



Board Agenda Item 40

DATE: December 3, 2024

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, County Administrative Officer

SUBJECT: Amendment to State and Local Fiscal Recovery Funds Subrecipient Agreement with Fresno City & County Historical Society

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute a First Amendment to Subrecipient Agreement No. 23-590 with Fresno City & County Historical Society (Subrecipient) for provision of American Rescue Plan Act - State and Local Fiscal Recovery Funds (ARPA-SLFRF), which will revise the expenditure plan, with no increase to the maximum compensation (\$514,725).

There is no Net County Cost associated with the recommended action, which will revise the expenditure plan with the Subrecipient. This item is located in District 1 but has countywide implications.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, the maximum allocation of ARPA-SLFRF would not become available to the Subrecipient to fund the implementation of the approved Program.

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 2024-25 Adopted Budget for the Auditor-Controller/Treasurer-Tax Collector Org. 1033 - Disaster Claiming, Fund 0026, Subclass 91021, Account 7845.

DISCUSSION:

In May 2021, the U.S. Department of Treasury (Treasury) published Title 31, Code of Federal Regulations Part 35 Coronavirus State and Local Fiscal Recovery Funds 2021 Interim Final Rule ("Interim Final Rule") (for expenditures before April 1, 2022) and the 2022 Final Rule ("Final Rule"), which establish a framework for determining the types of programs and services that are eligible to receive the SLFRF under ARPA. The Final Rule became effective on April 1, 2022.

On December 23, 2022, with Congress' approval of the Consolidated Appropriations Act 2023 the ARPA-SLFRF legislation was revised to include new flexibilities to use funding to provide relief from natural disasters or address the negative economic impacts of natural disasters, to fund certain surface transportation projects, and fund Title I projects under the Housing and Community Development Act of 1974. On September 20, 2023, Treasury published the 2023 Interim Final Rule (IFR) for the new eligible uses in the SLFRF program which became effective upon publication. On November 20, 2023, Treasury published the Obligation IFR which amended the definition of "Obligations" and included additional flexibility for recipients with respect to the ARPA-SLFRF program. The implementation of the ARPA-SLFRF program is regulated by the following: 2021 IFR, 2022 Final Rule, 2023 IFR, and the Obligation IFR.

SLFRF may be used for eligible activities under seven 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;
- D. Make necessary investments in infrastructure such as water, sewer, and broadband;
- E. Emergency Relief from Natural Disasters;
- F. Surface Transportation Projects; and
- G. Title I Projects.

Treasury's guidance permits SLFRF to be used to cover costs for eligible activities within those seven general categories for the period that begins March 3, 2021, and ends on December 31, 2024. Recipients, such as the County, 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. For Surface Transportation and Title I Projects, Treasury requires that SLFRF under these two categories must be expended by September 30, 2026. Under Section 602(c)(3) of the ARPA, the County may transfer SLFRF to non-profits for eligible uses for the purpose of meeting ARPA's goals. The Subrecipient is a private, nonprofit 501(c)(3) organization.

On April 25, 2023, your Board approved an amendment to the initial Kearney Park - Reclaimed Water Project's scope of work to instead fund recreation, park facility, and ground improvements to Kearney Park, to be implemented by Public Works and Planning (\$4,485,275), and improvements to the Kearney Mansion Museum & Gallery, to be implemented by the Subrecipient (\$514,725).

On November 7, 2023, your Board approved Agreement 23-590 with Subrecipient to allocate SLFRF to accomplish the improvements to the Kearney Mansion Museum & Gallery. Since then, the Subrecipient represents that the initial estimates used to develop the expenditure plan found in Exhibit B, Table 1-1 of the Agreement did not consider the requirement of using prevailing wage when conducting construction projects subject to the Uniform Guidance for federal awards. Subrecipient represents that projects which are not funded through federal funding under Uniform Guidance can often allow labor costs to be discounted and/or donated as a gift to the Subrecipient. The Uniform Guidance for Federal Awards does not allow this practice, and the initial projections needed to be recalculated to accommodate this change. Subrecipient represents that some of the anticipated improvements needed to be scaled back due to the impacts of prevailing wage on the project. While the scope of work has not changed materially, the depth of what can be accomplished with the award has diminished.

The budget also needs to be amended due to increased costs for construction since the original expenditure plan was not developed from contractor estimates. The architecture firm that was selected to oversee the construction project has also experienced increased costs of oversight to comply with prevailing wage requirements, as well as increased costs to comply with the requirements of the National Register of Historic Places.

Approval of the recommended action will ensure the maximum limits of the grant can be reached by revising the Subrecipient's expenditure plan to account for the impact of prevailing wage, the increased costs for construction and compliance, align the expenditure plan's line items more directly with the approved scope of work, and confirm the selection of the contractor as the only local contractor certified to perform work on sites listed in the National Register of Historic Places.

REFERENCE MATERIAL:

BAI #43, November 7, 2023

BAI #24, April 25, 2023

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment No. 1 to Agreement 23-590 with FC&CHS

CAO ANALYST:

John Toepfer