

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

November 19, 2024

FROM

SHARON NEVINS, Director, Department of Aging and Adult Services – Public Guardian

SUBJECT

Program Funding Agreement with Horne LLP on behalf of the California Department of Social Services for the Community Care Expansion – Capital Expansion Program Grant

RECOMMENDATION(S)

1. Approve the Program Funding **Agreement No. 24-1098** and its related attachments and exhibits, including nonstandard terms, and Compliance Memo, with Horne LLP, on behalf of the California Department of Social Services, relating to the Community Care Expansion – Capital Expansion Program Grant, in the amount not to exceed \$14,778,895, effective upon execution through June 30, 2029.
2. Approve the Performance Deed of Trust and Declaration of Restrictions between San Bernardino County and the State of California, represented by the California Department of Social Services, to restrict the use of certain portions of the County owned real property (Assessor's Parcel Number 1191-141-46-0000) located at 2226 E. Pacific Street in the City of San Bernardino, for the provision of grant funded construction or rehabilitation of adult and senior care facilities that service applicants and recipients of Supplemental Security Income/State Supplementary Payment and Cash Assistance Program for Immigrants applicants and recipients, including those adults who are experiencing or are at risk of homelessness, for a minimum of 30 years.
3. Authorize the Chair of the Board of Supervisors, Chief Executive Officer, Assistant Executive Officer, or Director of the Department of Aging and Adult Services – Public Guardian, Director of the Community Development and Housing Department, or Director of the Real Estate Services Department to execute and submit the Performance Deed of Trust and Declaration of Restrictions as referenced in Recommendation No. 2, any attachments and exhibits to the Program Funding Agreement, any non-substantive amendments to the Program Funding Agreement and its related attachments and exhibits, or any additional or supplemental documentation, including compliance certifications, subject to review by County Counsel.
4. Direct the Director of the Department of Aging and Adult Services – Public Guardian to transmit the Performance Deed of Trust and Declaration of Restrictions, any attachments and exhibits to the Program Funding Agreement, any subsequent non-substantive amendments to the Program Funding Agreement, and its related attachments and exhibits to the Clerk of the Board of Supervisors within 30 days of execution.

(Presenter: Sharon Nevins, Director, 891-3917)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Provide for the Safety, Health and Social Service Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

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FINANCIAL IMPACT

This item does not impact Discretionary General Funding (Net County Cost). The total project cost for the Departments of Aging and Adult Services-Public Guardian (DAAS-PG) Platinum Campus Project (Project) is estimated to be \$16,848,752 and will be funded with \$14,778,895 in Community Care Expansion (CCE) - Capital Expansion Program grant funding and \$2,069,857 in American Rescue Plan Act (ARPA) funds (\$1,245,265 for the local match and \$824,592 for developer fees).

BACKGROUND INFORMATION

The Pacific Village Campus (Campus) is an estimated \$42 million multiuse collective use partnership between the DAAS-PG, the Department of Behavioral Health (DBH), the Community Development and Housing Department (CDH), and third-party management providers that will offer housing and social services to county residents who are experiencing or are at risk of homelessness.

The County is expanding the Campus housing complex into the Campus Expansion Project (Campus Project), a full-service continuum of care campus to promote community health and housing options to the most vulnerable residents within the county. The 6.91-acre site is located on County owned parcels on Pacific Street and Valaria. The Campus Project will address gaps in the continuum of care for people with behavioral health conditions and will meet the needs of vulnerable populations with the greatest barriers, including older adults, adults with disabilities, and people experiencing homelessness.

Unlike traditional homeless projects or large-scale congregate shelters, this development will be a combination of various projects, including an array of housing interventions designed to address the root causes of homelessness and provide a viable pathway to independent living and permanent housing. Each department will use specific funding sources for its respective portion of the property. The DAAS-PG Project includes constructing 30 Permanent Supportive Housing (PSH) units with communal exterior common areas, converting the chapel into a 32 bed Recuperative Care Center (RCC), and remodeling the existing cafeteria to support the RCC.

On January 31, 2022, the California Department of Health Care Services and Department of Social Services (CDSS) released a joint Request for Applications (RFA) dated January 31, 2022, under the Behavioral Health Continuum Infrastructure Program and CCE Program for the acquisition, construction, and rehabilitation of adult and senior care facilities that serve Supplemental Security Income/State Supplementary Payment (SSI/SSP) and Cash Assistance Program for Immigrants (CAPI) applicants and recipients and other adults who are experiencing or at risk of homelessness.

On September 13, 2022 (Item No. 5), the Board of Supervisors (Board) approved the submission of a \$14,165,593 grant application by DAAS-PG for feasibility/due diligence, predevelopment, development planning, rehabilitation, and new construction of 30 Permanent Supportive Housing units and a 32 bed RCC on the Campus. County Finance designated \$2,008,527 in ARPA funds for this project, including \$1,183,935 for the required 10% local match and \$824,592 for estimated developer fees not covered by grant funds.

On January 6, 2023, DAAS-PG received a CCE – Capital Expansion Program grant award notification from CDSS for up to \$14,165,593.

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On December 5, 2023 (Item No. 41), the Board authorized the Design-Build Project delivery method pursuant to Public Contract Code Section 22160 et seq., approved and authorized the release of the Design-Build Request for Qualifications Package for the Campus Project

On February 27, 2024 (Item No. 4), the Board adopted Resolution No. 2024-24 for the acceptance of CCE – Capital Expansion Program grant funds established by Assembly Bill 172, Chapter 696 (3), not to exceed \$14,165,593, for the DAAS-PG Project at the Campus, as required by the CDSS, for the CCE – Capital Expansion Program.

On May 21, 2024 (Item No. 59), the Board approved and authorized the release of a Design-Build Request for Proposal to Prequalified Design-Build Entities for the Campus Project.

On May 21, 2024, DAAS-PG received a CCE – Capital Expansion Program Grant - Award Augmentation Notification from CDSS informing DAAS-PG that it was approved for an additional \$613,302 in funding, for a total award not to exceed \$14,778,895. County Finance approved the allocation of ARPA funds in the amount of \$61,330 to meet the grant matching requirement, resulting in a total use of the ARPA funding source of \$2,069,857 (\$1,245,265 for the local match and \$824,592 for developer fees).

On July 23, 2024 (Item No. 26), the Board approved subdivision of the Campus, creating three separate parcels necessary to facilitate the Campus Project.

On August 20, 2024 (Item No. 5), the Board adopted Resolution No. 2024-133 to amend Resolution No. 2024-24 for approval of the acceptance of CCE – Capital Expansion Program grant funds for the DAAS-PG Project at the Campus, increasing the funds by \$613,302, and changing the not to exceed amount from \$14,165,593 to \$14,778,895.

Approval of this item will allow the DAAS-PG to accept the funding and execute the contract documents, which include a Deed of Restrictions that must be filed against the property.

The Program Funding Agreement (Agreement) includes terms that differ from the standard County contract and omits certain County standard contract terms. Due to the time constraints, the parties did not attempt to negotiate the terms. The nonstandard and missing terms include the following:

1. The County is required to indemnify Horne LLP and CDSS.
 - The County standard contract does not include any indemnification or defense by the County of a contractor and requires the contractor to indemnify the County from any third-party claims.
 - Potential Impact: By agreeing to indemnify Horne LLP and CDSS, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against the County without such limitations and the County could be responsible to defend and reimburse Horne and DCSS. Further, the indemnification means that if the County is sued, it may be solely liable for the costs of defense and damages, which could exceed the total Agreement amount.
2. Disputes arising under the Agreement must be settled by binding arbitration.

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- The County standard contract does not require arbitration.
 - Potential Impact: The Agreement requires binding arbitration for all disputes between the parties. Disputes that might otherwise be settled in small claims court would incur arbitration costs that would exceed the costs of a small claims action. Arbitration decisions are not appealable.
3. The Agreement does not include certain standard County insurance requirements, including that the County be named as an additional insured.
- The County standard contract requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department.
 - Potential Impact. Without being named as an additional insured, the County may be prohibited from submitting a legitimate claim against the policies of Horn LLP and CDSS, which could result in expenses that exceed the total Agreement amount.

DAAS-PG recommends approval of this Agreement, including the nonstandard terms, as the Project will allow DAAS-PG to offer housing and social services to county residents who are experiencing or are at risk of homelessness.

PROCUREMENT

N/A

REVIEW BY OTHERS

This item has been reviewed by: Human Services Contracts (Patty Steven, Contracts Manager, 388-0241) on November 8, 2024; County Counsel (Jacqueline Carey-Wilson, Deputy County Counsel, 387-5455) on November 8, 2024; Finance (John Hallen, Administrative Analyst, 388-0208) on November 12, 2024; and County Finance and Administration (Cheryl Adams, Deputy Executive Officer, 388-0238) on November 12, 2024.

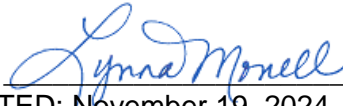
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY 
DATED: November 19, 2024



cc: DAAS - Gallegos w/agree for sign
Contractor - c/o DAAS w/agree
File - w/agree
CCM 11/22/2024