The County of Yuba

County Administrator

TO: Board of Supervisors

FROM: Kevin Mallen, County Administrator
Rachel Downs, YES Team

SUBJECT: County Administrator: Authorize creation of a Yuba Sutter Food Bank administered, Homebound Food Delivery Program to deliver and provide two (2) pre-made meals and groceries to eligible Yuba County residents, using a portion of the CARES Act grant monies allocated to Yuba County. (Roll Call Vote) (Five minute estimate)

DATE: 08/25/2020

NUMBER: 432/2020

Recommendation:

It is recommended that the Board take the following actions:

1. Make a finding of a public purpose to establish a Vulnerable Populations Food Delivery Program in the total amount of $330,000, via $150,000 federal Coronavirus Aid, Recovery, and Economic Security Act (CARES Act) and $180,000 Community Development Block Grant (CDBG) monies, to provide funding to the Yuba Sutter Food Bank to support meal and grocery delivery services to Yuba County residents.

2. Approve and authorize the Chair or Vice-Chair to execute the Resolution making the finding of public purpose and authorizing the establishment of the vulnerable populations food delivery program.

3. Authorize the County Administrator to sign any required documents to enter into an agreement with the Yuba Sutter Food Bank in an amount not to exceed $330,000 in order for Yuba Sutter Food Bank to administer the program and distribute meals on behalf of the County in substantial conformance with the program described herein, subject to disbursement of the CARES Act and CDBG funds from the State to the County.

Background:

From January through August 2020, the coronavirus disease (COVID-19) has evolved from an isolated disease in a region of China to a global pandemic that has brought countries to a standstill, pushed numerous hospital systems to the brink, and dragged the global economy into a recession. On January

While residents have altered their way of life, and businesses have shifted operations, case rates in California continue to rise, showing elevated community transmission. Evidence indicates that proper wearing of facial coverings and social distancing significantly reduces the spread of COVID-19, yet wearing a facial covering is exceptionally difficult when eating or drinking, disproportionally impacting the ability of indoor dining establishments or catering companies to operate. These small businesses have suffered massive losses as a result of the COVID-19 Recession.

Furthermore, the Centers for Disease Control have identified persons over 65 years of age or older, and those with underlying health conditions, as the most vulnerable populations for advanced COVID-19 infections. Currently, Adventist Rideout Hospital ICU beds are at capacity with limited ability to surge, potentially restricting quality care available to the advanced cases. Our homebound residents are the most susceptible to an escalated reaction to the virus, making grocery shopping or dining out high-risk activities to fulfill their basic needs for nutrition.

Our medically fragile residents are entitled to quality meals and groceries, despite their inability to leave their homes or risk exposure of their health. Medical research shows that quality nutrition has a direct impact on not only physical health, but also mental, emotional and behavioral health. Without sufficient nutrition, a person’s ability to care for themselves or others and complete basic daily functions begins to dwindle. By funding the Yuba Sutter Food Bank to carry out the Vulnerable Populations Food Delivery Program, the further deterioration of our vulnerable population’s health is reduced dramatically and a burden is lifted from our public health system.

**Discussion:**

Yuba County anticipates receiving an allocation $8,043,258 in federal CARES Act funding through the state that may be used for the County’s emergency response and recovery costs, economic support for businesses and individuals, and measures to reduce the spread of COVID-19 in the homeless community. Funds must be spent between March 1, 2020 and December 30, 2020. The State has elected to disburse the funds incrementally. Yuba County received its first CARES Act funds on July 30, 2020 in the amount of $1,340,543 which represents 1/6 of the total allocation to the County. Based on communications from the State, the County should receive payment in the same amount in the month of August.

1 [https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2696644/](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2696644/)
Guidance provided by the United States Treasury for State, Territorial, Local, and Tribal Governments as updated June 30, 2020 states:

Eligible expenditures include, but are not limited to, payment for:

*Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as: Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.*

A County grant program, consistent with the guidance, could include the following criteria:

**Program Overview:**

The Vulnerable Population Food Delivery Program is part of the Yuba-Sutter Food Bank response to COVID-19. Currently, the Food Bank provides both Yuba County and Sutter County residents shelf-stable food, fresh produce (fruits and vegetables), dairy items, frozen meat, and bread, twice a month. The program strives to provide nutritional support to 248 Yuba County residents of which 236 of them are over the age of 60.

Yuba County, through Yuba Sutter Food Bank, would collaborate with Yuba County Restaurants, catering service, or non-profits, to provide 2 pre-made meals a week, and deliver groceries to eligible Yuba County residents once per week to reduce hunger in high-risk individuals, primarily seniors, and provide for basic nutritional needs of our most vulnerable residents.

Residents identified through the Yuba Sutter Food Bank and Yuba County’s Health and Human Services (HHSD) eligibility department will be served. Yuba County IHSS recipients are eligible and included on the delivery roster. Additional residents interested in this program may call the Yuba Sutter Food Bank’s call center to apply.

Eligibility criteria will be consistently applied to all applications. All applications will be considered without attention to race, color, religion, sex, sexual orientation, gender identity, national origin, political affiliation, and veteran or disability status of the owner, employees, or community served.

This item presented to the Board today is one of many, in a comprehensive approach the County is undertaking to address how best to utilize the CARES Act funds in a manner that focuses on minimizing the impact of COVID on our community. While this action focuses on reducing hunger in our most at-risk population, we recognize that there are many needs that will be addressed as the State makes the CARES Act funds available to the County.

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Finding of Public Purpose:

The California Constitution Article XVI, section 6 prohibits the making of a gift of any public funds. However, as interpreted by the courts, a gift of public funds does not occur if a public benefit is conferred or obtained by the expenditure of such funds even if private persons or entities receive “incidental” benefits from the expenditure. The determination of what constitutes a public purpose is in the first instance a determination to be made by the Board of Supervisors.

As the California Supreme Court has said, “necessity alone is not the test by which the limits of state authority in this direction are to be defined, but wise statesmanship must look beyond the expenditures which are absolutely needful to the continued existence of organized government, and embrace others which may tend to make that government subserve the general well-being of society, and advance the present and prospective happiness and prosperity of the people.” Such statement is no truer than in this instance.

Furthermore, as stated in Article 25 of the United Nations Universal Declaration of Human Rights, established in 1948, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

This proposed expenditure will assist the most at-risk persons that are complying with the Governor’s Executive Order by staying home when possible, thereby serving the public purpose of decreasing the exposure of individuals to the coronavirus and furthering the public purpose of community health, safety, and welfare.

The courts have time and again upheld a wide variety of welfare and other social programs against a claim that such programs constituted a gift of public funds.

Additionally, this expenditure will advance the public purpose of economic development by assisting those participating businesses whose commitment to social responsibility outweighed their own economic benefit. As previously stated many restaurants and food service have acted appropriately by following the State and Local Health Orders to stem the tide of COVID 19.

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3 Patrick v. Riley (1930) 209 Cal. 350, 358 upholding the compensation of the owner of two dairy cows destroyed pursuant to the Bovine Tuberculosis Law.
5 (See County of Los Angeles v. La Fuente, supra (aid to needy aged); County of Alameda v. Janssen, supra (release of liens on property owned by indigent welfare recipients); [****33] San Francisco v. Collins, 216 Cal. 187 [13 P.2d 912] (aid to indigent sick and poor persons); Doctors General Hospital v. County of Santa Clara, 188 Cal.App.2d 280 [10 Cal.Rptr. 423] (tax refund to certain charitable institutions); Goodall v. Brite, 11 Cal.App.2d 540 [54 P.2d 510] (hospital care to paupers and others unable to afford private care).) County of Alameda v. Carleson, 5 Cal. 3d 730, 746
The participation of such businesses in this program will help them to remain viable contributors to the local economy. The retention of business has long been recognized as a laudable public purpose and given current conditions is no doubt of immediate concern to local governments and their constituents.\textsuperscript{6}

Finally, the CARES Act itself impliedly recognizes the public purpose to be served by providing home meal deliver service to at-risk residents in the time of this pandemic by authorizing the use of the funds for that very purpose.

**Committee Action:**

This item is being presented directly to the full Board due to the urgency of Yuba County’s resident’s needs and the suddenness with which California’s COVID-19 test positivity rate continues to rise.

**Fiscal Impact:**

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<thead>
<tr>
<th>Source of Funds</th>
<th>General Fund</th>
<th>Non-General Fund</th>
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<tbody>
<tr>
<td>County of Yuba, federal, CARES Act funding</td>
<td>None</td>
<td>$150,000</td>
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<tr>
<td>County of Yuba, federal CDBG funding</td>
<td>$180,000</td>
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**Attachments:**

432/2020 Vulnerable Populations Food Delivery Program Outline
432/2020 Resolution for Vulnerable Populations Food Delivery Program

\textsuperscript{6} Pacific Gas & Electric Co. v. City & County of San Francisco (2012) 206 Cal.App. 4th 897