



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.: 057
For Agenda Of: October 18, 2022
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors

FROM: Department George Chapjian, (805) 568-2467
Director(s)
Contact Info: Dinah Lockhart, Deputy Director, (805) 568-3523
Laurie Baker, Grants Programs Manager, (805) 568-3521

SUBJECT: Execution of Subordination Agreements to subordinate County Homeless Emergency Assistance Program (HEAP) loan and Santa Barbara County In-Lieu Fee loan to a loan provided by the State No Place Like Home program for West Cox Cottages Development (City of Santa Maria, 5th Supervisorial District)

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- A) Approve and authorize the Chair of the Board to execute two (2) Subordination Agreements related to County loans to the Housing Authority of Santa Barbara County and to West Cox Cottages, L.P., for the West Cox Apartments development: a \$1,350,000 Homeless Emergency Assistance Program (HEAP) Loan (Attachment A); and, a \$450,000 In-Lieu Fee Loan (Attachment B) by which the County HEAP and In-Lieu Fee Loans will be in junior positions to the State of California No Place Like Home (NPLH) Senior Loan in the amount of \$1,500,000; and,
- B) Determine that the above-recommended actions are not the 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 above-recommended actions are the 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:

HCD staff is requesting that the Board approve and authorize the Chair of the Board to execute two (2) Subordination Agreements related to County funding for development of the West Cox Cottages housing development. The development provides thirty (30) housing units for formerly homeless persons, along with supportive services and Section 8 rental assistance.

As the West Cox Cottages property has achieved stabilized occupancy, and financing is now moving to a permanent loan structure, the State of California Housing and Community Development Department (“State HCD”) is requesting that the County loans be in subordinate, junior positions to the State’s senior No Place Like Home program loan (NPLH) to West Cox Cottages, L.P. Board action approving and authorizing the execution of the HEAP and In-Lieu Fee Subordination Agreements actualizes this. The respective County Deeds of Trust, Regulatory Agreements, and Promissory Notes pursuant to the HEAP and In-Lieu fee loans remain in full effect, and loan security and affordability continue pursuant to the respective requirements of each.

The State of California requires that they be the last to sign the subordination agreements. Once fully executed, County HCD will return fully executed documents to County COB for their files.

Background:

On December 17, 2019, the Board of Supervisors (Board) approved and executed a County Homeless Emergency Aid Program (HEAP) Loan Agreement, Promissory Note, Deed of Trust, and Regulatory Agreement (together the “HEAP Loan Documents”), which provided \$1,350,000 in State of California HEAP funds to the Housing Authority of the County of Santa Barbara for development of the West Cox Cottages project at 1141 West Cox Lane, in Santa Maria, (the “Project”). For additional detail and reference, the Board Letter and Minute Order for this item are respectively included as Attachments C and D to this Board Letter. On April 30, 2020, the Housing Authority transferred the property to West Cox Cottages, L.P., a limited partnership established by the Housing Authority, to facilitate tax credit financing.

Subsequent to this, on April 21, 2020, the Board also approved an Amended and Restated Regulatory Agreement for the Project. The bases for this Amendment were twofold: 1) to remove a preference for seniors articulated in the initial Regulatory Agreement to address concerns expressed by investors; and, 2) to increase the Project Area Median Income (AMI) levels to address the potential that Section 8 Rental Assistance might conceivably at some future point-in-time no longer be made available to the Project.

Subsequent to these prior Board actions, most recently on September 21, 2021, the Board also authorized an In-Lieu Fee Loan in the amount of \$450,000 for the Project. This additional funding came at the request of West Cox Cottages, L.P. as the development of the Project experienced higher than initially estimated site preparation costs, resulting from the fact that the housing was in form of Craftsman-like, modular constructed units placed on building pads and was a first development of this nature in the Housing Authority’s portfolio of projects. For additional detail and reference, the Board Letter and Minute Order related to this item are respectively included as Attachments E and F to this Board Letter.

At the time of the September 21, 2021 Board meeting, the Project had been completed and the Housing Authority was in process of lease-up of the units. Since that time the units have been fully leased-up, the Project has achieved stabilized occupancy, the operations budget has been reviewed, and the Project is now preparing to convert to permanent financing. To this end, State HCD is requesting that the County HEAP and In-Lieu Fee loans be in junior, subordinate position to the State’s senior NPLH loan. Today’s Board Action will facilitate and enable this request in accordance with NPLH loan closing conditions.

Performance Measure: The Project was added to County HCD’s portfolio of properties and as such is subject to financial, regulatory, and housing standards monitoring and review for the respective periods of affordability. For each loan, this is a minimum of fifteen (15) years. However, as the Project is also funded with State of California Tax Credit Allocation Committee (TCAC) Low-Income Housing Tax Credits, affordability is required for a minimum of fifty-five (55) years.

Contract Renewals and Performance Outcomes:

The County assumes responsibility for the administration of HEAP and In Lieu funds in accordance with all State and local requirements governing their use. The Project Regulatory Agreements require the County monitor the Project’s compliance for fifteen (15) years. If at any point during the 15-year term the Project does not comply with the requirements of the Loan Agreements or Regulatory Agreements, the County may accelerate repayment of its loans. If the Project remains in compliance with the terms of the Loan Documents, the County loans will be forgiven after 15 years.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

<u>Funding Sources</u>	<u>Current FY Cost:</u>	<u>Annualized On-going Cost:</u>	<u>Total One-Time Project Cost</u>
General Fund			
State			
Federal			
Fees			
Other:			
Total	\$ -	\$ -	\$ -

Narrative: Not applicable; no new funding involved.

Key Contract Risks:

As the Project has been fully-constructed, is fully-occupied, and is moving towards permanent financing, significant Project risks have since been mitigated to a great extent. However, in the event of any potential future risk events, the County ensures that all required insurance provisions and requirements attendant to the Project are current and in full effect, thus mitigating County risk exposure. Section(s) 8 of the Subordination Agreements contain provisions related to payment of attorney’s fees to a prevailing party in the event of a litigated dispute or enforcement of the Subordination Agreement.

Staffing Impacts:

None: The current requested activity falls within currently budgeted staff duties.

Special Instructions:

- 1) Please return one copy with original signatures of Attachment A – HEAP Loan Subordination Agreement to Carlos Jimenez. Please email or call when ready for pick up: cjimenez@countyofsb.org, Ext. 83529. One original may be retained in COB records.
- 2) Please return one copy with original signatures of Attachment B – In-Lieu Fee Loan Subordination Agreement to Carlos Jimenez. Please email or call when ready for pick up: cjimenez@countyofsb.org, Ext. 83529. One original may be retained in COB records.
- 3) The State of California requires that they be the last to sign the subordination agreements. Once fully executed, County HCD will return fully executed documents to County COB for their files.
- 4) Please provide a copy of the minute order to cjimenez@countyofsb.org.

Attachments:

- A. HEAP Loan Subordination Agreement
- B. In-Lieu Fee Loan Subordination Agreement
- C. December 17, 2019 Board Letter: HEAP Loan
- D. December 17, 2019 HEAP Loan Board Meeting minutes
- E. September 21, 2021 Board Letter: In-Lieu Fee Loan
- F. September 21-2021 In-Lieu Fee Loan Board Meeting Minutes

Authored by:

Carlos Jimenez, Housing Program Specialist

cc: