

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

3A-1

AGENDA ITEM SUMMARY

Meeting Date: September 1, 2009 [X] Consent [] Regular
[] Workshop [] Public Hearing

Department: Administration
Submitted By: Administration
Submitted For: Economic Development Office

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) **Conceptually Approve** a Section 108 Loan Program Agreement with Glades Home Health Care Medical Center, LLC (GHHCMC),
- B) **Approve** an exception to the County's Section 108 Loan Program Criteria to waive the minimum requirement of two (2) years in business operation for GHHCMC, and
- C) **Authorize** the County Administrator to sign all loan and grant documents associated with this item.

Summary: On July 27, 2009, the Section 108 Loan Review Committee, made up of representatives from the Economic Development Office, Housing and Community Development, and Office of Financial Management & Budget recommended providing a Housing & Urban Development (HUD) Section 108 loan, in the amount of \$89,000, and a HUD Brownfields Economic Development Initiative (BEDI) grant, in the amount of \$44,337, for GHHCMC through the Palm Beach County Avenue A Section 108 Loan and BEDI grant programs. GHHCMC is the second Avenue A Revitalization project, consisting of the renovation of the building located at 173 West Avenue A in Belle Glade and the acquisition of machinery and equipment. GHHCMC is a new business that branched out of the retail store *His and Hers Fashions*, which is still operating on Avenue A. GHHCMC was incorporated in 2008 and is licensed by the State of Florida Agency for Health Care Administration, Home Care Unit to work in the counties of Palm Beach, Indian, Okeechobee and Martin. GHHCMC will provide in-house health care to patients released from the hospital or persons who need in-house patient care. The total project investment is \$221,686, of which \$88,675 is equity from GHHCMC, \$88,674 from the Section 108 loan, and \$44,337 from the BEDI grant. The combined financing from the Section 108 loan and the BEDI grant is \$9,501 per job to be created, which is within the HUD criteria. The project will create 14 new full-time equivalent jobs in the next five (5) years. **These are Federal funds that do not require local match. District 6 (DW)**

Background and Policy Issues: On March 12, 2002 (Agenda Item # 6D-1), the Board of County Commissioners (BCC) approved policies for the development and administration of a revolving loan program funded by HUD under the CDBG Section 108 Loan Guarantee Program. On June 18, 2002 (Documents R2002-0989 and R2002-0990), the BCC approved the First Amendment to the Palm Beach County Five-Year Consolidated Plan to incorporate the Section 108 Loan Guarantee Program and the application for 108 funds for \$15,000,000. HUD approved the County's application for funding on September 26, 2002. The BCC has approved the following amendments to the Palm Beach County Section 108 Loan Program Criteria as follows: the First Amendment on January 28, 2003 (Agenda Item No. 5C-1), the Second Amendment on May 15, 2007 (Agenda Item No. 5A-2), the Third Amendment on December 2, 2008 (Agenda Item No. 6A-1), and the Fourth Amendment on May 5, 2009 (Document R2009-0725).

Attachment:
Section 108 Loan Program Agreement

Recommended by: *Kevin Johns* 8/12/09 Date
Economic Development Director

Approved by: *Sharon B. [Signature]* 8/26/09 Date
Assistant County Administrator

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures					
Grant Expenditure	\$133,337				
Operating Cost					
External Revenue	(\$133,337)				
Program Income (PBC)					
In-Kind Match (PBC)					
NET FISCAL IMPACT	\$0				
# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current budget? Yes X No _____

Budget Account Numbers:

Fund 1540 Department 764 Unit 2000 Object 8201 \$89,000 from Section 108 Loan

Fund 1539 Department 764 Unit 2001 Object 8201 \$44,337 from BEDI Grant

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review: *Walter* 8/5/09

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

Jim Owl 8/24/09
 OFMB
 8/14/09
 CN 8/19

Dr. J. Jacoby 8/25/09
 Contract Dev. and Control
 Issues 8/25/09

The Agreement attached is not being executed at this time, but at a future date by the County Administrator.

B. Legal Sufficiency:

[Signature] 8/25/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

**SECTION 108 LOAN PROGRAM AGREEMENT
BETWEEN PALM BEACH COUNTY AND
GLADES HOME HEALTH CARE MEDICAL CENTER, LLC**

THIS AGREEMENT is made as of the ____ day of September, 2009 by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, herein referred to as COUNTY, and Glades Home Health Care Medical Center, LLC [] an individual, [] a partnership, [X] a corporation authorized to do business in the State of Florida, hereinafter referred to as COMPANY, whose physical address is 173 W. Avenue A, Belle Glade, FL 33430 and whose Federal Document number is L07000061782.

WITNESSETH:

WHEREAS, the COUNTY is administering various Section 108 Loan Programs (its "108 Loan Program") under the Rules and Regulations of the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD"); and

WHEREAS, the COUNTY and the COMPANY are required to follow such Rules and Regulations of HUD and the national purpose of the program which is to eliminate slums or blight or provide job opportunities to persons of low and moderate income or provide for an urgent need as defined by HUD; and

WHEREAS, the COUNTY has determined that the Section 108 loan is an eligible loan to the COMPANY under 24 CFR 570.703 (i) (1) and 570.203 (b); and

WHEREAS, COUNTY intends to grant financing to COMPANY subject to the terms and conditions outlined in the loan commitment dated _____ 2009 as well as the Loan Documents which include, the Loan Agreement, Section 108 Promissory Note, Collateral Mortgage and Security Agreement, Guaranty Agreement, and any and all other documents and/or agreements evidencing, securing or relating to the loan.

WHEREAS, COUNTY may grant additional funding to COMPANY in connection with its 108 Loan Program pursuant to HUD's Brownfields Economic Development Initiative ("BEDI Grant")) as may be awarded to COUNTY in order to further stimulate and promote economic and community development. BEDI and Section 108 LOAN funds must be used in conjunction with the same economic development project.

NOW, THEREFORE, in consideration of the promises and mutual covenants hereinafter contained, the parties agree as follows:

**ARTICLE I
AGREEMENTS**

1. Anti-Piracy Provisions

The COMPANY hereby certifies that it is in compliance with Section 105H of U.S.C. 5305 and 24 CFR 570.210 and 570.482 and 507.506 in that neither the Section 108 Loan nor a BEDI Grant will not cause the COMPANY to locate a facility, plant or operation, including the expansion of a business that will result in the loss of jobs from one Labor Market Area to another.

2. Benefit to Persons of Low and Moderate Income

The COMPANY has met this test by meeting the presumption rule in compliance with 24 CFR 570.208B v (a) & (b) and (c) (1) & (2) in which case no further action need be taken.

3. Job Creation

In compliance with 24 CFR 570.209(b)(1) the COMPANY agrees to make a good faith effort to create one new full time equivalent (FTE) job per \$9,501 of HUD assistance within five (5) years, totaling fourteen (14) new FTE jobs. Year 1 shall begin on the date of the issuance of a certificate of occupancy upon completion of the renovation project.

A new FTE job shall be a position that requires employment for a minimum of 40 hours per week or 2,080 hours annually. A FTE job may include permanent, salaried part-time employees whose hours total 2,080 hours annually.

4. **Job Audit**

The COMPANY shall report its compliance with the job creation requirement by submitting an Annual Report certified by the Payroll Officer or Lead Accountant as shown in Exhibit A of this Agreement attached hereto and made a part hereof. The Annual Report shall be submitted to the COUNTY (attn: Palm Beach County Economic Development Office). COMPANY will be informed by the COUNTY when the COUNTY has made the determination that there are deficiencies with the audit and/or invoice documentation. Under these circumstances, the audit and invoice documentation cannot be processed pending COMPANY resolving the identified deficiencies. Upon receipt by the COUNTY from COMPANY of the appropriate audited and/or invoiced documentation, processing of the audit and invoices may proceed. Further the COMPANY shall permit the COUNTY to investigate its books and records and interview employees to insure compliance with this provision. When the COMPANY has achieved its job goals, it shall have satisfied this requirement.

5. **Inspection**

Upon ten (10) business days notice and at any time during normal business hours and as often as the COUNTY deems necessary, there shall be made available by COMPANY to the COUNTY for examination, all its records with respect to all matters covered by this Agreement. The COUNTY reserves the right to require copies of such records and/or to conduct an inspection of COMPANY'S records regarding performance measures at any time for any period covered by this Agreement.

ARTICLE II
GENERAL CONDITIONS

1. **Employee: Bona Fide**

COMPANY warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for COMPANY to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for COMPANY, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

2. **Non-discrimination**

COMPANY agrees that no person shall on the grounds of race, color, disability, national origin, religion, age, familial status, sex or sexual orientation, gender identity or expression, be excluded from the benefits of, or be subjected to discrimination under, any activity carried out by the performance of this Agreement.

3. **Worker's Compensation & Employer's Liability**

COMPANY shall agree to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute Chapter 440.

4. **Convicted Vendor List; Debarment**

(a) As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, COMPANY certifies that neither COMPANY, its affiliates nor its principals who will perform hereunder have been placed on the Convicted Vendor List maintained by the State of Florida Department of Management Services within thirty-six (36) months immediately preceding the date of execution of this Agreement by the COUNTY. This notice is required by F.S. 287.133(3)(a).

Florida Department of Management Services, Division of Purchasing
4050 Esplanade Way, Tallahassee, FL 32399-0950
(850) 488-8440

http://dms.myflorida.com/dms/purchasing/convicted_suspended_discriminatory_vendor_lists/convicted_vendor_list

(b) By entering into this Agreement or performing any work in furtherance hereof, COMPANY certifies that neither COMPANY, its affiliates nor its principals who will perform hereunder is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency, as such terms are defined in Executive Order 12549, nor is any such action pending or proposed.

5. **Successors & Assigns**

All covenants, agreements and conditions of this Agreement are binding upon and inure to the benefit of the COUNTY and COMPANY, and their respective partners, officers, directors, employees, agents, executors, administrators, successors and assigns. Except as otherwise permitted hereunder, neither the COUNTY nor COMPANY shall assign, convey or transfer its rights, interests, benefits, duties or obligations under this Agreement without the prior written consent of the other party. Nothing herein shall be construed as creating any personal liability on the part of any officer, director, employee or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and COMPANY.

6. **Material Change of Circumstances**

COMPANY shall immediately notify the COUNTY of any material change of circumstances of COMPANY'S business operations in Palm Beach County. For the purposes hereof, material change of circumstance shall include, but not be limited to, the failure of COMPANY to diligently and actively pursue fulfillment of the terms hereof, the sale or transfer of all or substantially all of COMPANY'S assets; the sale of a controlling interest (IE, more than 50%) of the stock or other equity interest in COMPANY; the suspension, closing, dissolution, liquidation or cessation of business operations of COMPANY; the voluntary or involuntary filing of any petition in bankruptcy; or an assignment for the benefit of COMPANY'S creditors. In the event of a material change of circumstances, the COUNTY shall have the right to terminate this Agreement, whereupon the COUNTY shall have no further obligation to COMPANY under this Agreement.

7. **Entire Agreement Between Parties**

The COUNTY and COMPANY agree that this Agreement and all attachments hereto, including but not limited to the Loan Documents and any BEDI Grant, sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

8. **Invalid or Unenforceable Terms**

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

9. **Remedies**

In the event of a default or breach by the COMPANY hereunder, under the Loan Documents or any BEDI Grant, the COUNTY shall consult with HUD as to the appropriate remedy, which may include acceleration of the principal balance due under the Section 108 loan and/or repayment of a BEDI Grant, including defeasance provisions if applicable. The COMPANY recognizes the authority of HUD to direct and establish appropriate remedies in connection with any such default or breach.

10. **Law and Remedy**

This Agreement shall be governed by the laws of the State of Florida and the laws of the United States and the Rules and Regulations of HUD. Any and all legal action necessary to enforce the Agreement shall be held in Palm Beach County or such other jurisdiction as is directed by HUD. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

11. **Indemnification and Hold Harmless**

The COMPANY hereby protects, defends, reimburses, indemnifies and holds the COUNTY and HUD, its agents, employees, directors and officers (whether elected or appointed) and each of them, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including attorney's fees, and suits, proceedings and causes of action of every kind and character which may arise out of this Agreement. COMPANY recognizes the broad nature of the indemnification and hold harmless provisions set forth in this Section 11, voluntarily makes this agreement and covenant and expressly acknowledges the receipt of good and valuable consideration provided by COUNTY and HUD in support of this clause in accordance with the laws of the State of Florida. This Section 11 shall survive the termination of the Agreement.

12. **Assignability**

It is recognized by the COUNTY and the COMPANY that this Agreement comprises the Loan Documents respecting the closing of the Section 108 Loan and this Agreement and such Loan Documents are held in trust for the benefit of HUD, and HUD has the final discretion as to its enforcement.

13. **Amendment; No Waiver**

This Agreement may not be amended or the terms or provisions hereof waived unless such amendment or waiver is in writing and signed by the parties. No delay or failure by the COUNTY to exercise any right, power, or remedy shall constitute a waiver thereof by the COUNTY, and no single or partial exercise by the COUNTY of any right, power, or remedy shall preclude other or further exercise thereof or any exercise of any other rights, powers, or remedies.

14. **Counterparts**

This Agreement may be executed in any number of counterparts, all of which together shall constitute one agreement.

15. **Further Actions**

The COMPANY shall execute and deliver such documents and instruments, and shall take such other actions as the COUNTY deems necessary to more fully carry out the terms of this Agreement.

16. **Notice**

All notices required in this Agreement shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

Kevin Johns, Director
Palm Beach County Economic Development Office
P.O. Box 1989
West Palm Beach, Florida 33402-1989

With a copy to:

Dawn Wynn, Assistant County Attorney
Palm Beach County Attorney's Office
301 N. Olive Ave, 6th Floor
West Palm Beach, FL 33401

And if sent to the COMPANY shall be mailed to:

Yolanda Hassan, Manager
Glades Home Health Care Medical Center
173 West Avenue A
Belle Glade, FL 334030

(REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY)

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Agreement on behalf of COUNTY, and COMPANY has hereunto set its hand the day and year above written.

WITNESS FOR PALM BEACH COUNTY:

Signature _____
Name (type or print) _____
Title _____

APPROVED AS TO TERMS AND CONDITIONS:
By: *[Signature]* _____
Director, Economic Development _____

WITNESS FOR COMPANY:

Signature _____
Name (type or print) _____
Title _____

**PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS:**

By: _____
Robert Weisman, County Administrator

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**
By: _____
Senior Assistant County Attorney

COMPANY:
Company Name _____

Signature _____
Name (type or print) _____
Title _____

COMPANY SEAL
(Seal must be identical to COMPANY name. If seal is unavailable, COMPANY must draw seal. If not applicable, write N/A.)

**EXHIBIT A
JOB CREATION REPORT**

DATE:

COMPANY: Glades Home Health Care Medical Center

LOAN CLOSING DATE:

LOAN AMOUNT: \$89,000

NUMBER OF NEW FTE JOBS TO BE CREATED: 14

START DATE: (Date of Closing)

EXPECTED COMPLETION DATE: Five (5) years after closing date

Hiring Date	Job Position	# Hours per year	Salary

Total New Jobs; _____

Certified by: (Name)

Title:

Signature:

FLORIDA DEPARTMENT OF STATE DIVISION OF CORPORATIONS



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Detail by Entity Name

Florida Limited Liability Company

GLADES HOME HEALTH CARE MEDICAL CENTER, LLC

Filing Information

Document Number L07000061782
FE/EIN Number N/A
Date Filed 06/11/2007
State FL
Status ACTIVE
Last Event LC AMENDMENT
Event Date Filed 10/22/2007
Event Effective Date NONE

Principal Address

173 W. AVE. A
BELLE GLADE FL 33430

Mailing Address

173 W. AVE. A
BELLE GLADE FL 33430

Registered Agent Name & Address

ROBERTS, DONIA A
1100 NORTH MAIN STREET SUITE C
BELLE GLADE FL 33430 US

Manager/Member Detail

Name & Address

Title MGRM
HASAN, YOLANDA
173 W. AVE. A
BELLE GLADE FL 33430

Annual Reports

Report Year Filed Date
2008 05/09/2008

Document Images

- | | |
|---|--|
| 05/09/2008 -- ANNUAL REPORT | View image in PDF format |
| 10/22/2007 -- LC Amendment | View image in PDF format |
| 06/11/2007 -- Florida Limited Liability | View image in PDF format |

Note: This is not official record. See documents if question or conflict.

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