



BOARD OF SUPERVISORS **Agenda Number:**
AGENDA LETTER

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

Department Name: Behavioral Wellness
Department No.: 043
For Agenda Of: August 28, 2018
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Alice Gleghorn, Ph.D., Director
Director(s) Department of Behavioral Wellness 681-5220
Contact Info: Lindsay Walter, J.D., Deputy Administration and Operations
681-5220
SUBJECT: Behavioral Wellness – \$2,410,379.91 MHSA Housing Program Loan to The Residences at Depot Street, L.P., for The Residences at Depot Street in Santa Maria (Supervisory District 5)

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 a 55-year loan of unencumbered Mental Health Service Act Plan (MHSA) Housing Program funds in the amount of **\$2,410,379.91** to **The Residences at Depot Street, L.P.** (a California Domestic Limited Partnership) for development of an eighty (80) unit affordable rental housing project at 201 & 205 North Depot Street in the City of Santa Maria with thirty-five (35) units dedicated for a term of thirty-five (35) years for qualified MHSA tenants (MHSA Loan) and authorize the Chair of the Board of Supervisors and the Director of Behavioral Wellness to execute an original and duplicate originals of the following documents:
1. MHSA Depot Loan Agreement (Attachment A);
 2. MHSA Depot Deed of Trust (Attachment B);
 3. MHSA Depot Promissory Note (Attachment C); and
 4. MHSA Depot Regulatory Agreement (Attachment D) (together, the MHSA Loan Documents);

- B. Approve and authorize the Chair of the Board and the Director of Behavioral Wellness to execute a **MHSA Depot Subordination Agreement** in a form substantially similar to Attachment F, subordinating the County's MHSA Loan Documents to construction and permanent loans being provided to the project by Wells Fargo Bank, in an amount not to exceed \$22,500,000;
- C. Approve and authorize the Director of Behavioral Wellness to execute the amended and restated **MHSA Memorandum of Understanding** (Attachment G) and the **MHSA Supportive Services Agreement** (Attachment H) with the Residences at Depot Street L.P. and the Housing Authority of the County of Santa Barbara, regarding case management services provided to MHSA clients residing in the 35 designated MHSA units at the Residences at Depot Street Project throughout the term of the loan;
- D. Find that the **MHSA loan** to support development of the Residences at Depot Street Project will be in the public interest by providing affordable housing options for MHSA-eligible clients; and
- E. 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 December 19, 2016 (Attachment I) 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 December 19, 2016.

Summary Text:

On November 8, 2016 the Board of Supervisors (Board) approved and authorized County Behavioral Wellness to request the release of MHSA unencumbered housing funds for local use from the California Department of Health Care Services (DHCS), pursuant to Information Notice No. 16-025 dated June 9, 2016. This approval allowed Behavioral Wellness to request that approximately \$2,380,938 of the County's remaining MHSA Housing Program funding to be released directly to the County prior to the November 30, 2016 deadline. The MHSA loan amount of \$2,410,379.91 reflects the current County MHSA housing Program Fund balance available to date for this project, including accrued interest since disbursement to Behavioral Wellness in November 2016. MHSA Housing Program funds can only be used for "housing assistance" as defined by Welfare & Institutions Code section 5892.5, including "capital funding to build or rehabilitate housing for homeless, mentally ill persons or mentally ill persons who are at risk of becoming homeless."

This item is now on the agenda to request the approval of the Board to make a fifty-five year (55) loan of the MHSA Housing Program funds to the Residences at Depot Street L.P, to develop the Residences at Depot Street, an eighty (80) unit affordable rental housing project, in exchange for thirty-five (35) MHSA housing units set aside for use by County MHSA clients. The project will be developed by the Housing Authority of the County of Santa Barbara (HACSB) and owned by The Residences at Depot Street, L.P., of which HACSB will be the general partner. The management of MHSA units and coordination with Behavioral Wellness for onsite supportive services are addressed in the Memorandum of Understanding and Supportive Services Agreement documents, to be signed between the parties upon Board of Supervisors approval.

Note that Exhibit A (Legal Description) to the documents listed under Recommendation A will be replaced with an updated legal description after County Assessors' recordation of the parcel map. The revised legal description will not differ substantially from the legal description now attached. The revised legal description will fully encompass the property to be developed and will adequately secure the County's loan. The revised legal description will be in place prior to closing of the County loan.

Note also that the Wells Fargo subordination agreement, as described in Recommendation B, is not signed by Wells Fargo. Also, Wells Fargo has delayed finalizing certain details in the subordination agreement that relate to the senior loans. These details will not impact the County's subordination; the County loan will be subordinated to a senior loan from Wells Fargo of no more than \$22,500,000.

Background:

The Department of Behavioral Wellness provides specialty mental health services to Medi-Cal beneficiaries with specialty mental health needs, and to the extent resources allow, uninsured children with Serious Emotional Disturbance (SED) and adults with Serious Mental Illness (SMI). The Mental Health Services Act (MHSA), passed by California voters in 2004, levied a 1% tax on annual incomes over \$1.0 million to increase funding for mental health services.

MHSA funding components are divided into five categories: Community Services and Supports (CSS), Prevention and Early Intervention (PEI) Workforce Education and Training (WET), Innovation (INN), and Capital Facilities and Technological Needs (CF/TN). Additionally, MHSA housing funds were also allocated to each county under CSS. Santa Barbara originally received \$4,577,900 in one-time MHSA housing funds. The funds were used in prior years, in collaboration with the Housing Authority of the County of Santa Barbara (HACSB), for two projects that included Garden Street and Rancho Hermosa housing units.

In 2016, Behavioral Wellness was informed by DHCS of changes to the MHSA Housing Program. Previously, DHCS and the California Housing Finance Agency (CalHFA) jointly administered the MHSA Housing Program through an interagency agreement that expired on May 30, 2016. Because the MHSA Housing Program expired, CalHFA released, upon request by November 30, 2016, any remaining unencumbered MHSA funds to counties. Behavioral Wellness requested and received the remaining unencumbered funds from DHCS in the amount of \$2,380,938 on March 2, 2017. However, the current total on the MHSA funds balance and loan amount is \$2,410,379.91 which includes accrued interest.

Counties must spend released MHSA funds to provide "housing assistance" to the target population identified in W&I Section Code 5600.3 and in accordance with W&I Code Section 5892.5. "Housing assistance" is defined by statute, to include: rental assistance or capitalized operating subsidies; security deposits, utility deposits, or other move-in cost assistance; utility payments; moving cost assistance; or capital funding to build or rehabilitate housing for homeless, mentally ill persons or mentally ill persons who are at risk of being homeless. (W&I Code Section 5892.5(a)(2).) MHSA funds not spent within three years of disbursement (by November 2019) are subject to reversion to the state.

Over the past several years, Behavioral Wellness has worked closely with the HACSB to explore ways to utilize the MHSA housing funds in a way that would assist HACSB to leverage additional funding to support the development of a greatly needed construction of a proposed affordable rental housing development, known as the Residences at Depot Street, in the City of Santa Maria. HACSB would be the project sponsor and developer. The project is consistent with the Behavioral Wellness three- (3) year MHSA plan and will provide new permanent housing for the MHSA target population, who are currently clients seen by Behavioral Wellness in our treatment programs. Originally, Behavioral Wellness posted the project for public comment in February 2016 with the intent that CalHFA would be the funding

administrator. However, since CalHFA's interagency agreement expired, Behavioral Wellness opted to request the release of funds directly to the County to take advantage of the onetime 5% administrative savings rather than having CalHFA administer the funds and the loan with the County paying a 5% administrative fee. The estimated cost for the HACSB's project is \$37,064,455, with other funding provided from Wells Fargo, a County HOME loan (presented separately for the Board of Supervisors' consideration by County Community Services Department), and two Housing Authority partnership loans. HACSB is requesting \$2,410,379.91 in MHPA housing funds from Behavioral Wellness to support the Residences at Depot Street project.

The Housing Authority of the County of Santa Barbara, a political subdivision of the State of California established in 1941, is responsible for providing affordable housing for thousands of low income households in Santa Barbara County through rent subsidy programs or by occupancy in one of its housing developments. The Housing Authority also provides a variety of housing related services. Over the years Behavioral Wellness has worked closely with HACSB to leverage MHPA funds to provide dedicated MHPA supportive housing. The Housing Authority, has undertaken new construction and acquisition development activities in the incorporated and unincorporated areas of the county, and has contracted with various cities and the County to perform a variety of housing-related services in support of their local plans. The anticipated start date for the Residences at Depot Street project is within one year of closing the initial financing. The project will result in approximately 80 units. Of the 80 units, 35 will be dedicated as Behavioral Wellness MHPA units.

The Housing Authority took this project to the Debt Advisory Committee on January 8, 2018. Subsequently the Treasurer and Tax Collector brought a resolution to the Board of Supervisors and held a Tax Equity and Fiscal Responsibility Act hearing on February 2, 2018.

Behavioral Wellness is seeking Board approval to pass through the MHPA housing funds to The Residences at Depot Street, L.P., through a 55-year loan agreement, in return for 35 dedicated MHPA units, in compliance with MHPA requirements W&I Code Section 5892.5 (b) and the stakeholder process W&I Code Section 5848. The 35 MHPA units will be operated in compliance with the MHPA requirements for a period of 35 years. The housing funds to be used for the collaborative project with HACSB are consistent with the needs identified in the Capitals Facilities board letter presented to the Board on August 23, 2016.

Performance Goals and Measures:

Behavioral Wellness will ensure that the administration of unencumbered Mental Health Service Housing Funds are in accordance with the requirements of the Mental Health Services Act, including, but not limited to, the following:

- a. Follow the stakeholder process identified in W&I Code Section 5848 when determining the use of those funds;
- b. Include the use of those funds in the County's Three-Year MHPA Program and Expenditure Plan or Annual Update, per W&I Code Section 5847;
- c. Account for the expenditure of those funds in the County's Annual MHPA Revenue and Expenditure Report (W&I Code Section 5899). Reporting began in the fiscal year 2017 when the MHPA Housing Program funds were released to the County by CalHFA and will continue when the funds are utilized in 2018 by HACSB; and
- d. The County must expend those funds within three years or the funds will be subject to reversion to the state (W&I Code Section 5892 (h)).

Fiscal and Facilities Impacts:

Budgeted: At the current time, there are no anticipated budget impacts. However, through the funds dedicated to HACSB for the develop of 35 units for qualified MHSA tenants, it will provide long term stable environment and a supportive mental health services which we anticipate will create an overall reduction in cost for mental health services and the County infrastructure.

Key Contract Risks:

The Project will produce 80 units of rental housing, thirty five (35) of which will be available to the County for MHSA-eligible tenants; Behavioral Wellness staff will provide onsite case management services to MSHA tenants pursuant to the MHSA MOU and Supportive Services Agreement.

The terms of the County MHSA Promissory Note will bear simple interest at the rate of three percent (3%) per annum from the date of disbursement. The loan will be due and payable on the earlier of: (a) fifty-five (55) years from the date of the recordation of the MHSA Note, or (b) the date the Property is sold or otherwise transferred.

The County's MHSA loan will be disbursed upon closing of the project financing, after Board approval. The County will annually review the Project's financial statements. The County MHSA loan is secured by the property and all outstanding principal and interest will be due upon the expiration of the loan term. The MHSA regulatory agreement will require compliance with the MHSA program requirements.

However, the County's Deed of Trust and Regulatory Agreement will be in the last lien position subordinate to senior construction and permanent loans from Wells Fargo Bank, the County HOME loan, and two Housing Authority loans. In the event of foreclosure by a senior lender and sale of the property, the senior loan(s) will be repaid prior to the County's MHSA Loan. If there are sufficient funds after payment of the senior lien(s), then the County's loans will be paid. The County's Regulatory Agreement would be extinguished in a foreclosure of the senior loan. The form of subordination agreement is attached as Attachment F.

Behavioral Wellness has evaluated the risks associated with the Project and determined that such risks are reasonable and within industry standards and that there are safeguards in place to prevent or mitigate risks. Projects that receive low-income housing tax credits are subject to ongoing financial and property compliance monitoring to meet the requirements of the federal Internal Revenue Service (IRS) tax codes. Investors risk losing tax credits for non-compliance; therefore, the Project has been fully vetted and underwritten by the tax credit investor(s).

Staffing Impacts:

The commitment of the MHSA funds to the Project will necessitate Supportive Services to MHSA clients for the 55-year term of the loan. Under the current MOU and Supportive Services agreement between the parties, Behavioral Wellness staff will provide case management and related MHSA services on site in office space provided at no cost by the Residences at Depot Street. Behavioral Wellness will fund the Supportive Services through other MHSA funds ear marked for service delivery and Medi-Cal Federal Financial Participation (FFP) reimbursement.

Special Instructions:

1. Please expedite the execution and delivery of the loan documents requiring Board of Supervisors signature (Attachments A, D, F) due to this being a time sensitive item. Behavioral Wellness will need the signed original documents and Minute Orders returned to Behavioral Wellness on Tuesday, August 28 due to a scheduled escrow closing date with Wells Fargo Bank.
2. Please return one (1) set of the executed original loan documents (except that there is only 1 original Promissory Note and Behavioral Wellness will accept a copy).
3. Please return a copy of the Minute Order to Denise Morales at dmorales@co.santa-barbara.ca.us and bwellcontractsstaff@co.santa-barbara.co.us.
4. Please email or call when ready for pick up or with any questions at: Ext. 5168.

Attachments:

- Attachment A: MHS A Depot Loan Agreement
- Attachment B: MHS A Depot Deed of Trust
- Attachment C: MHS A Depot Promissory Note
- Attachment D: MHS A Depot Regulatory Agreement
- Attachment E: MHS A Standard Indemnification and Insurance Provisions
- Attachment F: MHS A Depot Subordination Agreement
- Attachment G: MHS A Depot Amended and Restated Memorandum of Understanding
- Attachment H: MHS A Depot Supportive Services Agreement
- Attachment I: CEQA Mitigated Negative Declaration

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