



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

<b>Department Name:</b>	Community Services & Behavioral Wellness
<b>Department No.:</b>	55 & 43
<b>For Agenda Of:</b>	12/17/19
<b>Placement:</b>	Administrative
<b>Estimated Time:</b>	N/A
<b>Continued Item:</b>	No
<b>If Yes, date from:</b>	
<b>Vote Required:</b>	Majority

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**TO:** Board of Supervisors

**FROM:** Department George Chapjian, Community Services Director (805) 568-248  
Director(s) Dr. Alice Gleghorn, Behavioral Wellness Director (805) 681-4tzrf  
Contact Info: Dinah Lockhart, Deputy Director (805) 568-3523  
Laurie Baker, Grants and Program Manager (805) 568-3521

**SUBJECT:** Execution of State Homeless Emergency Aid Program (HEAP) Loan Documents for \$1,350,000, Approval for the County of Santa Barbara to Join the Housing Authority to Submit State No Place Like Home (NPLH) Non-Competitive Application, and Approval of Behavioral Wellness Services Agreement and MOU for the West Cox Apartments Project as required by NPLH (Supervisorial District 5)

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

A. Approve and authorize the Chair of the Board of Supervisors to execute an original and duplicate originals of the following documents, which relate to a 15-year 0% forgivable loan of One Million Three Hundred and Fifty Thousand Dollars (\$1,350,000) of Homeless Emergency Aid Program (HEAP) funds from the County to the Housing Authority of the County of Santa Barbara (Housing Authority) for the West Cox Apartments project at 1141 West Cox Lane, Santa Maria, APN 117-451-015 (Project):

1. County HEAP Loan Agreement (Attachment A);
2. County HEAP Loan Promissory Note (Attachment B);
3. County Deed of Trust, Assignment of Rents, and Security Agreement (Attachment C); and
4. County Regulatory Agreement (Attachment D) (together, the HEAP Loan Documents).

B. Adopt a Resolution (Attachment E) that:

1. Authorizes and directs the County to submit a joint application with the Housing Authority as developer-borrower to the California Department of Housing and Community Development for No Place Like Home (NPLH) non-competitive loan funds; and
2. Authorizes and directs the Director of the Department of Behavioral Wellness to execute a "Standard Agreement" for an allocation of "Round 2" non-competitive NPLH funds.

C. Authorize the Director of the Department of Behavioral Wellness to execute a "Standard Agreement" between the County and the State in a form substantially similar to the attached "Round 1 Standard Agreement" (Attachment H) and subject to the review of and concurrence by County Counsel, Risk Management and Auditor-Controller;

D. Approve and authorize the Director of Department of Behavioral Wellness, on behalf of the County, to execute the Supportive Services Agreement with the Housing Authority to provide supportive services to NPLH tenants while they reside at the Project as required by NPLH (Attachment F) for twenty (20) years;

E. Approve and authorize the Director of Department of Behavioral Wellness, on behalf of the County, to execute a Memorandum of Understanding with the Housing Authority which identifies the roles and responsibilities of the County, the project owner, and the property manager, and commits the County to provide supportive services for a period of twenty (20) years to NPLH tenants while they reside at the Project (Attachment G); and

F. Consider the environmental effects of the project as shown in the Mitigated Negative Declaration adopted by the City of Santa Maria for the Project on March 20, 2019 (Attachment J) and find that pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162, no substantial changes are proposed, and there are no substantial changes in circumstances or new information of substantial importance regarding significant impacts or feasibility of mitigation measures and alternatives, and therefore approval of the Recommended Actions are within the scope of the Mitigated Negative Declaration adopted by the City of Santa Maria for the Project on March 20, 2019.

**Summary Text:**

The Project consists of developing 30 rental units (29 units with one manager's unit) in the City of Santa Maria for homeless persons and homeless persons with a diagnosis of a serious mental illness.

**HEAP funding:** On June 4, 2019, the Board of Supervisors approved a conditional allocation of \$1,350,000 of County-administered HEAP funds to the Housing Authority for the West Cox Apartments Project, subject to the Housing Authority securing full funding for the Project and final Board approval of related loan documents. On September 25, 2019, the Housing Authority secured final funding for the Project in the form of 9% competitive Low Income Housing Tax Credits. Staff is now requesting that the Board of Supervisors approve and authorize the Chair to execute the County HEAP Loan Documents, totaling \$1,350,000 of State HEAP funds for the Project. The attached Loan Documents are in the form of a \$1,350,000 forgivable loan from the County to the Housing Authority for development of the Project. All HEAP funds must be expended by June 30, 2021.

**NPLH funding:** At that same June 4<sup>th</sup> meeting, the Board of Supervisors approved a conditional allocation of \$1,500,000 of State of California NPLH non-competitive funds to the Housing Authority for the Project, subject to the Housing Authority securing full funding for the Project and Board approval of a joint application to the State for funding. This Board Letter recommends adopting a resolution approving the County to be co-applicant with the Housing Authority as developer for NPLH funding to finance the Project (Attachment E). A draft NPLH non-competitive application for the Project is included herewith (Attachment I). Program regulations require the County to execute a Standard Agreement with the State if funds are awarded and to commit to providing supportive services to Project tenants for at least twenty (20) years. The County Department of Behavioral Wellness (Be Well) agreement to provide services to NPLH tenants of the Project, as required by the NPLH program, is attached to this Board Letter for approval (Attachment F). Through this agreement, Be Well would agree to provide Supportive Services to NPLH tenants at West Cox for an initial period of twenty (20) years. Service will be comprehensive, including case management, peer support, care coordination, and living skills. Finally, the County Department of Behavioral Wellness Memorandum of Understanding with the Housing Authority to provide supportive services for NPLH tenants of the Project as required by the NPLH program, is attached to this Board Letter for approval (Attachment G).

The Housing Authority will leverage the combination of the \$1.35 million from HEAP with \$1.5 million from NPLH and tax credit funding to build the 30-unit Project.

**Background:**

On October 12, 2018, the County Community Services Department, Division of Housing and Community Development (HCD), published a Notice of Funding Availability (NOFA) to solicit applications for grants and loans for affordable housing development and other capital projects, and for a variety of human services and homeless programs.

For FY 2019-2020, new State funding streams were incorporated into the County's annual NOFA process. The recommended actions would allocate funding under two State of California programs: HEAP and NPLH non-competitive funds available for the County to award to non-profit agencies and housing providers.

**HEAP:** Senate Bill 850 established the HEAP program, which makes flexible block grants available to local jurisdictions to address immediate homelessness challenges, including but not limited to, prevention, criminal justice diversion programs to homeless individuals with mental health needs, and emergency aid. The 2018 California State budget provided significant funding to address homelessness, including \$500 million in HEAP Block Grants. The State allocated \$9,385,185 to the local Continuum of Care, of which \$8,915,926 was made available through a NOFA. A significant consideration identified by the Continuum of Care for allocating HEAP funding is prioritizing projects for the creation of new units and beds.

This Board Letter recommends the approval of \$1,350,000 in HEAP funds to the Housing Authority to develop West Cox Apartments. The Board conditionally allocated these funds to the project on June 4, 2019. All conditions of the Board's allocation have now been met, namely the Housing Authority's award by the California Tax Credit Allocation Committee of 9% competitive Low Income Housing Tax Credits.

**NPLH:** The No Place Like Home program changed how funding under the Mental Health Services Act (MHSA) is administered. On July 1, 2016, Governor Brown signed legislation enacting NPLH to dedicate

up to \$2 billion in bond proceeds to invest in the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or who are at risk of chronic homelessness. The bonds are repaid with MHSA funds. The State is allocating funds to counties on a competitive and non-competitive basis. Approximately \$2.5 million in non-competitive funds are being allocated to the County to be awarded to qualifying projects. Funding can be used for acquisition, construction, or rehabilitation of housing, and to subsidize extremely low rent levels over 20 years. While NPLH funds are overseen by Be Well, due to the combination of capital and service-based requirements, Be Well has partnered with HCD on the vetting and approval process of projects seeking NPLH non-competitive funds.

In order to access the non-competitive allocation of \$2.5 million, the County submitted a "Noncompetitive Allocation Acceptance Form," an authorizing resolution, and related documents to the State on April 28, 2019. The County must now submit the application for the Project by February 15, 2021. However, the Housing Authority requests that the County approve submission of the application now to meet its obligation of commencing construction within 6-months of receiving State tax credit financing. The remaining \$1 million of non-competitive NPLH funds accepted by the County are included in County HCD's 2020-2021 NOFA to be available to other development projects. Applications for non-competitive allocation disbursements can be submitted directly to the State by the County or jointly by the County (through Be Well) and developers. One of the recommended actions in this Board Letter is to approve a resolution authorizing Be Well, on behalf of the County, to jointly apply with the Housing Authority for a non-competitive allocation of NPLH funds for the Project. Although the County will be a party to the Standard Agreement, the NPLH funds would be loaned directly to the Housing Authority. The State may require that its Deed of Trust occupy a lien position superior to the County's HEAP loan Deed of Trust, in which case staff would return to the Board for approval of a subordination agreement.

This Board Letter is also recommending that the Board approve both a Supportive Services Agreement and a Memorandum of Understanding enabling Be Well to provide Supportive Services for NPLH tenants for a minimum of twenty (20) years. The Project will include thirteen (13) newly constructed housing units set-aside for NPLH eligible persons with serious mental illness who are chronically homeless, homeless, or at-risk of being chronically homeless ("NPLH tenants.") In order to be awarded non-competitive funds, all applicants must identify a Lead Service Provider (Be Well) and create a Supportive Services Agreement outlining the supportive services to be provided, and a MOU outlining the roles and responsibilities of the County, the project owner, and the property manager to provide those services for twenty (20) years.

### **The West Cox Apartments**

The Project will be located at 1141 West Cox Lane in the City of Santa Maria, consisting of 30 1-bedroom rental units. One of the units will be a manager's unit without income or rent restrictions. All other units will be restricted to household incomes that are at or below 60% of the area median income (AMI). The buildings will be one story. On and off site parking is available. The development includes a community building for resident supportive services consisting of a community meeting room, computer lab, and clinic. Landscaped areas are also provided for tenants' recreation.

The Housing Authority requested \$2,850,000 in its application to HCD for funds, \$1,350,000 of HEAP funds and \$1,500,000 NPLH non-competitive funds. The Housing Authority's application for the Project was reviewed by HCD staff and forwarded to external committees for review and funding

recommendations. The Santa Maria/Santa Barbara County Continuum of Care (CoC) met on November 29, 2018 to review the Project and recommended funding. The Project was thereafter reviewed by the County's Capital Loan Committee (CLC) on May 14, 2019. The CLC recommended County funding for the Project based upon a review of the construction budget, funding sources, and projected 20-year operating proforma. On June 4, 2019 the Board of Supervisors conditionally allocated \$1,350,000 in HEAP funds to the Housing Authority for the Project.

The HEAP loan will have a term of fifteen (15) years, will not bear interest and will be forgivable at the end of the term if the borrower remains in compliance with the requirements of the loan documents. The HEAP loan will be evidenced by a Loan Agreement (Attachment A), a Promissory Note (Attachment B) and secured by a Deed of Trust recorded against the property (Attachment C). A Regulatory Agreement (Attachment D) that secures performance of the income and rent restrictions will also be recorded. After the County makes the loan to the Housing Authority and records these documents, the Housing Authority will transfer the property to West Cox Cottages, L.P, a limited partnership established by the Housing Authority (its general partner) to facilitate tax credit financing (the "Limited Partnership"). The Limited Partnership will take title subject to the County's Deed of Trust and Regulatory Agreement but will not assume the HEAP loan. Instead, the Housing Authority will remain obligated on the County's loan and will make an unsecured collateral (or "wraparound") loan in the same amount to the Limited Partnership. After the Housing Authority executes and records the various County HEAP Loan Documents and the Housing Authority transfers the property to the Limited Partnership, the Limited Partnership will obtain construction and permanent financing leveraging tax credits. The County HEAP Loan Agreement (Attachment A) includes a provision wherein the County commits to subordinating its HEAP Deed of Trust (but not the HEAP Regulatory Agreement) to construction financing of up to \$6 million, which will convert to permanent financing. Any Subordination Agreement will be brought back to the Board at a later date for approval.

**Performance Measure:**

Pursuant to that certain December 2018 Agreement between the State and County, and related HEAP NOFA, the County is responsible for monitoring HEAP projects to ensure that all HEAP funds are expended by June 30, 2021. The State will recapture HEAP funds which are not spent on eligible costs incurred by June 30, 2021. The County is also responsible for documenting the number of individuals experiencing homelessness or at imminent risk of homelessness served by the program funds. In order to be in compliance with the State as the Lead Service Provider of Supportive Services, Be Well will monitor the provisions of services to NPLH tenants as outlined in its Supportive Services Agreement with the Housing Authority (Attachment F). Be Well will submit an independent audit for West Cox, prepared by a certified public accountant and in accordance with the requirements of the State's current audit requirements. Also, on an annual basis, Be Well shall submit data for each NPLH assisted unit. This data may be, but is not required to be, gathered from the Santa Barbara County Homeless Management Information System. Increased service capacity, decreased unsheltered homeless persons and any increase in the number of homeless persons entering permanent housing attributable to the West Cox Apartments Project would be incorporated into this annual report.

**Fiscal and Facilities Impacts:**

Budgeted: Yes

**Fiscal Analysis:**

<u>Funding Source</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			\$ 1,350,000.00
Federal			
Fees			
Other: In-Lieu			
<b>Total</b>	\$	\$	\$ 1,350,000.00

The \$1,350,000 State HEAP funds this Board Letter recommends for distribution by the HEAP Loan Documents for the Project are currently available for distribution.

The \$1,500,000 NPLH funds will be loaned by the State directly to the Housing Authority for the Project upon receipt and approval of the joint-application from the Housing Authority and Be Well and execution of the NPLH Standard Agreement.

The Support Service Agreement (Attachment F) recommended for approval in this Board Letter will be funded by ongoing MHSA revenues.

**Key Contract Risks:**

The County assumes responsibility for the administration of HEAP in accordance with all State requirements governing their use. In addition, the County would be liable as a pass-through entity for repayment to the State if it or any provider to which it sub-grants funds is found to be non-compliant with applicable requirements. The HEAP Loan Documents provide for payment on a cost-reimbursement basis. This allows CSD/HCD to disburse state funds to the HEAP Program Sub-recipient for eligible incurred costs to the extent prescribed by the Agreement. The County will only reimburse HEAP Program Sub-recipients for costs that are eligible under the Loan Documents and documented in a manner that is acceptable to HCD. HCD staff will assess the performance of HEAP Sub-recipients to determine if the services provided are adequate and as outline in the Agreement. The County Regulatory Agreement (Attachment D) requires the County monitor the Property's compliance for fifteen (15) years. Compliance with the loan terms and the Regulatory Agreement will be secured by a Deed of Trust recorded against the property. As discussed above, staff anticipates returning to the Board for approval of a subordination agreement to subordinate the HEAP Loan Deed of Trust, but not the HEAP Regulatory Agreement, to a to be determined private lender's construction loan.

The State, Be Well, and Housing Authority will enter into the NPLH Standard Agreement if NPLH funds are awarded. The State provided a Standard Agreement template based on the first round of NPLH funding (Attachment H); the Standard Agreement for this "Round 2" NPLH funding is subject to revision. Based on the "Round 1" template, the County would be jointly and severally liable for the obligations of the Housing Authority and the Limited Partnership, including any costs and expenses needed to complete the Project. Concurrence from County Counsel, Risk Management and the Auditor Controller is required before the BeWell Director executes the Standard Agreement. The Standard Agreement must be executed within 72 months from the date of the State's funding award letter, at which time the Project status will inform the risk of the County incurring any costs to complete the Project prior to execution.

The NPLH allocation shall be awarded to West Cox as a post-construction, pennant loan underwritten and held by the State as lender. This loan shall have an initial term of 55 years, or longer if necessary to match the period of affordability restrictions under the tax credit program.

**Staffing Impacts:**

The current requested activity falls within currently budgeted staff duties.

**Special Instructions:**

- 1) Please return two sets of the executed original documents (except that there is only 1 original Promissory Note and HCD will accept a copy) and a copy of the Minute Order to Ted Teyber. Please email or call when ready for pick up: [teyber@co.santa-barbara.ca.us](mailto:teyber@co.santa-barbara.ca.us) Ext. 3513.
- 2) Please retain one set of the executed original documents (including the Promissory Note) listed below for COB records.

**Attachments:**

- A. County HEAP Loan Agreement
- B. County HEAP Loan Promissory Note
- C. County Deed of Trust, Assignment of Rents, and Security Agreement
- D. County Regulatory Agreement
- E. Resolution Authorizing Be Well to be NPLH Co-Applicant
- F. Supportive Services Agreement
- G. Memorandum of Understanding
- H. NPLH Round 1 Standard Agreement Template
- I. NPLH Non-Competitive Application
- J. Mitigated Negative Declaration