



**BOARD OF SUPERVISORS
AGENDA LETTER**

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Executive Office
Department No.: 012
For Agenda Of: June 25, 2024
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from: N/A
Vote Required: 4/5

TO: Board of Supervisors
FROM: Department Directors
Contact Info: Nancy Anderson, Chief Assistant County Executive Officer
Paul Clementi, Budget Director

Mona Miyasato, County Executive Officer

DocuSigned by:
Mona Miyasato
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SUBJECT: American Rescue Plan Act of 2021 Coronavirus State and Local Fiscal Recovery Funds Update and Adjustments

County Counsel Concurrence

As to form: N/A

Other Concurrence: CEO Budget

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

It is recommended that the Board of Supervisors:

- a) Approve funding adjustments to identified American Rescue Plan Act State and Local Fiscal Recovery Fund (ARPA) projects and direct staff to return to the Board with the necessary budgetary adjustments in FY 2024-25 after review of each project’s status and continued priority;
- b) Authorize the County Executive Officer, or designee, to enter into Memoranda of Understanding (MOUs) with other County Departments, in a form substantially similar to the template attached as Attachment C, to carry-out certain ARPA activities after 2024, in accordance with the conditions outlined in U.S. Department of the Treasury’s Local Fiscal Recovery Funds FAQ 17.6, dated March 29, 2024, which states that, provided the stated conditions are met, an interagency agreement between departments and agencies within a recipient’s government satisfies the December 31, 2024 “obligation” deadline;

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- c) Approve Budget Revision Request # 0009710 to incorporate ARPA project reductions in the General Services Capital Outlay Fund in the amount of \$1,820,216 (4/5 vote required); and
- d) Determine that the above actions are not a project under the California Environmental Quality Act (CEQA), because pursuant to sections 15378(b)(4) and 15378(b)(5) the recommended actions consist of organizational, administrative, or fiscal activities of government that will not result in direct or indirect physical changes in the environment.

Summary:

This agenda item recommends offsetting adjustments to funding allocations for American Rescue Plan Act (ARPA)-funded projects, as well as some costs currently funded by the General Fund, to facilitate timely utilization of grant funds in compliance with federal expenditure deadlines. Staff identified \$12 million of previously incurred General Fund costs that are eligible for ARPA funding, in some cases due to recently expanded flexibility in Treasury guidance, and ARPA funds can be used to reimburse the General Fund for these eligible costs. Many of the programs and projects that were initially designated to be ARPA funded will still be funded but using General Fund dollars made available through these proposed offsetting adjustments. There are several programs, however, that require further assessment, to ensure they are accomplishing the intent of the Board's original ARPA approval, continue to be operating successfully, and are still considered among the highest General Fund priorities for the Board. The County Executive Office will review these programs and projects and return to the Board at a future date with recommendations.

Additionally, this agenda item recommends authorizing the County Executive Officer, or designee, to sign Memorandum of Understandings (MOUs) with departments responsible for ARPA projects, to ensure the County's compliance with Treasury's "obligation" deadline of December 31, 2024. Treasury's most recent March 29th ARPA guidance provides that inter-departmental MOUs satisfy the upcoming "obligation" deadline and it is anticipated that this mechanism will be used for at least one large Community Services Department, Housing and Community Development Division, ARPA project addressing homelessness. Staff will continue to monitor expenditures and obligations in the coming months and may enter into MOUs with other departments for Board of Supervisor approved ARPA projects if needed. Lastly, the recommended actions include approving a budget revision to effectuate the recommended offsetting adjustments for General Services Department capital projects as further discussed in this Board letter.

Discussion:

In November 2023, Treasury released the Obligation Interim Final Rule, which defined 'obligation' for purposes of the December 31, 2024 obligation deadline. ARPA State and Local Fiscal Recovery Funds have always had a December 31, 2024 'obligation' deadline, but what constituted an 'obligation' was not clearly defined. In partnership with the Government Finance Officers Association (GFOA) and the County's federal lobbyists, staff submitted several advocacy letters to recommend defining 'obligated' by reference to recipient appropriation, budget, or allocation process of the recipient's legislative body. Because the Board of Supervisors had fully allocated the County's \$86.7 million, this interpretation would have ensured compliance with the December 31, 2024 obligation deadline. However, Treasury's Interim Final Rule instead defined obligated as "an order placed for property and services and entering into contracts, subawards, and similar transactions that require payment." Furthermore, Treasury's Obligation Interim Final Rule provides that jurisdictions cannot reallocate funds *after* the December 31, 2024

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obligation deadline, meaning that for any project that comes in under budget after that date, those savings could not be reallocated to another ARPA project and the remaining funds would instead be forfeited to the Treasury.

Project/Program Adjustments

Due to Treasury's Obligation Interim Final Rule, changes to the County's ARPA projects are needed to reduce the risk of sending funds back to U.S. Treasury. The planned ARPA projects requiring changes consist of employee salary and benefit costs planned between 2024 and the 2026 expenditure deadline, and capital projects that due to design and planning phases cannot be fully obligated before the December 2024 deadline. The proposed adjustments also take advantage of expanded eligibility categories for surface transportation projects and disaster cost recovery costs, further detailed below. It is important to note that while staff is recommending that funding for certain previously approved ARPA projects be decreased to avoid relying on ARPA after the December 31, 2024 obligation deadline, many of those projects and the intended performance measures and community outcomes will continue as planned using ARPA reimbursed General Fund dollars.

Detail of the individual project adjustments are included as Attachment A for the Discretionary – Revenue Replacement project categories, and as Attachment B for the Restricted project category.

Summary of Adjustments and General Fund Reimbursable Costs

| Discretionary – Revenue Replacement ARPA Projects (Attachment A) | Amount |
|---|----------------------------|
| Adjustments to Existing ARPA Projects | \$(3,791,058) |
| PW Surface Transportation Costs | \$(3,482,309) |
| General Fund Reimbursable Costs to Cover Existing ARPA Projects (a) | <u>\$7,273,367</u> |
| Net Discretionary Projects Adjustment | \$ - |
| | |
| Restricted ARPA Projects (Attachment B) | |
| Adjustments to Existing Projects | \$(8,687,187) |
| PW Surface Transportation Costs | \$3,482,309 |
| General Fund Reimbursable Costs to Cover Existing ARPA Projects (b) | <u>\$5,204,878</u> |
| Net Restricted Projects Adjustment | \$ - |
| | |
| Total General Fund Reimbursement (a + b) | \$12,478,245 |
| General Fund Set-Aside | <u>\$12,478,245</u> |
| Net Total Adjustments | \$ - |

The \$12 million General Fund reimbursement will be used to complete many of the projects and programs that were initially intended to be ARPA funded, but now cannot comply with the ARPA obligation deadline. Staff recommends the Board consider these adjustments and, if approved, will incorporate these updates into the FY 2024-25 Recommended Budget. BJE # 0009710 (Attachment C) reducing ARPA

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projects in the Capital Outlay Fund by \$1,820,216 pertains just to the General Services project adjustments and is recommended for approval at this time for FY 2023-24 year-end close.

Background

The County of Santa Barbara was allocated \$86,727,196 million in American Rescue Plan Act funding to address COVID-19 related costs, economic impacts, lost revenues and water, sewer and broadband infrastructure needs. The Board considered the allocation of these funds through public meetings held June 1, 2021, October 19, 2021 and April 14, 2022.

The ARPA funds are divided into two categories: 1) Discretionary - Revenue Replacement, and 2) Restricted. The Discretionary (lost revenue) amount was calculated by the Auditor-Controller at \$26,574,618 using the Treasury's prescribed methodology; funds in this most flexible eligibility category can be used broadly toward nearly all types of government services. The Restricted category includes the remaining \$60,152,578, for which only specific types of activities are eligible uses; this funding was allocated toward response and recovery efforts directly related to the public health emergency and its effect on our communities, as well as water, sewer, and broadband infrastructure needs. Eligible ARPA costs under these eligibility categories can date back to March 3, 2021. Funds must be fully obligated by December 31, 2024 and fully expended by December 31, 2026.

August 2023 New Eligibility Categories

Three new ARPA eligibility categories were established in the 2023 Consolidated Appropriations Act adopted by congress on December 29, 2022.

1. Emergency Relief from Disasters
2. Surface Transportation Projects
3. Housing and Community Development Act of 1971 eligible projects

Treasury released rules for these new eligibility categories in August and clarified that expenditures within these new categories must be incurred after December 29, 2022, whereas the majority of ARPA eligibility categories can have expenses dating back to March 3, 2021.

1. Emergency Relief

The recommended ARPA funding adjustments include capturing General Fund costs of \$372,114 for County straight-time at the Emergency Operations Center during activations for Winter 2023 Storms. Emergency Operations Center overtime pay is eligible for FEMA reimbursement, and hence cannot also be reimbursed by ARPA.

On September 12, 2023, staff recommended that \$2.5 million of ARPA funds be re-allocated to the Santa Maria River Re-alignment project necessitated by Winter 2023 Storms using this new eligibility category. Since that time, staff has been working with FEMA to obtain Stafford Act Public Assistance reimbursement for the project. The County's funding application is currently in FEMA eligibility review. If FEMA disaster reimbursements *are* allowed, staff will return to the Board this calendar year to reduce the ARPA funding for the Santa Maria River Re-alignment project to account for any reimbursement from FEMA under this Emergency Relief eligibility category.

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2. *Surface Transportation*

The Board previously approved a \$4 million ARPA project for Public Works Transportation Division roads maintenance under the \$26.7 million “Discretionary – Revenue Replacement” eligibility category. However, with the issuance of the new Surface Transportation eligibility category, staff is recommending that \$3.5 million of Public Works expenditures after December 29, 2022 be moved into this new eligibility category. Staff has identified a corresponding amount of existing General Fund expenditures, namely County salary and benefit costs, that can be captured in the ARPA Discretionary – Revenue Replacement category to replace the Public Works allocation and fully utilize the flexible Discretionary eligibility category.

Compliance and Reporting

Reporting requirements continue to include the following:

- Project and Expenditure Reports (Quarterly) – Due beginning with the award date through December 31, 2026.
- Recovery Plan Performance Report (Annual) – Counties with a population that exceeds 250,000 are required to submit and publish a Recovery Plan that must be posted on the County’s public-facing website. The County’s current Recovery Plan updated through June 2023 is available for review on the County of Santa Barbara ARPA Funding webpage.

Fiscal Impacts:

The purpose of this agenda item is to approve offsetting funding adjustments to ARPA projects. While this Board item includes recommended adjustments, both increases and decreases, on various individual projects, there is no net fiscal impact as the total ARPA allocation remains \$86.7 million. If approved, staff will incorporate the recommended adjustments into the FY 2024-25 Recommended Budget. BJE # 0009710 pertains just to the General Services capital project adjustments and is recommended for approval at this time for FY 2023-24 year-end close.

Attachments:

- A. Discretionary – Revenue Replacement Funding Adjustments
- B. Restricted ARPA Funding Adjustments
- C. Template Inter-departmental Memoranda of Understanding
- D. BJE # 0009710

Authored By:

Ted Teyber, Principal Analyst