



ADMINISTRATIVE SERVICES DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: September 7, 2021

Subject

Approve use of American Rescue Plan Act of 2021 funding allocation and approve Budget Modification #2122-162 increasing appropriations in the General Fund (100-90-001 page 583 of the FY 2021-22 Adopted Budget) by \$4,847,386.50 and revenues in the General Fund by \$4,847,386.50 as shown in Attachment C.

Recommended Action

Approve use of American Rescue Plan Act of 2021 funding allocation and approve Budget Modification #2122-162 increasing appropriations in the General Fund (100-90-001 page 583 of the FY 2021-22 Adopted Budget) by \$4,847,386.50 and revenues in the General Fund by \$4,847,386.50 as shown in Attachment C.

Discussion

On March 11, 2021, the American Rescue Plan Act (ARP) of 2021 was signed into law and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds, which together make up the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”).

The American Rescue Plan (ARP) Act of 2021 is a \$1.9 trillion economic stimulus bill. Within the ARP, the Coronavirus Local Fiscal Recovery Fund provided \$350 billion for states, municipalities, counties, tribes, and territories, including \$130 billion for local governments split evenly between municipalities and counties. California cities are expected to receive more than \$7 billion dollars in much needed assistance to help offset the billions of dollars in revenue shortfalls due to the shutdown of local economies and the billions spent protecting public health, delivering essential services, protecting vulnerable populations, and helping small businesses survive during the pandemic.

The City of Cupertino is expected to receive two payments totaling \$9,694,773 in SLFRF funding. The first payment was received in May 2021 in the amount of \$4,847,386.50 and the second payment is expected in May 2022. The City may use SLFRF funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, as long as the award funds for the obligations incurred by December 31, 2024 are spent by December 31, 2026.

As a recipient of the SLFRF award, the City has substantial discretion to use the award funds in the ways that best suit the needs of the City's constituents – as long as such use fits into one of the following four statutory categories determined by the U.S.

Department of the Treasury:

1. Public Health/Negative Economic Impacts: Recipients may use SLFRF award funds to provide assistance to households – such as rent, mortgage, or utility assistance – for costs incurred by the household prior to March 3, 2021, provided that the City did not incur the cost of providing such assistance prior to March 3, 2021.
2. Premium Pay: Recipients may provide premium pay retrospectively for work performed at any time since the start of the COVID-19 public health emergency. Such premium pay must be “in addition to” wages and remuneration already received and the obligation to provide such pay must not have been incurred by the recipient prior to March 3, 2021.
3. Revenue Loss: Treasury's Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. While calculation of loss revenue begins with the recipient's revenue in the last full fiscal year prior to the COVID-19 public health emergency and includes the 12-month period ending December 31, 2020, use of funds for government services must be forward looking for costs incurred by the recipient after March 3, 2021.
4. Investments in Water, Sewer, and Broadband: Recipients may use SLFRF award funds to make necessary investments in water, sewer, and broadband. Recipients may use SLFRF award funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, provided that the project costs covered by the SLFRF award funds were incurred after March 3, 2021.

The Treasury's Interim Final Rule includes explicit restrictions on use of SLFRF awards. Section 602(c)(2)(A) of the Act provides that States and territories may not “use the funds ... to either directly or indirectly offset a reduction in ... net tax revenue ... resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax ... or delays the imposition of any tax or tax increase. In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund.”

Following the guidance of the U.S. Department of the Treasury, City staff have estimated a total revenue reduction figure of \$29,329,752 through December 31, 2023. Because Revenue Loss estimates as of June 30, 2021 exceed the City's SLFRF allocation by \$19,634,979, or 302.5%, City staff recommend allocating the SLFRF funds toward Revenue Loss. Electing to direct the SLFRF allocations toward the City's Revenue Loss will allow the City to maintain current levels of operations and government services.

Additionally, this action will mitigate the use of fund balance City-wide and afford City Council the continued ability to consider new projects and initiatives in the future.

The SLFRF allocations have and will be recorded in the City’s General Fund (Non-Departmental Department as part of the FY 2021-22 Adopted Budget and as recommended in this staff report). To equitably allocate these dollars for maintaining government services, staff recommend transferring each of the two SLFRF payments to General Fund Departments proportionally based on the FY 21-22 and FY 22-23 Adopted Budget. Since FY 22-23 Department budget amounts are unknown at this time, the second SLFRF payment will be allocated to Departments as part of the FY 22-23 Adopted Budget. Below is the proposed allocation for FY 21-22:

General Fund Department	FY 21-22 Adopted Budget	Percentage	SLFRF Allocation
Administration	\$ 7,629,629	9.7%	\$ 471,145
Administrative Services	\$ 5,378,147	6.9%	\$ 332,112
Community Development	\$ 12,871,834	16.4%	\$ 794,862
Council and Commissions	\$ 1,334,303	1.7%	\$ 82,396
Innovation and Technology	\$ 2,369,287	3.0%	\$ 146,308
Law Enforcement	\$ 15,756,350	20.1%	\$ 972,987
Public Works	\$ 25,809,192	32.9%	\$ 1,593,773
Parks and Recreation	\$ 7,348,805	9.4%	\$ 453,804
	\$ 78,497,547	100%	\$ 4,847,387

In order to substantiate the appropriate use of these dollars, specific budgeted items have been identified within each department for which the American Rescue Plan Act dollars will fund. They primarily include City Work Plan and special project items as well as core services such as law enforcement, library services, and street pavement maintenance. If any budgetary savings are realized with the items noted below, any remaining departmental allocation amounts will go towards funding salaries and benefits of employees delivering services to the public.

	ARP		
	Department		
	Allocation		
	Amount	Budgeted Item	Amount
Administration	\$ 471,145	CWP - Climate Action Plan	\$ 78,000
		CWP - Personal Preparedness	\$ 10,000
		Administration Overhead (Cost Allocation)	\$ 383,145
			\$ 471,145
Administrative Services	\$ 332,112	Internal Audit	\$ 150,000
		General Liability Insurance*	\$ 182,112
			\$ 332,112
Community Development	\$ 794,862	CWP - Homeless Jobs Program	\$ 200,000
		CWP - General Plan and Muni Code Update	\$ 250,000
		CWP - RHNA	\$ 295,000
		CWP - Encouraging Dark Sky Compliance	\$ 10,000
		CWP - Development Accountability	\$ 10,000
		CWP - Sign Ordinance Update	\$ 25,000
		Regulating Diversified Retail Use*	\$ 4,862
			\$ 794,862
Council and Commissions	\$ 82,396	Community Funding	\$ 82,396
Innovation and Technology	\$ 146,308	Accela Business License*	\$ 17,500
		Customer Service Solution	\$ 65,000
		ERP exploration	\$ 50,000
		Performance Management Application*	\$ 13,808
			\$ 146,308
Law Enforcement	\$ 972,987	Law Enforcement Services (SCC)	\$ 972,987
Public Works	\$ 1,593,773	CWP - Municipal Water System	\$ 10,000
		CWP - Revisit 5G	\$ 250,000
		Replenish Transfer to Fund 270 for Pavement Maintenance	\$ 1,333,773
			\$ 1,593,773
Parks and Recreation	\$ 453,804	CWP - Mental Health Support	\$ 10,000
		CWP - Senior Strategy	\$ 34,000
		CWP - Dogs Off Leash Area	\$ 5,000
		CWP - Revamping Block Leader and Neighborhood Watch	\$ 1,500
		Library Services*	\$ 403,304
			\$ 453,804
			\$ 4,847,387

*Does not represent full cost of budgeted item.

Because the revenue loss estimates are not anticipated to be realized until calendar year 2022 and 2023, there is a risk that alternative uses of these funds may need to be considered. Staff will ensure City Council is kept up to date regarding the revenue loss estimations as part of the quarterly budget reporting process. If changes from the plan described herein are needed, staff will bring alternative options to City Council for further consideration.

Sustainability Impact

No sustainability impact.

Fiscal Impact

The City's allocation of the American Rescue Plan Act of 2021 and the action to direct the funding toward Revenue Loss will increase General Fund fund balance by \$9.7 million. The budget modification increases transfers out of the General Fund's Non-Departmental Department and increases transfers in for all other General Fund Departments on a proportional basis with the FY 21-22 Adopted Budget as shown in Attachment C without any actual increase in budget City expenditures.

Prepared by: Zach Korach, Finance Manager

Reviewed by: Dianne Thompson, Assistant City Manager and Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Greg Larson, Interim City Manager

Attachments:

A – U.S. Department of the Treasury Interim Final Rule

B – Revenue Loss Calculation

C – Budget Adjustment