



Board Agenda Item 33

DATE: April 23, 2024

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, County Administrative Officer

SUBJECT: State Local Fiscal Recovery Funds Second Amendment to Subrecipient Agreement Tranquillity Public Utility District

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute a Second Amendment to Subrecipient Agreement No. 22-338 with Tranquillity Public Utility District (Subrecipient) for provision of American Rescue Plan Act - State and Local Fiscal Recovery Funds (ARPA-SLFRF), which will revise the expenditure plan and the modification clause, with no increase to the maximum compensation (\$675,000); and**
- 2. Authorize the County Administrative Officer or designee to approve and execute written changes to the items in the project budget, which, when added together during the term of the Agreement, do not exceed ten percent (10%) of the total maximum reimbursement payable to Subrecipient, and which do not result in any change to the maximum compensation amount payable to Subrecipient.**

There is no Net County Cost associated with the recommended actions. The recommended amendment will revise the expenditure plan to shift funding availability to help offset anticipated construction costs and add language to the modification clause, which will allow the County's Administrative Officer or designee to consider and approve written requests for budget revisions that do not exceed a maximum 10% of the maximum compensation under the agreement, as amended. Recommended action two will delegate limited signature authority to the County Administrative Officer or designee to make the previously described revisions to the agreement's budget, if requested. This item pertains to District 1.

ALTERNATIVE ACTION(S):

If your Board were not to approve the recommended actions, the maximum allocation of ARPA-SLFRF may not become available to help the Subrecipient fund construction costs for the implementation of the sewer rehabilitation project. The expenditure plan would remain in place showing maximum limits by specific site, the Lincoln Avenue Lift Station and the Silveria Street Lift Station. Alternatively, your Board may determine to approve the amendment without delegating authority to the County Administrative Officer or designee to make changes to the budget; in this event, if budget shifts are needed, staff will need to bring another amendment to your Board for review and approval.

FISCAL IMPACT:

There is no increase to Net County Cost associated with the recommended actions. The program is fully funded with ARPA-SLFRF. Sufficient appropriations are included in the FY 2023-24 Adopted Budget for the Auditor/Controller-Treasurer/Tax Collector Org. 1033 - Disaster Claiming, Fund 0026, Subclass 91021, Account 7845.

DISCUSSION:

The United States Department of the Treasury's (Treasury) Title 31, Code of Federal Regulations, Part 35 Coronavirus SLFRF Interim Final Rule ("Interim Final Rule") and Final Rule ("Final Rule") establish a framework for determining the types of programs and services that are eligible under the ARPA-SLFRF and may be used for eligible activities under the following general categories:

- A. Respond to the COVID-19 public health emergency or its negative economic impacts;
- B. Provide premium pay for essential workers;
- C. Replace public sector revenue loss, subject to certain limitations; and
- D. Make necessary investments in infrastructure such as in water, sewer, and broadband.

The Final Rule permits SLFRF to be used to cover costs for eligible activities within the four general categories for the period that begins March 3, 2021, and ends on December 31, 2024. Recipients and their subrecipients must return any funds to the Treasury which are not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026. Under Section 602(c)(3) of the ARPA, the County may transfer SLFRF to a special-purpose district for eligible uses for the purpose of meeting ARPA's goals. The Subrecipient is a special purpose district under the ARPA.

On August 9, 2022, the County and the Subrecipient entered into County agreement number 22-338, with a compensation amount of \$661,500, to fund the design, surveying and engineering, environmental review, and purchase of two new lift station pumps, and wet well coating to rehabilitate the Lincoln Avenue Lift Station and repair the Silveria Street Lift Station.

On March 14, 2023, the County and the Subrecipient entered the First Amendment to the Agreement (Agreement No. 23-100), which increased the maximum grant funding to a total of \$675,000 to implement the project.

Since the approval of the First Amendment to the Agreement, the Subrecipient has prepared the sewer rehabilitation plans and solicited bids from qualified contractors for the construction of the project. After closing the bid period on January 31, 2024, the Subrecipient represents that five bids were received. All five bids were significantly higher than anticipated and exceeded the funding provided by the Agreement. The Subrecipient represents that the reason for the shortfall was the significant escalation of construction costs since the time of the original funding applications were prepared and submitted to the County for funding consideration.

On February 26, 2024, the Subrecipient rejected all the bids it received and directed its staff to restructure the design plans and contract, prioritize specific improvements, and re-solicit bids by the end of Spring 2024. The Subrecipient represents that its upcoming sewer rehabilitation plans revisions and bid package will be tailored to provide the Subrecipient with needed flexibility to stay within budget. The revised expenditure plan for project costs in the recommended amendment exceeds the amount of ARPA-SLFRF provided to Subrecipient by the County. Subrecipient represents that it will be responsible for all costs to complete the project that may exceed the ARPA-SLFRF provided in this grant.

Approval of the recommended actions will modify the expenditure plan of Agreement 22-338 by showing similar expenditure line items initially shown under each lift station to now be shown under one project budget. The recommended revisions will help the Subrecipient oversee the lift station improvements under one budget, which will ensure the Subrecipient can maximize and fully expend SLFRF funds for the implementation of the project.

The Subrecipient represents that the Program would also benefit from a revised Modification Clause within the Agreement which would reduce the Subrecipient's administrative burden to recover allowable costs by moving available funds from one category to another, if needed, to provide flexibility in cost recovery as the program nears the completion of its contracted term.

Approval of the recommended action will revise the Subrecipient's expenditure plan, which will provide needed flexibility to ensure the maximum limits of the grants can be reimbursed to the Subrecipient. Your Board's approval will also add language in the agreement's modification clause that will allow the County's Administrative Officer or designee to consider and approve future written requests for budget revisions up to 10% of the maximum compensation, with no change to the maximum compensation.

REFERENCE MATERIAL:

BAI#23, March 14, 2023
BAI #31, August 9, 2022
BAI #7, June 21, 2022
BAI #3, February 1, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment No. 2 to Agreement with Tranquillity Public Utility District

CAO ANALYST:

George Uc