



Agenda Report

Fullerton City Council

MEETING DATE: FEBRUARY 15, 2022

TO: CITY COUNCIL / SUCCESSOR AGENCY

FROM: JEFFREY W. COLLIER, ACTING CITY MANAGER

PREPARED BY: JEFFREY W. COLLIER, ACTING CITY MANAGER
ELLIS CHANG, DIRECTOR OF ADMINISTRATIVE SERVICES
STEVEN AVALOS, BUDGET AND PURCHASING MANAGER

SUBJECT: PROPOSED ARPA SPENDING PLAN *(Continued from February 1, 2022)*

SUMMARY

The proposed ARPA Spending Plan (ARPA Plan) will obligate the remaining \$16.5 million of unobligated American Rescue Plan Act (ARPA) allocation for projects and programs allowable under US Treasury guidelines. City Council has obligated \$16.2 million of ARPA funds to date.

RECOMMENDATION

1. Obligate and appropriate the remaining \$16.5 million of unobligated ARPA funds to program / project areas in accordance to US Treasury guidelines (using the Attachment 3 template).
2. Authorize City Manager, or designee, to execute and administer agreements and issue purchase and change orders per City Council approved ARPA Spending Plan in final form and within project and program budgets.
3. Ratify redirecting and appropriating \$2 million of the \$11.6 million ARPA allocation for Revenue Replacement within City Manager authority towards non-budgeted Water Main Replacements under the US Treasury Infrastructure category.

BUDGET POLICY PRIORITY STATEMENT

This item matches the following Budget Policy Priority Statements:

- Fiscal and Organizational Stability
- Public Safety
- Infrastructure and City Assets.

FISCAL IMPACT

Actions taken on February 15, 2022 will obligate the remaining unobligated \$16,504,706 ARPA allocation to projects and programs under allowable US Treasury expenditure categories under Recommendation 1. Recommendation 2 grants the City Manager authority to enter into agreements and purchase goods per the APRA Spending Plan approved by City Council. Due to the time sensitive nature of procurement, Recommendation 2 authorizes the City Manager to procure goods and services that exceed the City Manager's \$100,000 level of authority with respect to the ARPA Spending Plan approved by City Council.

On January 18, 2022, City Council ratified \$11.6 million of ARPA allocation for Revenue Replacement, authorized the City Manager to manage and administer ARPA funds to comply with Federal guidance and authorized the City Manager, or designee, to make necessary budget and accounting adjustments to account for and report ARPA allocation in compliance with US Treasury guidelines.

Staff will make budget and accounting adjustments to the FY 2021-22 budget pursuant to City Council appropriation and authorization.

DISCUSSION

City Council continued this item at its February 1, 2022 meeting. Per City Council direction, staff has amended Attachments 3 and 4. Attachment 3 – *Proposed Unobligated ARPA Spending Plan by Project Rank* reflects City Manager recommended ARPA eligible projects and programs for City Council consideration of remaining \$16.5 unobligated ARPA allocation. Attachment 4 – *Obligated ARPA Spending Plan* reflects ARPA projects and programs previously obligated by City Council. Attachments 2 and 5 remain unchanged and staff has updated the presentation (Attachment 1) to reflect only remaining unobligated ARPA in City Manager recommended rank order for City Council consideration.

Background

President Biden signed the American Rescue Plan Act (ARPA) into law on March 12, 2021, which provided \$130 billion in federal funding to local governments across the nation to provide financial relief to address the negative economic impacts (i.e. assist businesses, household assistance programs, etc.) associated with the pandemic and help local agencies stabilize their fiscal health and government finances as a result of revenue loss due to the pandemic. The statutory language outlines four broad uses for ARPA funding:

- To respond to and actively address the public health emergency or its negative economic impacts with respect to the COVID-19 disease

- To respond to essential workers with premium pay that work during COVID-19
- To provide for revenue reduction or loss due to COVID-19
- To invest in water, sewer or broadband infrastructure improvements.

The City of Fullerton's (City) ARPA allocation totals \$32.7 million. The City received \$16.35 million, or half of its allocation, in May 2021 and anticipates receiving the other half of \$16.35 million in May 2022. Two categories of ARPA expenses are eligible for funding: (1) to reimburse direct / indirect costs associated with responding to the COVID-19 pandemic and (2) to replace revenue lost due to the pandemic (e.g., property tax, sales tax, hotel tax). This "Revenue Replacement" category allows the public entity wide discretion in how it chooses to use ARPA monies with few restrictions (e.g., public entities may not use ARPA for deposits into employee pension funds, direct replenishment of financial reserves, outstanding debts, settlements / judgments / consent decrees, federal matching requirements).

The timeframe for ARPA expenditures and eligible costs runs March 3, 2021 through December 31, 2024, in which the City must obligate all ARPA funds or designate a spending plan by December 31, 2024. Expenses can continue through December 31, 2026 if the City has obligated the funds for spending. The City must return any unused or inappropriately expended funds to US Treasury.

Revenue Replacement

For Revenue Replacement, ARPA requires public entities to utilize a formal calculation to determine revenue loss due to COVID-19. The Revenue Replacement calculation is not static and must be consistently updated as the City receives actual revenues based on audited financials when available. Based on known information at the time of the August 17, 2021 Study Session (Budget Study Session No. 1), the City's initial revenue loss calculation indicated that the City could substantiate its entire \$32.7 million ARPA allocation under the Revenue Replacement category. This meant that the City had wide discretion on where to spend its entire \$32.7 million allocation at that point in time.

However, since the start of FY 2021-22, the Revenue Replacement figure changed as the economy has rebounded faster than anticipated from the pandemic and sales tax revenues have come in higher than originally budgeted projections. While increased sales tax over original budgeted projections is good news for the City, from an ARPA Revenue Replacement perspective, increased revenues reduce the eligible revenue replacement amount.

Based on sales tax receipts to date and latest projections from the City's sales tax consultant (Q3 2021 meeting), the City now projects sales tax revenues to come in \$3.9 million above budgeted amounts for sales tax in FY 2021-22.

This means the City's revenue replacement calculation will decrease from \$32.7M to somewhere between \$23.7M - \$26.9M. This also means the City must spend approximately \$6.0M to \$9.0M on direct and indirect costs associated with responding to the COVID-19 pandemic under allowable US Treasury expenditure categories. The City cannot attribute its entire \$32.7M on revenue replacement and discretionary projects. The

revenue replacement calculation will continue to change over time as actual revenues become known during the year and change in economic assumptions.

Proposed ARPA Spending Plan

The Proposed ARPA Spending Plan (ARPA Plan) for City Council consideration will formally obligate the remaining \$16.5 million of unobligated ARPA allocation for projects and programs allowable under US Treasury guidelines.

In recent months, City Council allocated \$1.45 million of ARPA funds for homeless beds at the Navigation Center and a one-time grant aid to the Fullerton Museum Association. On December 7, 2021, along with additional budget reductions to the FY 2021-22 budget, City Council approved and set aside \$11.6 million of ARPA funds to utilize for 'Revenue Replacement' for budgeted government services in order to stabilize government finances and maintain sufficient reserve levels.

At the January 18, 2022 City Council meeting, staff presented the Proposed ARPA Spending Plan with City Manager recommendations for City Council consideration. City Council obligated about \$2.3 million and elected to continue obligation of the remaining \$16.5 million to the February 1, 2022 City Council meeting. City Council continued the February 1, 2022 item to the February 15, 2022 City Council meeting.

As presented in prior budget study sessions, the Updated ARPA Project List (Attachment 2) contains \$69.8 million of identified projects and programs submitted for ARPA funding consideration. All departments developed the ARPA Project List which identifies a broad range of both budgeted and unbudgeted projects and programs and exceeds the City's ARPA allocation. Staff developed the ARPA Project List to identify areas of the greatest need for municipal operations, the community and local economy, public health and City Council initiatives.

Attachment 3 – Proposed Unobligated ARPA Spending Plan by Project Rank

Attachment 3 presents City Manager recommended funding levels for the remaining \$16.5 million of unobligated ARPA allocation for City Council review and consideration. The following summarizes the recommendations by US Treasury category.

Public Health – Recommendation includes allocating an additional \$754,706 towards Public Health. Significant projects include vital improvements to the City's Emergency Operations Center (EOC) to update the City's antiquated EOC and enable the EOC to operate with up-to-date technology during times of crisis and emergencies. Other investments include purchasing an Emergency Portable Generator for the City's disaster shelter at the Fullerton Community Center (FCC) and other critical security and communications equipment at the FCC.

Negative Economic Impacts – Recommendation includes allocating an additional \$330,000 towards projects and programs that address some negative economic impacts. Recommendations include allocation of ARPA under Negative Economic Impacts towards utility subsidy program, swim scholarship and restoration of some Fullerton Library services.

Revenue Replacement – Recommendation includes allocating \$10 million for Street Rehabilitation. Street Infrastructure projects are not a direct, eligible Treasury category

and must be allocated under the Revenue Replacement provision. The street infrastructure improvements align with the City's planned water main replacements (funded by water funds) for its major thoroughfares and arterial streets. In addition to Street Rehabilitation, recommendations include allocation of ARPA under Revenue Replacement (additional \$4 million) towards street lighting, system upgrades (cashiering, utility billing and general billing), Amerige stadium netting, Independence Park swim complex fencing and a quint fire truck.

Administrative Costs – The ARPA Plan includes a recommended \$1.4 million allocation to administrative costs for staff performing ARPA grant management, ongoing grant reporting as required by ARPA, annual single audit requirements and general administrative overhead costs. Administrative Costs is an eligible Treasury category and this amount covers the duration of the ARPA grant period through FY 2023-24 or until staff submits final reporting accepted by the US Treasury.

At the January 18, 2022 City Council meeting, several Council Members expressed interest in allocating ARPA funds towards projects and programs beyond the presented ARPA Project List. This included funding for local non-profits, park improvements, etc. While these are all qualified uses of funding under ARPA, City Council faces the challenge of having more needs than available ARPA funding.

If a City Council majority would like to allocate some level of funding for purposes not currently listed, staff will incorporate these items into the ARPA Spending Plan. Staff requests Council Members provide specific proposals for City Council consideration.

Staff developed the ARPA Project List to recommend a Proposed ARPA Spending Plan based on balancing citywide operational needs and direct community support. The Plan considered shoring up citywide services and facilities as the greatest utilization of these funds for the benefit of the Fullerton community.

Staff recommends City Council consider the remaining Recommended ARPA Spending Plan and obligate the remaining \$16.5 million of ARPA per the project and program areas as provided in Attachment 3.

Revenue Replacement for Budgeted Services

On January 18, 2022, City Council ratified \$11.6 million of ARPA allocation for Revenue Replacement, authorized the City Manager to manage and administer ARPA funds to comply with Federal guidance and authorized the City Manager, or designee, to make necessary budget and accounting adjustments to account for and report ARPA allocation in compliance with US Treasury guidelines.

Public Works submitted in the initial ARPA project request list \$16.8 million for Water Main Replacements which is eligible under US Treasury guidelines. The City Manager has identified \$2 million dollars of the Public Works request needed to move forward the Water Main Replacements – Orangethorpe (Harbor to Lemon) project.

At the beginning of the pandemic, the City negotiated payment of \$1 million of County road funds in exchange for use of City facilities and identified the funds for use on Orangethorpe Avenue between Harbor Blvd and Lemon Street. This segment of roadway planned for street rehabilitation also contains two cast iron water pipes installed in the

1950's. Due to the proposed method of pavement rehabilitation combined with the age and condition of the water pipes, replacement of these water pipes as part of the street rehabilitation project is highly needed. Failure to replace these pipes could result in multiple water pipe breaks during and after street construction, significantly increasing costs to the City.

The estimated cost to replace these pipes totals \$2 million. The project would combine the two existing pipes into one new pipe. Application of ARPA to this project will enable the City to continue working towards its goal of keeping pace with the pipeline replacement promises made to the community when it adopted utility rates. Without application of \$2 million of ARPA towards this project, staff has concerns about the impact of further delays on the implementation of water reservoir, wells and other infrastructure replacements – as achieving the mileage goal remains a high priority.

The City Manager seeks ratification of allocating \$2 million of the \$11.6 million of ARPA within City Manager authority as this project is not included in the FY 2020-21 budget.

Final Rule – US Treasury Guidance

US Treasury released the Final Rule on ARPA program requirements and guidance on use of ARPA funds on January 6, 2022. Prior to the Final Rule, staff utilized the guidance and provisions of the 'Interim Rule' (*published August 2021*) which served as the basis of all previous ARPA updates provided to City Council.

Based on initial review of the Final Rule, the most substantial change to US Treasury guidance is on the Revenue Replacement provision. Per the Final Rule, ARPA now allows cities to use either a \$10 million standard allowance (with no backup calculation) for its revenue replacement or can opt for the original revenue replacement calculation formula. As the City's current Revenue Replacement figure is above \$20 million, the City will continue to utilize the formula calculation option for its revenue replacement.

Staff continues to review the recently published Final Rule in its entirety and will report any other pertinent impacts to City Council.

Attachments:

- Attachment 1 – Presentation
- Attachment 2 – Updated ARPA Projects and Programs List
- Attachment 3 – Proposed Unobligated ARPA Spending Plan by Project Rank
- Attachment 4 – Obligated ARPA Spending Plan
- Attachment 5 – US Treasury ARPA Expenditure Categories Addendum