge.

Summary Explanation & Background:

On April 28, 2015, the Board of County Commissioners conducted the final public hearing, approved the submission of two (2) Section 108 Loan applications to HUD for the construction of a Health Department Building in Melbourne and a waterline in West Canaveral Groves, and committing the General Funds as payer of last resort. HUD regulations require that jurisdictions applying for Section 108 Loan Guarantees set aside a reserve equal to one year's debt service for Section 108 payments.

The attached resolutions are a requirement of the Section 108 loan process, and signify one of the last steps necessary to enter into contract with HUD for the release of Section 108 funds.

Brevard County's future Community Development Block Grant (CDBG) funds will be used for the repayment of the loan, with general revenue as the payer of last resort.

**Fiscal Impact:** FY 14/15 – General Funds equal to one year's debt service (approximately \$160,000) will be set aside in a Debt Reserve account as a reserve fund for the Section 108 Guarantee Loan awards. CDBG funds will be utilized for repayment. If CDBG funds are insufficient to pay principal and interest due on the notes, General Funds will be used as payer of last resort.

**FY 15/16 – CDBG funds will be utilized for repayment. If CDBG funds are insufficient to pay principal and interest due on the notes, General Funds will be used as payer of last resort.**

Contact: Ian Golden, Director (633-2007)

Clerk to the Board instruction: None

Exhibits Attached: (1) Health Department Section 108 Loan Guarantee Resolution, (2) West Canaveral Groves Section 108 Loan Guarantee Resolution

Resolutions (If attached): Reviewed by County Attorney Yes  No  PR

County Manager

Assistant County Manager

Department Director

Stockton Whitten

Venetta Valdengo

Ian Golden - 52076



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

April 20, 2016

**MEMORANDUM**

**TO:** Ian Golden, Housing and Human Services Director

**RE:** Item V.C., Resolutions for Section 108 Loan – Health Department and West Canaveral Groves Waterline

The Board of County Commissioners, in regular session on April 19, 2016, adopted Resolution Nos. 16-051 and 16-052, from the United States Department of Housing and Urban Development (HUD) pledging Community Development Block Grant (CDBG) funds to the repayment of Section 108 Loan Guarantee and making provisions for the payments of any deficiency from the General Fund, for the construction of a Health Department building in Melbourne and a waterline in West Canaveral Groves; and authorized the County Manager to execute a HUD Section 108 Loan Guarantee Contract, Note, and any related documents containing that pledge. Enclosed is a certified Resolution for each project.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encls. (2)

cc: County Manager  
Finance  
Budget

**ATTACHMENT 3**

RESOLUTION NO. 16-051

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA ACCEPTING A SECTION 108 GUARANTEED LOAN UNDER SECTION 108 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED, PLEDGING CDBG BLOCK GRANT FUNDS TO THE REPAYMENT OF THE SECTION 108 LOAN GUARANTEE AND MAKING PROVISIONS FOR THE PAYMENT OF ANY DEFICIENCY FROM THE GENERAL FUND, AND AUTHORIZING THE COUNTY MANAGER TO EXECUTE A HUD SECTION 108 LOAN GUARANTEE CONTRACT, NOTE, AND ANY RELATED DOCUMENTS CONTAINING THAT PLEDGE.

**WHEREAS**, the Board of County Commissioners is a municipal corporation which exercises governmental functions and powers, and is a chartered County organized and existing under the laws of the State of Florida; and

**WHEREAS**, the County, by Resolution No. \_\_\_\_\_ authorized the County Manager to execute all necessary documents or contracts as might be required by HUD to support a loan application for a Section 108 Loan in the amount of \$1,600,000.00 and a Section 108 Loan Guarantee for the construction project known as Health Department Building; and

**WHEREAS**, the County desires to provide security to assure repayment of the Section 108 Loan from any legally available funds; and

**WHEREAS**, said Resolution is hereby incorporated by reference; and

**WHEREAS**, as a chartered County, the Board of County Commissioners is authorized, pursuant to Article VIII of the Constitution of the State of Florida, to enter into agreements, including loan agreements, with the United States or any agency or department thereof for any lawful public purpose; and

**WHEREAS**, the County has successfully obtained a commitment from the U.S. Department of Housing and Urban Development (“HUD”) for the Loan Guarantee; and

**WHEREAS**, HUD’s guarantee of the Note will be governed by a Contract for Loan Guarantee Assistance under Section 108 between the County and HUD (the “Contract”), in which this Resolution is incorporated by reference, and in which the County pledges Community Development Block Grants pursuant to 24 CFR 570.705(b)(2) and funds from time to time on deposit in the County’s General Fund

Reserves ("Reserves"), which include, for Fiscal Year 2015, the approximate amount of \$80,000.00, for the repayment thereof:

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AS FOLLOWS:**

**Section 1.** The Board of County Commissioners hereby authorizes the County Manager to execute any and all documents necessary to accept the loan guarantee referenced above and any subsequent Note numbered B-14-UC-12-0011, as may be amended, and any Section 108 note issued under the same commitment in substitution for such note (hereinafter, "Note").

**Section 2.** The Note constitutes a limited obligation of the County, payable from Community Development Block Grant funds which are hereby pledged by the Borrower pursuant to 24 CFR 570.705(b)(2) to the payment of the Note. To the extent such Community Development Block Grant funds are insufficient to pay the principal and interest due on the Note in any fiscal year, the County covenants that it will budget and appropriate from any legally available funds (including any such funds mentioned in Section 3 hereof) in such fiscal year for the payment of any deficiency.

**Section 3.** As security for the Note, the County covenants that it will budget, appropriate, and set aside in a Debt Service Reserve an amount equal to XX, the MAXIMUM principal and interest due on the Note in one calendar year, as described in the Section 108 Contract for Loan Guarantee Assistance. Funds in the Debt Service Reserve will be used to pay amounts due on the Note only in any year that the County has no other legally available funds from which it can budget and appropriate for the payment of any deficiency, or to make final payment on the Note. If amounts in the debt service reserve are used for payments on the Note, the County covenants that officials authorized to plan and submit budgets to the County's governing body will use their best efforts to obtain an appropriation from legally available funds as needed to replace funds withdrawn from the Debt Service Reserve, provided, however, that nothing contained in this paragraph shall obligate the County to appropriate replacement funds for amounts drawn from the Debt Service Reserve.

**Section 4.** As further security for the repayment of the Note, the County covenants to budget and appropriate from funds from time to time on deposit in the County's General Fund Reserves (which includes, for Fiscal Year 2015, reserves in the approximate amount of \$80,000.00), in support of all obligations of the County as Borrower under the Note executed by the County Manager evidencing loans guaranteed under a HUD Section 108 Loan Guarantee for the County's construction project known as Health Department Building) pursuant to paragraph 15 of the related Contract for Section 108 Loan Guarantee Assistance between the County and HUD as authorized by Article VIII of the Constitution of the State of Florida. The County agrees that the covenants and obligations in this resolution, including the obligation to budget and appropriate funds and deposit those funds in the General Fund Reserves in support of obligations under this Note, to the extent legally available, shall be enforceable in

mandamus against the County and its officials that must act to carry out such covenants and obligations.

**Section 5.** The provisions of this Resolution are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this Resolution to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this Resolution in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

**Section 6. Effective Date of Resolution.** This ordinance shall take effect and be in force from the date of its adoption.

Adopted at the Regular meeting of the Board of County Commissioners on the 19<sup>th</sup> day of April, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

  
\_\_\_\_\_  
Jim Barfield, Chairman

  
\_\_\_\_\_  
Scott Ellis, Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Serene A. Yisler

As approved by the Board 04-19-16.

**ATTACHMENT 3**

RESOLUTION NO. 16-052

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA ACCEPTING A SECTION 108 GUARANTEED LOAN UNDER SECTION 108 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED, PLEDGING CDBG BLOCK GRANT FUNDS TO THE REPAYMENT OF THE SECTION 108 LOAN GUARANTEE AND MAKING PROVISIONS FOR THE PAYMENT OF ANY DEFICIENCY FROM THE GENERAL FUND, AND AUTHORIZING THE COUNTY MANAGER TO EXECUTE A HUD SECTION 108 LOAN GUARANTEE CONTRACT, NOTE, AND ANY RELATED DOCUMENTS CONTAINING THAT PLEDGE.

**WHEREAS**, the Board of County Commissioners is a municipal corporation which exercises governmental functions and powers, and is a chartered County organized and existing under the laws of the State of Florida; and

**WHEREAS**, the County, by Resolution No. \_\_\_\_\_ authorized the County Manager to execute all necessary documents or contracts as might be required by HUD to support a loan application for a Section 108 Loan in the amount of \$1,648,000.00 and a Section 108 Loan Guarantee for the construction project known as West Canaveral Groves Waterline; and

**WHEREAS**, the County desires to provide security to assure repayment of the Section 108 Loan from any legally available funds; and

**WHEREAS**, said Resolution is hereby incorporated by reference; and

**WHEREAS**, as a chartered County, the Board of County Commissioners is authorized, pursuant to Article VIII of the Constitution of the State of Florida, to enter into agreements, including loan agreements, with the United States or any agency or department thereof for any lawful public purpose; and

**WHEREAS**, the County has successfully obtained a commitment from the U.S. Department of Housing and Urban Development (“HUD”) for the Loan Guarantee; and

**WHEREAS**, HUD’s guarantee of the Note will be governed by a Contract for Loan Guarantee Assistance under Section 108 between the County and HUD (the “Contract”), in which this Resolution is incorporated by reference, and in which the County pledges Community Development Block Grants pursuant to 24 CFR 570.705(b)(2) and funds from time to time on deposit in the County’s General Fund

Reserves ("Reserves"), which include, for Fiscal Year 2015, the approximate amount of \$80,000.00, for the repayment thereof:

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA AS FOLLOWS:**

**Section 1.** The Board of County Commissioners hereby authorizes the County Manager to execute any and all documents necessary to accept the loan guarantee referenced above and any subsequent Note numbered B-14-UC-12-0011-A, as may be amended, and any Section 108 note issued under the same commitment in substitution for such note (hereinafter, "Note").

**Section 2.** The Note constitutes a limited obligation of the County, payable from Community Development Block Grant funds which are hereby pledged by the Borrower pursuant to 24 CFR 570.705(b)(2) to the payment of the Note. To the extent such Community Development Block Grant funds are insufficient to pay the principal and interest due on the Note in any fiscal year, the County covenants that it will budget and appropriate from any legally available funds (including any such funds mentioned in Section 3 hereof) in such fiscal year for the payment of any deficiency.

**Section 3.** As security for the Note, the County covenants that it will budget, appropriate, and set aside in a Debt Service Reserve an amount equal to XX, the MAXIMUM principal and interest due on the Note in one calendar year, as described in the Section 108 Contract for Loan Guarantee Assistance. Funds in the Debt Service Reserve will be used to pay amounts due on the Note only in any year that the County has no other legally available funds from which it can budget and appropriate for the payment of any deficiency, or to make final payment on the Note. If amounts in the debt service reserve are used for payments on the Note, the County covenants that officials authorized to plan and submit budgets to the County's governing body will use their best efforts to obtain an appropriation from legally available funds as needed to replace funds withdrawn from the Debt Service Reserve, provided, however, that nothing contained in this paragraph shall obligate the County to appropriate replacement funds for amounts drawn from the Debt Service Reserve.

**Section 4.** As further security for the repayment of the Note, the County covenants to budget and appropriate from funds from time to time on deposit in the County's General Fund Reserves (which includes, for Fiscal Year 2015, reserves in the approximate amount of \$80,000.00), in support of all obligations of the County as Borrower under the Note executed by the County Manager evidencing loans guaranteed under a HUD Section 108 Loan Guarantee for the County's construction project known as West Canaveral Groves Waterline) pursuant to paragraph 15 of the related Contract for Section 108 Loan Guarantee Assistance between the County and HUD as authorized by Article VIII of the Constitution of the State of Florida. The County agrees that the covenants and obligations in this resolution, including the obligation to budget and appropriate funds and deposit those funds in the General Fund Reserves in support of obligations under this Note, to the extent legally available, shall be enforceable in

mandamus against the County and its officials that must act to carry out such covenants and obligations.

**Section 5.** The provisions of this Resolution are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this Resolution to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this Resolution in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

**Section 6. Effective Date of Resolution.** This ordinance shall take effect and be in force from the date of its adoption.

Adopted at the Regular meeting of the Board of County Commissioners on the 19<sup>th</sup> day of April, by the following vote:

AYES:

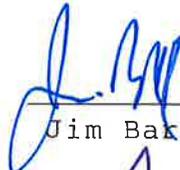
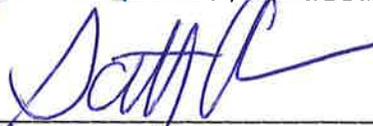
NOES:

ABSENT:

ABSTAIN:

APPROVED AS TO FORM:

Shirley A. 4/15/16

  
\_\_\_\_\_  
Jim Bakfield, Chairman  
  
\_\_\_\_\_  
Scott Ellis, Clerk

As approved by the Board 04-19-16.

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**INITIAL CONTRACT FORM**

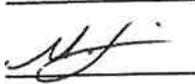
**SECTION I**

The following information must be completed on all new contracts submitted to the Board.

<b>1. Contractor:</b> US Dept of Housing & Urban Development	
<b>2. Fund/Account #:</b>	<b>Division Name:</b> Housing & Human Services
<b>4. Contract Description:</b> Resolution - Section 108 Loan for the West Canaveral Groves Waterline	
<b>5. Contract Monitor:</b> Ian Golden	<b>6. Mail Stop #:</b> 82
<b>7. Dept./Office Director:</b> Ian Golden, Director – Housing/Human Serv	<b>8. Contract Type:</b>
<b>ACTION DATE:</b> Time sensitive ☺ Needs to be put on the April 19 <sup>th</sup> Agenda	<b>ACTION REQUIREMENT:</b> Review by C. Attorney & Risk Offices

**SECTION II**

The following departments must approve all contracts submitted to the Board:

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>INITIALS</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>		4/15/16
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>		4/15/2016
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

If any office denies approval, the package will be returned immediately to the User Agency.

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**INITIAL CONTRACT FORM**

**SECTION I**

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	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<u>4/15/16</u>
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<u>4/15/16</u>

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**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

V.C.  
ATTACHMENT

**INITIAL CONTRACT FORM**

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	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>		4/15/16
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>		4/15/2016
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**INITIAL CONTRACT FORM**

**SECTION I**

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	<u>YES</u>	<u>NO</u>		
User Agency	<u>✓</u>	<u>_____</u>	<u>[Signature]</u>	<u>4/15/16</u>
Risk Management	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
County Attorney	<u>✓</u>	<u>_____</u>	<u>[Signature]</u>	<u>4/15/16</u>

If any office denies approval, the package will be returned immediately to the User Agency.

RECEIVED  
APR 15 2016