

October 22, 2019

Board of Supervisors  
County of Ventura  
800 South Victoria Avenue  
Ventura, CA 93009

**Subject:** Approval of the Healthy Homes Ventura County (HHVC) Program to Abate Lead Paint Hazards to Implement the Settlement of the Lead Paint Litigation; Finding that Approval of the HHVC Program is Categorically Exempt from the California Environmental Quality Act; Authorization for the Auditor-Controller to Process the Necessary Budgetary Transactions; and Adoption of a Resolution Establishing Three New Regular Full-Time Positions in Ventura County Public Health Budget Unit 3145. Recommendation No. 3 Requires 4/5<sup>th</sup> Vote.

**Recommendations:**

1. That your Board approve the Healthy Homes Ventura County (HHVC) program to abate lead paint hazards.
2. That your Board find approval of the HHVC program is categorically exempt from the California Environmental Quality Act (CEQA) under section 15301 of the CEQA Guidelines, and there are no unusual circumstances under CEQA Guidelines section 15300.2(c).
3. That your Board authorize the Auditor-Controller to process the necessary budgetary transactions to revise the following Health Care Agency (HCA) appropriations and revenues (requires 4/5<sup>th</sup> vote):

**Childhood Lead Poisoning Prevention (Unit 3145)**

Increase	Salaries & Benefits	\$ 387,885
Increase	Services & Supplies	\$ 757,620
Increase	Forfeitures & Penalties	\$1,145,505

4. That your Board adopt the Resolution attached hereto as Exhibit 1 establishing 3.0 new regular full-time equivalent positions for Public Health's Healthy Homes Ventura County Program (HHVC) under unit 3145 (Childhood Lead Poisoning Prevention), effective October 20, 2019.

Class Code	Classification Title	FTE	Range	Annual Salary
00406	Community Services Coordinator (CSC)	1.0	\$1,914.163360-\$2,721.229680	\$50,470.25 - \$70,751.97
00858	Health Education Assistant II (HEA II)	1.0	\$18,702.469-\$26,265.387	\$38,901.14 - \$54,632.00
01345	Office Assistant III (OA III)	1.0	\$16,424.273-\$22,967.675	\$34,162.49 - \$47,772.76

**Fiscal/Mandates Impact:**

**Mandatory:** Yes

**Source of Funding:** Lead Abatement Settlement Fund

**Funding Match Required:** None

**Impact on Other Departments:** None

Summary of Revenues and Costs:	<b><u>FY 2019-20</u></b>	<b><u>FY 2020-21</u></b>
Revenue:	\$ 1,145,505	\$ 633,605
Costs:		
Direct	\$ 1,083,994	\$ 572,094
Indirect-Dept.	\$ 61,511	\$ 61,511
Indirect-County CAP	\$ -0-	\$ -0-
Total Costs	\$ 1,145,505	\$ 633,605
Net Costs	\$ -0-	\$ -0-
Recovered Indirect Costs	\$ 61,511	\$ 61,511

**Current FY 2019-20 Budget Projections:**

<b>FY 2019-2020 Budget Projection for Childhood Lead Poison Prevention Program, Unit 3145</b>				
	Adopted Budget	Adjusted Budget	Projected Budget	Estimated Savings (Deficit)
Appropriations	\$357,300	\$357,300	\$1,502,805	\$1,145,505
Revenue	\$340,356	\$340,356	\$1,485,861	\$1,145,505
Net Cost	\$(16,944)	\$(16,944)	\$(16,944)	-0-

**Discussion:**

*Litigation and Settlement:* In 2011, the County joined nine other counties and cities ("the jurisdictions") in a suit seeking to hold companies that promoted and distributed lead paint responsible for lead paint-related hazards in housing.

In 2014, the trial court found Sherwin-Williams Company, ConAgra Grocery Products Company and NL Industries, Inc. ("Defendants") liable for creating a public nuisance because they promoted lead paint for use in the interiors of homes in the jurisdictions with knowledge of the hazard to children that would result, and ordered Defendants to fund a program to abate and clean up those hazards. On appeal, Defendants' liability was narrowed from pre-1980 to pre-1951 housing, and the case was sent back to the trial court. On remand, the jurisdictions and Defendants settled the case for \$305 million to be paid over seven years: \$75 million on September 22, 2019; \$36 million each of the following five years; and \$50 million in the final year.

The settlement funds are to be used to address public health hazards related to lead paint and pay attorney fees and costs incurred in the litigation. The jurisdictions retained outside counsel on contingency to litigate the case alongside the county counsel and city attorney offices. Outside counsel will receive a contingent fee of approximately 16.5 percent of the total settlement, and the County will receive a payment of \$387,767.50 for County Counsel's attorney fees. The settlement payments will be made to the County of Santa Clara, which will distribute the money to the other jurisdictions after paying outside counsel their contingent fee.

The County's share of the settlement funds remaining after payment of attorney fees and costs ("abatement funds") is 3 percent, based on the number of at-risk housing units in Ventura County. Over the next seven years, the County will receive a total of \$7,603,810.59 (\$7,216,043.09 in abatement funds for the HHVC program and \$387,767.50 to reimburse the County for County Counsel attorney fees incurred during litigation). The abatement funds must be used to address lead paint hazards; the payment for the attorney fees may be appropriated for any public purpose. The disbursement schedule is as follows:

Year 1: \$1,533,272.11 (\$1,145,504.61 in abatement funds + \$387,767.50 in attorney fees)  
Year 2: \$ 633,604.63  
Year 3: \$1,003,575.77  
Year 4: \$1,003,575.77  
Year 5: \$1,003,575.77  
Year 6: \$1,003,575.77  
Year 7: \$1,422,630.77

*The HHVC Program:* The Public Health Department operates a Childhood Lead Poisoning Prevention Program (CLPPP) pursuant to a grant agreement with the state.

The CLPPP performs outreach to educate the public about lead hazards and encourage parents to have their children tested. Where a child has tested with an elevated blood lead level, CLPPP will manage the child's medical case, provide information and resources to the parents and, when blood lead exceeds a certain reference level, visit the child's home to investigate the source of the lead exposure.

The overarching goal of HHVC is to identify and clean up lead paint hazards in Ventura County's housing stock before a child is found with an elevated blood lead level. Lead is a cumulative toxin that is particularly harmful to children and can cause neurological damage and behavioral problems even at lower levels of exposure, once thought safe. There is no known "safe" level of lead exposure for children. The effects of lead poisoning are thought to be irreversible.<sup>1</sup> According to the U.S. Census Bureau, in Ventura County, there are 169,718 housing units that were built before 1980, and so may contain lead paint, 17,770 of which were built before 1950, when use of lead paint was the most prevalent.

HHVC will provide property owners an opportunity to enroll their properties in a program for the inspection of housing for lead paint, and lead hazard abatement work where hazards are found. HHVC will also perform outreach to educate property owners and the public about the health effects of lead paint and the opportunity to enroll in the program. Staff will prioritize enrolled properties for inspection and abatement, giving greatest priority to those properties that pose the greatest risk for childhood lead poisoning. Risk factors include previous elevated blood lead levels associated with the property, the presence of young children or pregnant women, the age of the housing, and whether the property is located in a low-income area. The inspection and abatement work will be performed by lead inspectors and abatement contractors under contracts with the County. HHVC staff will coordinate work for enrolled properties and provide education and outreach through mailers, social media, a website, community forums, and town hall meetings.

Future plans include applying for special HUD funding near the end of the settlement payments to continue the work of HHVC, with the overall goal of making all Ventura County neighborhoods lead safe. Approval of the program is exempt from CEQA because, to the extent it is a project, the program involves repair and maintenance of existing structures involving negligible or no expansion of use, and there are no unusual circumstances.

#### **Strategic Plan:**

The development of the Healthy Homes Ventura County Program aligns with Focus Area 4, Community Well-Being in the Ventura County's Strategic Plan, Goals 3 and 4. This request is budget neutral.

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<sup>1</sup> See World Health Organization, "Lead poisoning and health" available at <https://www.who.int/en/news-room/fact-sheets/detail/lead-poisoning-and-health>; *People v. ConAgra Grocery Products Co.* (2017) 17 Cal.App.5th 51, 66.

**Health in All Policies:**

The implementation of the Healthy Homes Ventura County Program (HHVC) is a direct result of a lawsuit, wherein Ventura County was a participant. The health implications of this program are positive for the community at-large, recipients of County services, and the County workforce. Program activities include mitigation and abatement of lead hazards in properties across Ventura County.

This letter has been reviewed by County Counsel, the Auditor-Controller's Office, and the County Executive Office.

If you have any questions regarding this item, please call Rigoberto Vargas at (805) 981-5101.

  
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Public Health Director

  
KARLA VALLE  
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Exhibit 1 – Resolution