



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

Department Name: Community Services
Department No.: 55
For Agenda Of: 3/17/20
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department George Chapjian, Community Services Director (805) 568-2485
Director(s)
Contact Info: Dinah Lockhart, Deputy Director (805) 568-3523
Laurie Baker, Grants and Program Manager (805) 568-3521
SUBJECT: Loan Subordination Agreements for West Cox Apartments affordable housing project (Project) in Santa Maria (Supervisorial District 5)

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 a Subordination Agreement (Attachment A) that subordinates the County's HEAP Loan Promissory Note and HEAP Loan Deed of Trust, Assignment of Rents, and Security Agreement to a Pacific Western Bank loan of up to \$7,450,000; and
- B. Determine that the recommended actions are not the acceptance and approval of a project that is subject to environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(4), finding that the project is a creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

Summary Text:

On December 17, 2019 the Board of Supervisors (Board) approved and executed a County HEAP Loan Agreement, County HEAP Loan Promissory Note, County HEAP Loan Deed of Trust, and County HEAP Loan Regulatory Agreement (together the “HEAP loan documents”), which provided \$1,350,000 in Homeless Emergency Aid Program (HEAP) funds to the Housing Authority of the County of Santa Barbara (Housing Authority) for development of the West Cox Apartments project at 1141 West Cox Lane, Santa Maria, CA. 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.

The December 17, 2019 Board Letter (Attachment B) recommending execution of the HEAP loan documents indicated that Staff would return to the Board at a later date to subordinate the County’s HEAP Loan Deed of Trust. The recommended actions would now authorize this Subordination Agreement, which will subordinate the County’s Deed of Trust to Pacific Western Bank’s loan in an amount up to \$7,450,000. This Subordination Agreement will not subordinate the HEAP Loan Regulatory Agreement to the Bank’s loan.

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. For FY 2019-2020, new State funding streams were incorporated into the County’s annual NOFA process. 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 Santa Barbara County 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.

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 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 HEAP loan has a term of fifteen (15) years, bears no 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 is evidenced by a Loan Agreement, a Promissory Note and secured by a Deed of Trust recorded against the Property. A Regulatory Agreement that secures performance of the income and rent restrictions also was recorded. 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 additional bank financing to leverage tax credits. The County HEAP Loan Agreement includes a provision wherein the County committed to subordinating its HEAP Deed of Trust (but not the HEAP Regulatory Agreement) to bank financing of up to \$6,000,000. As contemplated in the December 17, 2019 Board Letter, staff is now recommending Subordination of the HEAP Deed of Trust to Pacific Western Bank's loan for the Project, in an amount of \$7,450,000. The Bank loan increased to \$7,450,000 for construction, which will be paid down with the \$1.5 million dollars in State No Place Like Home funds at the time the construction loan converts to a permanent loan. Construction for the project is expected to commence in April 2020, with completion anticipated in 2021.

Performance Measure:

HEAP funds were provided toward the development of the Project on December 17, 2019. 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.

Fiscal and Facilities Impacts:

Not Applicable

Fiscal Analysis:

Not Applicable

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 outlined in the Agreement. The County Regulatory Agreement 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.

The County's Deed of Trust will be subordinate to Pacific Western Bank's loan in an amount up to \$7,450,000, which will convert to a permanent loan. In the event of foreclosure by a senior lender and sale of the Property, the senior loan will be repaid prior to the County's HEAP loan. If there are sufficient funds after payment of senior liens, then the County's loan will be paid. The County's HEAP Loan Deed of Trust, but not the HEAP Regulatory Agreement, would be extinguished in a foreclosure of the Bank's

loan. Pacific Western Bank is requiring subordination as a condition to providing their loan, which is critical to the feasibility of the Project.

HCD has evaluated the risks associated with the subordination of the County loan and determined that such risks are reasonable and within industry standards and that there are safeguards in place to prevent or mitigate risks.

Staffing Impacts:

The current requested activity falls within currently budgeted staff duties.

Special Instructions:

- 1) Please return two sets of the executed original Subordination Agreements (Attachment A) 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; Ext. 3513).
- 2) Please retain one set of the executed original Subordination Agreement for COB records.

This is a time-sensitive item with a scheduled closing date with Pacific Western Bank. Please expedite the execution and delivery of the Subordination Agreements. Please call with questions or if additional information is needed.

Attachments:

- A. Subordination Agreement
- B. 12/17/19 Board Letter