



# Board Agenda Item 33

DATE: December 17, 2024

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, County Administrative Officer

SUBJECT: Amendment to American Rescue Plan Act - State Local Fiscal Recovery Funds, Expenditure Plan

RECOMMENDED ACTION(S):

1. **Approve and authorize the termination of Subrecipient Agreement No. 22-538 with Twilight Haven, and authorize the County Administrative Officer, or designee, to execute any necessary documents to affect the termination of Subrecipient Agreement No. 22-538, subject to approval by County Counsel as to legal form; and**
2. **Approve proposed amendments to the County of Fresno's American Rescue Plan Act - State Local Fiscal Recovery Fund (ARPA-SLFRF) expenditure plan by amending the program descriptions for the following programs:**
  - a. **Revise the Administration of ARPA-SLFRF through 2025 and extend the spending timeline to keep ARPA-SLFRF funding in this category available through December 31, 2026; and**
  - b. **Revise the title of "Sheriff Negative Impacts: public safety, public health, mental and behavioral health at County Jail" to read, "Sheriff and Probation Negative Impacts: public safety, public health, mental and behavioral health at County Jail and Juvenile Justice Campus" and increase funding availability by \$643,475, from \$10,846,029 up to \$11,489,504.**

Approval of the first recommended action would approve the termination of Subrecipient Agreement No. 22-538 (Agreement) with Twilight Haven and authorize the County Administrative Officer, or designee, to exercise any necessary documents to terminate the Agreement, subject to approval by County Counsel as to legal form, pursuant to Section 12(C) of the Agreement. On May 31, 2023, Twilight Haven closed its skilled nursing facility, which affects its ability to fully expend the award, and on June 22, 2023, Twilight Haven filed for Chapter 11 bankruptcy.

Approval of the second recommended action would revise the program descriptions for the Administration of ARPA-SLFRF (through 2025) and extend the spending timeline through the end of the performance period of December 31, 2026. The second recommended action would also revise the Sheriff's Office Negative Impacts line description to include negative impacts at the Probation Department's Juvenile Justice Campus (JJC) under Category A, and will reallocate \$643,475 in funding availability in the County's ARPA-SLFRF expenditure plan to help address the negative impacts of the pandemic on the Sheriff's Office and Probation Department's public safety, public health, mental and behavioral health care provided at the County Jail and JJC. The recommended changes to the County's ARPA-SLFRF expenditure plan are shown on Attachment A. Approval of the recommended actions are in anticipation of the United States Department of the Treasury's (Treasury) obligation deadline of December 31, 2024. This item is countywide.

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the recommended actions, in which case the ARPA-SLFRF expenditure plan would continue to reserve funds for programs that will likely not materialize or be able to expend those funds. In that event, the County's ARPA-SLFRF expenditure plan will limit funding availability through 2025 for the Administration of ARPA-SLFRF, and SLFRF will not fund administrative costs through the end of December 31, 2026. The identified funding availability will not be reallocated, nor become available to assist the Sheriff's Office and Probation Department to address negative impacts on services related to public safety, public health, and behavioral health at the County Jail and JJC (up to \$11,489,504) under Category A, which will result in an increase to Net County Cost.

**FISCAL IMPACT:**

Approval of the recommended actions will result in no increase in Net County Cost. Recommended revisions to programs included in the FY 2024-25 Adopted Budget for Auditor-Controller/Treasurer-Tax Collector Org. 1033 - Disaster Claiming, Fund 0026, Subclass 91021, Account 7910 are shown as Attachment A. The recommended actions are fully funded with ARPA-SLFRF. Sufficient appropriations are included in the FY 2024-25 Adopted Budget for Auditor-Controller/Treasurer-Tax Collector Org. 1033 - Disaster Claiming, Fund 0026, Subclass 91021, Account 7910. Should your Board choose not to approve the recommended actions, the lack of additional funding assistance for the Sheriff's Office and Probation Department to address negative impacts on services related to public safety, public health and behavioral health care provided at the County Jail and JJC will result in an increase to Net County Cost.

**DISCUSSION:**

On February 1, 2022, your Board approved the County's ARPA-SLFRF initial expenditure plan, which identifies funds for programs that may be funded either in whole or in part by the County's \$194,063,657 allocation of SLFRF. Subsequent amendments to the initial expenditure plan have been considered and approved by your Board to account for changes in programs and/or to address funding needs. Approval of the recommended actions will revise the County's ARPA-SLFRF expenditure plan in anticipation of the Treasury's obligation deadline of December 31, 2024.

**Action One**

Approval of the first recommended action would approve the termination of the Agreement with Twilight Haven and authorize the County Administrative Officer, or designee, to exercise any necessary documents to terminate the Agreement, pursuant to Section 12 (C) of the Agreement.

On November 29, 2022, your Board approved the Agreement with Twilight Haven, a nonprofit organization that serves and provides affordable assisted living facilities for senior residents in Fresno County. The Agreement allocated \$500,000 in SLFRF to help Twilight Haven respond to the negative public health impacts experienced by senior residents and its services by providing one-time funds to help recruit and retain new employees, and provide a wage increase not to exceed \$4.00 per hour for hours worked by each of its 55 employees in its skilled nursing program. In 2023, Twilight Haven experienced financial hardships, which lead to the permanent closure of its skilled nursing facility on May 31, 2023, and the subsequent filing of Chapter 11 bankruptcy on June 22, 2023. On July 25, 2024, Twilight Haven informed the County that the Agreement was not included as an asset during the bankruptcy proceedings. Since the Agreement's scope is specific to payroll costs for employees in the skilled nursing facility, which is no longer in operation, Twilight Haven informed the County of its desire to mutually terminate the Agreement and release the unspent \$365,609 ARPA-SLFRF back to the County. Approval of the first recommended action would allow for the unspent ARPA-SLFRF previously allocated to Twilight Haven in the Agreement to also be included in the second recommended action.

**Action Two**

Approval of the second recommended action will revise the Administration of ARPA-SLFRF through 2025 expenditure line description and extend the expense timeline through the end of December 31, 2026. The administration of the SLFRF program is achieved through a multi-department effort including, but not limited to, the County Administrative Office, County Counsel, and the Auditor-Controller/Treasurer-Tax Collector's Office. Under the administration expense line, participating departments are reimbursed for SLFRF administrative costs for the implementation of the County's expenditure plan, fulfilling reporting and compliance requirements, preparing subaward agreements and/or amendments, including monitoring activities, and development of annual recovery plans. Approval of the recommended action will align funding availability for administration costs with Treasury's performance period, which ends on December 31, 2026. The Treasury's Final Rule permits recipients to use ARPA-SLFRF to charge both direct and indirect costs to their SLFRF award as administrative costs.

Additionally, the second recommended action will revise the Sheriff Negative Impacts expenditure line description and include the option to use funds to address the negative impacts of the pandemic on the Probation Department and its responsibility to provide increased care and behavioral health services and treatment for youth detained at the JJC, such as opioid use disorders, violence prevention, and behavioral health care, which are services provided by WellPath. Approval of the second recommended action will reallocate \$643,475 in funding availability within the County of Fresno's ARPA-SLFRF expenditure plan to assign additional funding to address negative impacts to the Sheriff and Probation Departments, increasing funding availability from \$10,846,029 up to \$11,489,504.

The funding available to reallocate is from cost savings from the following programs:

- Category A, DPH Improvements to Brix/Mercer, (\$109,250)
- Category A, Probation Fitness Zones for Youth, (\$73,716)
- Subrecipient Agreement No. 22-538, (\$365,609)
- Subrecipient Program Funds, (\$94,900)

Although the public health emergency ended, the Sheriff's Office and Probation Department continue to incur unforeseen expenses related to improving public safety and medical treatment costs for individuals in custody at the County Jail and JJC, due to the impacts of the COVID-19 pandemic. While individuals are in custody, the Sheriff's Office and Probation Department are responsible for the provision of care, monitoring, and control of infectious disease, which includes COVID-19, at their County Jail and JJC facilities. Infectious control at the County Jail and JJC is provided through contract with California Forensic Medical Group, Inc. (WellPath), the primary medical provider that provides services including infectious disease prevention, dedicated medical staff who are responsible for identifying trends, monitoring and minimizing risk of outbreaks, and providing treatment for all incarcerated persons and detained youth who require medical attention while being detained.

Both departments represent that there is additional need to provide increased behavioral health services and treatment for individuals detained at the Jail and JJC, such as opioid use disorder treatment, violence prevention, and behavioral health care, which are also provided by WellPath. The Treasury recognizes that the pandemic exacerbated mental health and substance use challenges for many Americans, which has proven to be true for individuals incarcerated at the Jail and detained at the JJC.

With your Board's approval of the recommended actions, funding availability in the ARPA-SLFRF expenditure plan will be reassigned and become available to assist the Sheriff's Office and Probation Department address negative impacts related to improving public safety, medical treatment, and behavioral health care of individuals in custody at the County Jail and JJC due to the impacts of the COVID-19 pandemic.

The Final Rule provides substantial flexibility for each jurisdiction to meet local needs within the ARPA-SLFRF eligible use categories. Although the public health emergency has ended, the Final Rule

allows recipients to continue using SLFRF to respond to the public health impacts or negative economic impacts of the COVID-19 pandemic.

REFERENCE MATERIAL:

BAI #25, May 21, 2024

BAI #34, November 29, 2022

BAI #9, November 8, 2022

BAI #3, February 1, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

Attachment A - Revisions to Expenditure Plan

CAO ANALYST:

George Uc