Brownsville Independent School District

Agenda Category: General Function Contracts/MOU **Board of Education Meeting:** 08/04/26

Item Title: Interest-Free Bona Fide Loan from the District's Unassigned Fund Balance to Food and Nutrition Services Fund 101

X Action
Information
Discussion

BACKGROUND:

The Food and Nutrition Services Fund 101 is currently experiencing cash flow challenges resulting from operating deficits. To ensure the continued operations of the Food and Nutrition Services Program and to maintain uninterrupted meal services to students, Administration is recommending approval of an interest-free Bona Fide Loan utilizing a portion of the District's Unassigned Fund Balance, and following guidance provided by the Texas Department of Agriculture.

The transaction is intended solely as a temporary cash flow measure and does not constitute a permanent transfer of funds or ongoing subsidy of the Food and Nutrition Services Program. The Food and Nutrition Services Fund will repay the loan from future program revenues and federal reimbursements in accordance with an approved repayment schedule. The district has given the Food and Nutrition Services Fund a maximum of three (3) years for repayment.

FISCAL IMPLICATIONS:

Unassigned Fund Balance Transfer to Food and Nutrition Fund 101 - $5,000,000.00

RECOMMENDATION:

Recommend approval of the Interest Free Bona Fide Loan in the amount of $5,000,000.00 to be repaid over a three (3) year term beginning with Payment #1 - $1,667,000.00 on August 4, 2027, Payment #2 - $1,667,000.00 on August 4, 2028 and Payment #3 - $1,666,000.00 on August 4, 2029 (Final Installment). Indirect costs will not be charged during the loan period in order to maximize available resources.

Rosario Peña, RTSBA
Submitted by: Assistant Superintendent

Rosario Peña, RTSBA
Recommended by: Assistant Superintendent

Miguel Salinas
Reviewed by: Staff Attorney

Rosario Peña, RTSBA
Approved by: Assistant Superintendent

Approved for Submission to Board of Education:

Dr. Timothy E. Cuff, Superintendent

When Necessary, Additional Background May Follow This.

BACKGROUND: continued

As part of the district's corrective action plan to improve the financial sustainability of the Food and Nutrition Services Program, the District will not assess or collect indirect costs from the Food and Nutrition Services Fund until repayment of loan. This action will allow additional federal reimbursement revenues to remain within the Food and Nutrition Services Fund to support operations and facilitate repayment of the Bona Fide Loan.

Approval of the loan, together with the implementation of operational and financial recommendations provided by the Food and Nutrition Services Financial Consultant, will assist in maintaining uninterrupted meal services for students while supporting the long-term financial recovery of the program.

LOAN AND SECURITY AGREEMENT

THIS LOAN AGREEMENT, dated as of **August 4, 2026,** is made by and between Brownsville Independent School District ("**Lender**") and the Brownsville Independent School District Food and Nutrition Department ("**Borrower**").

This Agreement specifies the terms of a Term Loan and further specifies the terms by which all Obligations of Borrower to Lender are to be secured.

NOW, THEREFORE, in consideration of these premises and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I. Definitions.

Section 1.1. Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

"Advances" means all loans by Lender to Borrower under the Term Loan provided for/in of this Agreement.

"Agreement" means this Loan and Security Agreement, as the same may from time to time be amended, restated, amended and restated, supplemented or otherwise modified.

"Applicable Margin" means for each Interest Period applicable to Term Loan, a rate per annum equal to **ZERO** percent **(0 %)**.

"Borrower" means, collectively, the party identified on the first page hereof as Borrower.

"Collateral" means all of those present or future assets, real or personal, in which a security interest in or lien on is granted to Lender hereunder or contemplated hereby, or under any other present or future agreement by a Loan Party in favor of Lender or any Lender Affiliate to secure the Obligations.

"Governmental Authority" means any federal agency, any state or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory, or administrative functions of, or pertaining to government.

materials, goods, and work in process and finished goods, and all goods returned by or reclaimed from customers.

"Interest Period" means with respect to the Loan, the period commencing on the date such Payment commences and ending when the loan is paid.

"Lender" means the party defined as Lender at the beginning of this Agreement, its successors and assigns.

"Loan Documents" means this Agreement, or other documents executed and delivered by any Loan Party hereunder, and any amendments, renewals, modifications, or supplements thereto, or substitutions therefor from time to time.

"Loan Party" means the Borrower hereunder, its Subsidiaries, all sureties and guarantors, grantors of Collateral, and, if any debt due to Lender hereunder is evidenced by a note or other instrument, the makers and endorsers thereof.

"Payment Date" means (a) with respect Advances bearing interest at a fixed rate based on the Current Index or Prime Rate Loans, the first day of each month, and (b) **with respect to Loan, the payment date stated in Section 2.2.**

"Prime Rate" means the rate of interest established by Lender.

"Term" means the period from the date hereof through and including the Term Loan Maturity Date, and the date of payment and performance in full of all Obligations.

ARTICLE II.

Section 2.1.

(a) Lender hereby commits to provide to Borrower, a Line of Credit to be made available in such amounts as Lender may determine. Any sums loaned to Borrower shall be repaid subject to the terms and conditions hereof.

(b) Borrower shall, on each applicable Payment Date, pay **Lender the stated amount following per annum rate established by Lender and as agreed to by Borrower.**

Section 2.2. Term Loan.

(a) Subject to the terms and conditions of this Agreement and approximately simultaneously with the execution hereof, Lender shall loan to Borrower the sum of **Five Million Dollars ($5,000,000.00)** (the "***Term Loan***"). The principal balance of the Term Loan shall be repayable in <u>**Three (3) consecutive annual payments**</u> of principal in the amount of:

Payment #1 - $1,667,000.00 to be transferred on August 4, 2027

Payment #2 - $1,667,000.00 to be transferred on August 4, 2028

Payment #3 - $1,666,000.00 to be transferred on August 4, 2029 (Final Installment)

(b) **The loan shall be provided on an interest-free basis. No interest, finance charges, or other borrowing costs shall accrue or be payable on the outstanding principal balance during the term of this Agreement.**

(c) **The district will not assess or collect indirect costs from the Food and Nutrition Services Fund until repayment of loan**

ARTICLE III.

Section 3.1. Prepayment.

(a) The provisions of this Section shall apply to prepayments of the Advances under this Agreement. The Loan may be prepaid in whole or in part, at any time without premium or penalty.

(b) A prepayment is any voluntary or involuntary principal payment made prior to its regularly scheduled due date.

Section 3.2. Financial Records; Accountants. Borrower shall maintain its books and records with full, true and correct entries, in accordance with Standard Accounting Practices and applied on a consistent basis, and shall permit Lender to examine and audit its books and records at all reasonable times.

ARTICLE IV. Miscellaneous.

Section 4.1. The Loan is subject to approval from all funding sources both State and Federal.

Section 4.2. Modification or Amendment. This Agreement and every other Loan Document cannot be changed orally and cannot be modified, amended, supplemented or terminated without a written agreement duly signed by all parties hereto.

Section 4.3. Governing Law. This Agreement and all other Loan Documents (except as otherwise stated therein) and the rights of the parties hereto and thereto shall be governed by the internal laws of the State of Texas without regard to conflict of laws.

Section 4.4. Jurisdiction. Borrower hereby irrevocably consents to the jurisdiction of the courts of Cameron County, Texas.

Section 4.5. Successors or Assigns; Joint and Several Liability. This Agreement and all other Loan Documents shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors and assigns, provided, however, that Borrower shall not have any right to assign any of its rights hereunder or under any other Loan Documents.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective as of the date at the beginning of this Agreement.

Name of Lender

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Signature

By: Brownsville Independent School District

Title: Superintendent of Schools

Name of Borrower ____________________________

Signature

By: BISD Food and Nutrition Service

Title: FNS Director

other programs, any funds raised from these efforts must be credited to the SNP financial accounts in proportion to the SNP contribution.

Investments

Earnings on investments using SNP funds totally or in part for investment purposes must accrue to the SNP account and must be used for authorized program purposes.

Revenue from Any Meal Service That Incudes USDA Foods

All income that comes from any meal service in which USDA Foods were used must be deposited into the nonprofit school food service account and must be used for the operation or improvement of such service. These funds cannot be deposited into a separate account (i.e., catering or vending). Moreover, the CE cannot reimburse the nonprofit school food service account for the value of the USDA Foods in lieu of depositing all income that comes from these meals into the nonprofit school food service account.

End of Year Net Cash Resources (Fund Balance)

Any positive balance remaining in the SNP account at the end of the school year must be carried over to the next school year as the beginning balance in the SNP account. TDA requires, per authority designated by 2 CFR 200.332, that any negative balance in the SNP account at the end of the year must be cleared by funds from non-SNP sources. A CE cannot carry a negative fund balance (net cash resources) into the next school year. A negative fund balance exists when all net cash resources have been depleted, and the resulting negative balance constitutes a liability to the organization.

Excess Net Cash Resources (Excess Fund Balance)

Beginning in School Year 2024-2025, TDA will allow School Food Authorities (SFAs) to retain an amount of net cash resources[9] in their food service accounts not to exceed six months' average expenditures (expanded from a three-month threshold).

Excess Net Cash Resources Calculation Chart

Determine the CE's average monthly operating expenses by dividing the prior year's expenses by the number of months in operation in the prior year.

Prior Year's Expenses		Number Months in Operation Prior Year[10]		Average Monthly Operating Expenses
$900,000	÷	10	=	$90,000

Determine if the CE has an excess net cash resources by comparing the total net cash on hand (Amount A) to six month's average expenses (Amount B).

Amount A Current Operating Balance—Total Net Cash Resources on Hand	Average Monthly Operating Expenses				*Amount B* Six Month's Average Expenses
$200,000	$90,000	x	6	=	$540,000

If Amount A is larger than Amount B, the CE has excess net cash resources and needs to submit a plan for eliminating its excessive balance to TDA.

9 *Net cash resources* is the amount of funds the SNP account has available to spend, as the total revenue less total liabilities (expenditures). See the *Definitions* section for a more detailed definition. The Government Accounting Standards Board (GASB) describes this as spendable funds. Items such as inventories are not spendable, so are not included in the calculation for an excess net cash resources or for other USDA reports.

10 *Number Months in Operation Prior Year* includes any month when the CE was operating any meal program. This includes summer feeding programs.

have earned by keeping the SNP funds deposited in an interest-bearing account.

Loan Stipulations

The loan agreement must contain such stipulations as the purpose; interest rate (simple or compounded); the repayment schedule for the principal; and interest and any penalties for late payment.

Loan Records Retention

The original loan agreement, duly executed, and the payments for the principal and interest must be maintained and be on file for the duration of the loan plus the retention period as described in the *Records Retention* subsection in this section.

Loans from the CE Account to the SNP, Retroactively Determined as a Loan

CEs must not retroactively determine that funds transferred from the general fund to cover SNP deficits are a loan subject to repayment. For a liability to exist, a bona fide loan agreement between the CE and SNP must be in effect at the time that the funds are transferred. Records that demonstrate an existing agreement include a written agreement and financial records that document the contributions from the CE to SNP as well as from the SNP to the CE.

Financial Single Audit Requirement

Per federal law, all CEs that expend $1,000,000[56] or more in federal awards[57] during the CE's fiscal year must have a single (organization-wide) audit[58] or program specific audit for that year. To be eligible for a program specific audit, the CE must meet the requirements in the *Program Specific Audit* subsection in this section. All audits must be conducted in accordance with Generally Accepted Accounting Auditing Standards (GAAS).

Because the rules and regulations applying to audits are highly technical, and different auditing requirements apply by type of entity and amount of funds received, this subsection only provides an overview for the audit requirements for CEs administering NSLP or SBP. See *Information Box 1* in this section for additional information on federal resources on audits.

Records Reviewed in a Single Audit

At a minimum, auditors will review the following records:

General Accounting Documentation

- Records (receipts, ledgers, files) of food, milk, nonfood items and purchased equipment
- Bank statements
- Procurement documentation, including receipt of credits, discounts, and rebates as well as the value of USDA foods

  [NOTE: When procurement relates to a major program in an audit, the scope of the audit must include determining whether these transactions are compliant federal statutes, regulations, and the terms and conditions of the federal award.]

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56 2 CFR § 200.501, changed from $750,000 to $1,000,000 for all federal awards made October 1, 2024 and after.

57 In this case, *Federal Award* means federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal agencies or indirectly from pass-through entities. TDA is a pass-through entity for the SNP (2 CFR Part 200).

58 A financial audit is not considered to be the same as a single (organization-wide) audit.