The County of Yuba
County Administrator

TO: Board of Supervisors
FROM: Kevin Mallen, County Administrator
       Melanie Marquez, YES Team
SUBJECT: Authorize creation of a Yuba County Non-Profit Relief Grant Program, administered by Yuba-Sutter-Colusa United Way, to support local non-profit agencies adversely affected by the COVID-19 pandemic using a portion of the CARES Act grant monies allocated to Yuba County. (Roll Call Vote) (Five minute estimate)

DATE: August 25, 2020
NUMBER: 434/2020

Recommendation:

I hereby request that the Yuba County Board of Supervisors:

1. Make a finding of a public purpose to establish a non-profit relief grant program in the amount of $150,000 in federal Coronavirus Aid, Recovery, and Economic Security Act (CARES Act) funding to provide funds to qualifying non-profits to support increased costs and/or revenue loss due to COVID incurred between March 1, 2020 and September 1, 2020; and
2. Approve and authorize the Chair or Vice-Chair to sign a resolution making the necessary finding of public purpose and establishing the non-profit relief grant program; and
3. Authorize the County Administrator to sign any required documents to enter into a funding agreement with the Yuba-Sutter-Colusa United Way (YSCUW) in an amount not to exceed $150,000 (less a 5% fee to United Way) in order for YSCUW to administer the grant program and distribute funds on behalf of the County in substantial conformance with the program described herein, subject to disbursement of the CARES Act funds from the State to the County.

Background:

On March 19, 2020, Governor Gavin Newsom issued Executive Order N-33-20, directing individuals not working in one of the Essential Services sectors to stay at home to prevent the spread of the COVID-19 virus. This action caused an interruption in local business operations due to forced closures and has impacted services provided to the public despite growing community needs during this difficult time. Non-profits often work on the front lines during times of crisis and are subject to the effect of a slowed
economy. This new environment of COVID-19 can pose challenges due to lost revenue as events are being cancelled and donations are anticipated to decline despite an increase in the demand for services provided. Furthermore, there is a need to modify operations in an effort to reduce the spread of the virus. Congress has taken steps to include non-profit agencies in many of the CARES Act programs, however additional resources are needed to ensure these organizations continue to provide vital services to residents, including vulnerable populations, and to support the stabilization and reopening of the community.

At their regular meeting on August 11, 2020, the Yuba County Board of Supervisors approved an overall plan for the use of the County’s CARES Act allocation of funds to be received from the State. As part of this plan, the Board approved $150,000 of the funds to be used for a program to provide funding for non-profits impacted by COVID.

Discussion:

Yuba County anticipates receiving an estimated allocation of $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 allocated to the County. Based on communications from the State, the County should receive payment in the same amount in the month of August.

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 associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:

• Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures”

Additionally, in recognition of the partnership that exists between public entities and non-profits in providing services to those in need, in the frequently asked questions section of that Guidance, the Treasury provided the following information:

*May Fund payments be provided to non-profits for distribution to individuals in need of financial assistance, such as rent relief?*

Yes, non-profits may be used to distribute assistance. Regardless of how the assistance is structured, the financial assistance provided would have to be related to COVID-19.

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Based on guidance provided by the state and federal government, the County allocating CARES Act funding through grants to assist local non-profits for costs of business interruption and compliance with State and Local regulation due to COVID are eligible expenses.

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

Program Overview:

1. Yuba County, through Yuba-Sutter-Colusa United Way, would offer grants ranging from $1,000 to $7,500 per non-profit organization in CARES Act grant funding for temporary economic relief in order to mitigate the adverse economic impact of COVID-19.
   - Grants will provide funds for non-profits affected by the loss of income/donations or to offset increased costs due to COVID that occurred between March 1, 2020 and September 1, 2020. Grant funds received may be used for operational or programmatic costs.

2. Interested non-profits would submit an application for grant funding on a form developed by YSCUW in conjunction with Yuba County.

3. Eligibility criteria would be developed and consistently applied to the grant 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 organization’s administrators, staff, or population served. Non-profits based in, or primarily serving Yuba County will receive preference.

4. Eligible non-profits would need to provide a certification and supporting documentation that:
   - They serve residents of Yuba County;
   - They are a non-profit 501 (C) 3 organization in good standing with the IRS and the State Attorney General;
   - They have been, and are, in compliance with all State and Local Orders affecting the operation of their business including Guidance issued by the California Department of Public Health and the Yuba Sutter Local Health Officer.

5. Applications for funding will be reviewed by a committee prior to making a funding decision. The “need” criteria would look at the amount of revenue lost and the additional costs incurred related to COVID-19.

Staff is recommending that if the Board wishes to pursue a non-profit grant program as outlined above, that YSCUW administer the program. The County would grant to YSCUW the amount of $150,000 to be used to establish, administer, and disburse grants of varying amounts to eligible non-profits in
accordance with the terms of a Funding Agreement to be entered into between the County and YSCUW. Five percent (5%) of the total grant will be retained by YSCUW to cover the costs of administering the program. Administration includes marketing the grant program to local non-profits, developing and providing access to an online application form, reviewing and scoring applications according to the agreed upon criteria, notifying the County of proposed grantees, notifying grantees of awards, releasing funds to grantees, and retaining records for audit purposes.

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.”

Non-profit organizations provide a wide variety of services to the most needy in the community. It has long been recognized that the assistance of non-profit organizations by government to further the fulfillment of the non-profit’s mission in aiding the public is a public purpose and not a gift of public funds. In Doctors General Hospital v. County of Santa Clara (1961) 188 Cal.App. 2d 280, the court upheld the refund of property taxes to a non-profit hospital as furthering a public purpose.

This proposed expenditure will assist those non-profits that are complying with the Governor’s Executive Order thereby serving the public purpose of decreasing the exposure of individuals to the coronavirus and furthering the public purpose of public health, safety, and welfare.

This program will assist non-profits in remaining viable to maintain services that assist the residents of Yuba County who have been impacted by COVID-19, either medically or financially, while protecting the health of staff, volunteers and the community. The continued existence of non-profits in the community is without a doubt of importance in maintaining the overall health and welfare of the community.

Additionally, this expenditure will advance the public purpose of economic development by assisting those non-profits whose commitment to social responsibility outweighed their own economic benefit. Non-profits have long served an indispensable public purpose by supporting the improvement and well-being of the communities they serve. Given current conditions, the role of non-profits in supporting the
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.

Community is no doubt of immediate concern to local governments and their constituents. Service organizations play a vital role in public health during this crisis by providing assistance such as nutrition support, mental health care, and housing aid among other significant needs to our community, including senior citizens and other vulnerable populations. They will also be critical in the rebuilding phase to foster growth within Yuba County.

Committee Action:

This item is being presented directly to the full Board due to the urgency of Yuba County’s local non-profit needs and the urgency within the community for the support and services they provide.

Fiscal Impact:

General Fund - None
Non-General Fund - $150,000
Source of Funds - County of Yuba, federal, CARES Act funding

Attachments:

434/2020 Resolution - Non-Profit Relief Grant
434/2020 Non-Profit Grant Program Description