



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: 4/21/20
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: Amended and Restated HEAP Regulatory Agreement 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 original of an Amended and Restated County HEAP Loan Regulatory Agreement and Declaration of Restrictive Covenants (Attachment A); 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”). 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 recommended actions would amend the Regulatory Agreement approved by the Board on December 17, 2019. The Amended and Restated Regulatory Agreement (Attachment A) amends the Regulatory Agreement to remove a preference for seniors, and spell out contingencies for requirements of the Agreement requested by the Project’s tax credit investor. Such contingencies include a process for filling vacant units outside of the Coordinated Entry System (CES) should CES not be able to provide a *Qualified Household* to fill the unit. Another change is an increase in allowed Area Media Income (AMI) of eligible tenants, in the unlikely event that funding from the federal Section 8 program were to cease.

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 (29 affordable) rental units. 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. Construction is anticipated to start in the coming months.

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. The Regulatory Agreement that secures performance of the income and rent restrictions also was recorded, and would be replaced by the Amended and Restated Regulatory Agreement (Attachment A) recommended for approval by this Board Letter. The Housing Authority transferred the property to West Cox Cottages, L.P, a limited partnership established by the Housing Authority (the

general partner) to facilitate tax credit financing (the “Limited Partnership”) on April 3, 2020. The Limited Partnership took title subject to the County’s Deed of Trust and Regulatory Agreement.

In working with partners of the Limited Partnership leading up to construction, several concerns were raised to HCD staff about requirements of the Regulatory Agreement. At the request of the Limited Partnership’s investor and in consultation with the Housing Authority, the Amended and Restated Regulatory Agreement (Attachment A) recommended for approval in this Board Letter would amend the Regulatory Agreement to remove a preference for seniors due to a concern about Fair Housing Act compliance, and provide a process for filling vacant units outside of the Coordinated Entry System (CES) should CES not be able to provide a *Qualified Household* to fill the unit within 30-days written notice to the County. The last change is an increase in allowed Area Media Income (AMI) of tenants, in the unlikely event that funding from the federal Section 8 program were to cease. These changes continue to comport with HEAP regulatory requirements, and State guidance, to “address homelessness, including, but not limited to, prevention” and “provide immediate emergency assistance to people experiencing homelessness or those at imminent risk of homelessness.”¹ These changes will ensure the continued stability of the Project to provide affordable housing and services.

Performance Measure:

HEAP funds were provided toward the development of the Project on December 17, 2019. Acquisition costs were incurred as of April 3, 2020 and construction related costs are expected to be submitted to HCD staff for reimbursement in the coming months. 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. As did the original Regulatory

¹ Health and Safety Code section 50214(a).

Agreement, the Amended and Restated Regulatory Agreement requires the County monitor the Property's compliance for fifteen (15) years. Compliance with the loan terms and the Regulatory Agreement is secured by a Deed of Trust recorded against the property.

Staffing Impacts:

The current requested activity falls within currently budgeted staff duties.

Special Instructions:

- 1) Please return one executed original Regulatory Agreement (Attachment A) and a copy of the Minute Order to Ted Teyber. Please email or call when ready for pick up (eteyber@co.santa-barbara.ca.us; Ext. 83513).
- 2) Please retain one set of the executed original Agreement for COB records.

Attachments:

- A. Amended and Restated Regulatory Agreement