

The County of Yuba



TO: Board of Supervisors

FROM: Kevin Mallen, County Administrator
Jason Kopping, YES Team

SUBJECT: County Administrator: Authorize a second appropriation for the Yuba-Sutter Economic Development Corporation administered, Yuba County small business-relief grant program, to support local businesses during COVID-19 closures using a portion of the CARES Act grant monies allocated to Yuba County.

DATE: November 10, 2020

NUMBER: 581/2020

Recommendation

It is recommended that the Board take the following actions:

1. Make a finding of a public purpose to continue the business relief grant program in the amount of \$500,000 in federal Coronavirus Aid, Recovery, and Economic Security Act (CARES Act) funding to provide funds to qualifying businesses to support increased costs and/or revenue loss due to COVID incurred between March 1, 2020 and October 31, 2020; and

Authorize the Chair or Vice-Chair to sign any required documents to enter into an agreement with the Yuba-Sutter Economic Development Corporation (YSEDC) in an amount not to exceed \$525,000 (\$500,000 plus 5% admin fee to YSEDC) in order for YSEDC to administer the continuation of the grant program and distribute funds on behalf of the County in substantial conformance with the program described herein.

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 forced the closure of numerous local businesses and plummeted revenue, while fundamental expenses remained. Over the past few months, California Department of Public Health (CDPH) has published *Blue Print for a Safer Economy*, which established a tiered approach to a phased reopening of the economy. Some industry sectors have been able to reopen, although with significant

new protocols in place to reduce the spread of COVID-19, which came at a cost to business owners. While Coronavirus transmission in Yuba County remains “substantial” according to CDPH, some business are required to remain closed or limited their capacity. In total, the resilience and adaptability of our business community is strong, however basic operating cost and COVID-19 risk mitigation expenses are more than some can bear.

The Governor in the May revision to the State budget recognized that: “Small businesses are the core of California’s economy—nearly 4 million businesses employ approximately half of the private workforce. Small businesses are job creators, innovators, and are key to the fabric of the state's diverse communities.

Small businesses have suffered massive losses as a result of the COVID-19 Recession. They are facing increased costs to modify their operations in order to reduce the transmission of COVID-19. Given their critical role in California’s economy, the May Revision proposes increased funding to support the recovery of this sector in the near- and long-term.”

Discussion

Yuba County has received an allocation of approximately \$8,000,000 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.

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.”¹

Based on guidance provided by the state and federal government, The County allocating CARES Act funding through grants to assist local businesses 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, includes the following criteria:

¹ <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

Program Overview:

1. The Yuba County Board of Supervisors approved an initial allocation of \$500,000 in CARES Act funds to the Small Business Resiliency Grant on August 11th, 2020 via Resolution No. 2020-94. The first round of this grant received forty-six applicants. Forty-five of these businesses received grant awards totaling \$493,500 and the grants ranged from \$1,000 to \$15,000. The financial review for these forty-five businesses showed a total year-over-year gross revenue loss of \$982,459 in March through July of 2020 versus 2019, and an average net loss in revenue of 62.71% even after including \$1,450,783 in PPP & EIDL grant funding that was received by Yuba County businesses and added back into their, respective, income statements. These forty-five businesses have 470 employees, an annual payroll of \$5,932,135, and report more than \$68,000 in Covid-19 related additional business expenses. Additionally, \$28,766 in delinquent property tax revenue was collected as a requirement prior to distribution of the funds.
2. A second round of funding to Yuba County businesses, administered through YSEDC would offer up to \$20,000, maximum, per business in CARES Act grant funding for temporary economic relief in order to mitigate the economic impact of COVID-19 closures and restrictions.
 - Businesses that received grant funds in the first round of the Small Business Resiliency Grant Program, which offered up to \$15,000 per applicant, would be eligible to reapply if they show an additional need; up to a combined total grant of \$20,000.
 - Businesses that received loans from Yuba County in April of 2020, would be eligible to apply for the Small Business Resiliency Grant Program, in order to pay back their loans.
3. Interested businesses would submit an application for grant funding on a form to be hosted by YSEDC.
4. Eligibility criteria will be, equally, applied to all 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 owner, employees, or community served.
5. Eligible businesses would need to provide a certification and supporting documentation that they:
 - a. Have a physical location in Yuba County
 - b. Have been in business since January 2020 (including months when the business was closed to the public due to COVID-19);
 - c. Have majority ownership by an individual whose primary residence is within the State of California;
 - d. Grant funds for revenue replacement and/or covering costs due to COVID-19 are in excess of any federal funding obtained through the CARES Act, Paycheck Protection Program (PPP), Economic Injury Disaster Loan (EIDL) or other federal funds released due to the impact of COVID-19 or losses covered by insurance.
 - e. 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.

6. Applications for funding would be ranked based 60% on need, 40% on economic impact to the community. The “need” criteria would look at the amount of revenue lost and the out of pocket costs incurred by the business related to COVID-19. The “economic impact” criteria would consider number of employees and gross payroll.

Staff is recommending that if the Board wishes to pursue a second wave of the Small Business Resiliency Grant Program as outlined above, that the County retain the services of YSEDC to administer. The County would pay YSEDC 5% of the total funding amount awarded to administer the program. Administration includes marketing the grant program to businesses, developing and providing access to an online application form, receiving applications and ranking 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. The cost of administration would come separately from CARES Act funds and would not affect the number of grants awarded or the amount of each grant.

The item presented to the Board today is a component of the 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.

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.”² Such statement is no more true than in this instance.

This proposed expenditure will assist those businesses 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.

Additionally, this expenditure will advance the public purpose of economic development by assisting those businesses whose commitment to social responsibility outweighed their own economic benefit. 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.

² 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.

Furthermore, this expenditure will prevent potential urban decay in Yuba County, benefitting all residents as a whole. Citing a definition used by San Bernardino County and accepted by the court, “urban decay is defined as, among other characteristics, visible symptoms of physical deterioration that invite vandalism, loitering, and graffiti that is caused by a downward spiral of business closures and multiple long term vacancies. This physical deterioration to properties or structures is to prevalent, substantial, and lasting for a significant period of time that it impairs the proper utilization of the properties and structures, or the health, safety, and welfare of the surrounding community. The manifestations of urban decay include such visible conditions as plywood-boarded doors and windows, parked trucks and long term unauthorized use of the properties and parking lots, extensive gang and other graffiti and offensive words painted on buildings, dumping of refuse on site, overturned dumpsters, broken parking barriers, broken glass littering the site, dead trees and shrubbery together with weeds, lack of building maintenance, abandonment of multiple buildings, homeless encampments, and unsightly and dilapidated fencing.”³ It is recognized that the shuttering of businesses in a community is a precipitating factor in bringing about the urban decay that is so harmful to the public. The grant program is designed to assist businesses in continuing their operations and remaining open to serve the laudable public purpose of preventing urban decay.

Finally, the CARES Act itself impliedly recognizes the public purpose to be served by providing grant funding to small businesses 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 local business needs and the suddenness with which the State has made changes that affect certain business sectors.

Fiscal Impact:

General Fund -	None
Non-General Fund -	\$525,000
Source of Funds -	County of Yuba, federal, CARES Act funding

Attachments

581/2020 Resolution.pdf
581/2020 Funding Agreement.pdf

³ Joshua Tree Downtown Business Alliance v. County of San Bernardino (2016) 1 Cal.App.5th 677