# Board Agenda Item 39

DATE: June 24, 2025

TO: Board of Supervisors

SUBMITTED BY: Paul Nerland, County Administrative Officer

SUBJECT: Retroactive Second Amendment to State and Local Fiscal Recovery Funds Subrecipient Agreement with ACTS Foundation

RECOMMENDED ACTION(S):

**Approve and authorize the Chairman to execute a retroactive Second Amendment to Subrecipient Agreement No. 22-408 with ACTS Foundation (Subrecipient) for provision of American Rescue Plan Act - State and Local Fiscal Recovery Funds (ARPA-SLFRF), which will extend the program's spending timeline from December 31, 2024 to June 30, 2026, revise the expenditure plan with no change to the scope of the program, and update the modification clause from five percent (5%) to ten percent (10%) of the total maximum compensation, with no increase to the maximum compensation ($500,000).**

There is no Net County Cost associated with the recommended action, which will extend the program's spending timeline from December 31, 2024, to June 30, 2026, and will revise the expenditure plan in Subrecipient Agreement No 22-408. Approval of the recommended action will update the existing modification clause which authorizes the County Administrative Officer or designee to consider written budget revisions that do not exceed a maximum of five percent (5%) of the maximum compensation available in the Agreement, and increase the modification allowability to ten percent (10%) of the maximum compensation available in the County's agreement with Subrecipient, with no increase to the maximum compensation. This item pertains to locations in District 1, however benefits are countywide.

ALTERNATIVE ACTION(S):

If the recommended action is not approved, the Subrecipient's program spending timeline will remain the same, and existing program costs incurred after December 31, 2024, would not be reimbursable to the Subrecipient. Furthermore, the expenditure plan in the Agreement will limit the Subrecipient's ability to fully expend the funds available to the program.

RETROACTIVE AGREEMENT:

The recommended agreement is retroactive to December 31, 2024, which will extend the term of the Agreement and remain within the U.S. Treasury's mandated ARPA-SLFRF performance period. The current Agreement had anticipated the program being completed by December 31, 2024. Due to changing circumstances within the program, elements of the program that otherwise would be allowable expenditures, needed more time to be expended than was originally estimated. Extending the program timeline to align with the County's program deadline of June 30, 2026, allows the Subrecipient to fully complete the program.

FISCAL IMPACT:

There is no increase to Net County Cost associated with the recommended action. 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:

On November 20, 2023, the U.S. Department of Treasury (Treasury) published the Obligation Interim Final Rule (Obligation IFR) which amended the definition of “Obligations” and included additional flexibility with respect to the ARPA-SLFRF program.

After the SLFRF obligation deadline of December 31, 2024, Treasury’s guidance permits recipients to amend existing contracts after the obligation deadline, so long as the amended contract is within substantially the same scope, and for substantially the same purpose as the original contract. Per Treasury’s Frequently Asked Questions (FAQ 17.16), if those requirements are met, SLFRF funds may be used to cover cost increases contained in the amended agreement.

On September 6, 2022, your Board approved Subrecipient Agreement No. 22-408 (Agreement) with the Subrecipient. On September 5, 2023, the County and the Subrecipient executed the First Amendment to the Agreement (Agreement No. 23-450), which revised the modification clause, and amended the expenditure plan to more accurately reflect the Program’s estimated expenditures rather that the initial estimates provided, and to clarify certain language, which was found to be too precise to reasonably recover otherwise reimbursable expenditures.

Since then, the Subrecipient represents that the expenditure plan found in the Revised Exhibit B, Table 1-1 of Agreement No. 23-450 did not anticipate changes in the program, which shifted costs from some line items to others due to the changing impacts in the program’s operation. The current agreement includes a modification clause, but the requested modifications exceed the parameters of the existing Agreement and, therefore, require your Board’s review and approval.

Approval of the recommended action will revise the Agreement’s expenditure plan by reassigning cost allocations within the expenditure plan, extend the expenditure period of the Agreement from December 31, 2024, to the County’s June 30, 2026, deadline for completion to retroactively cover any necessary expenses that would otherwise be covered by the Agreement, and assist the Subrecipient with the recovery of final costs to the Program and close out the ARPA-SLFRF Grant. Your Board’s approval will also update language in the Agreement’s modification clause, which will allow the County Administrative Officer or designee to consider and approve written requests for budget revisions, if needed, up to 10% of the maximum compensation, with no change to the maximum compensation.

REFERENCE MATERIAL:

BAI #22, September 5, 2023
BAI #29, September 6, 2022

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Second Amendment to SLFRF Agreement 22-408 - ACTS Foundation

CAO ANALYST:

John Toepfer