

The County of Yuba

County Administrator



TO: Board of Supervisors

FROM: Kevin Mallen, County Administrator
Melanie Marquez, YES Team

SUBJECT: County Administrator: Authorize continuation of the 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: November 10, 2020

NUMBER: 569/2020

Recommendation:

I hereby request that the Yuba County Board of Supervisors:

1. Make a finding of a public purpose to further fund the recently created non-profit relief grant program in the amount of \$250,000 in additional 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-19 incurred between March 1, 2020 and October 31, 2020; and
2. Approve and authorize the Chair or Vice-Chair to sign a resolution making the necessary finding of public purpose and authorizing the continuation of the non-profit relief grant program; and
3. Authorize the Chair or Vice-Chair to sign any required documents to support an amendment to the existing funding agreement with the Yuba-Sutter-Colusa United Way (YSCUW) in an amount not to exceed a total of \$400,000 (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.

Background:

At their regular meeting on August 11, 2020, the Yuba County Board of Supervisors (Board) 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 that plan, the Board approved \$150,000 of the funds to be used for a program to provide funding for non-profits impacted by COVID. The first round of the program was administered by YSCUW and provided a total of 25 individual grants in amounts ranging from \$2,500.00 to \$7,500.00. 15 of the 25 applicant organizations were Yuba County-based, and the remaining 10 although based outside of Yuba County, provide invaluable services to our residents. Feedback from recipient organizations was resoundingly appreciative. Whether the impact of the grant funding was to avoid closure of the organization, or to expand the number of residents they were able to serve, Yuba County has continued to benefit from the services provided by these non-profits.

Just as the Coronavirus has affected so many local small businesses and posed new challenges to our daily lives, non-profit organizations are equally affected. Non-profits are suffering financially due to the inability to hold fundraising events and are also experiencing a noticeable decline in donations since March. Furthermore, it is imperative that they survive this new COVID-19 environment by adapting operations to reduce the spread of the virus. These organizations are unique in that they provide fundamental services to our residents and will continue to support our community in recovery both throughout and following the pandemic. Every dollar spent to support non-profits will come back to our community in the form of services they provide.

At their regular meeting on October 27, 2020, the Board approved the allocation of additional payments for the use of CARES Act funds in Yuba County. A portion of these approved payments was provided to the non-profit relief grant program in the additional amount of \$250,000. This second round of grants will continue to be administered by YSCUW and details of the program will be amended to reflect the additional funding.

Discussion:

Yuba County has received 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 elected to disburse the funds incrementally. Yuba County has received its share of CARES Act funding.

Guidance provided by the United States Treasury for State, Territorial, Local, and Tribal Governments as updated September 2, 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

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

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 (Updated as of October 19, 2020):

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-19.²

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.

Program Overview for Round Two of Non-Profit Grant Funding:

1. Yuba County, through YSCUW, would offer individual grants ranging from \$1,000 to \$10,000 per non-profit organization in CARES Act grant funding for temporary economic relief in order to mitigate the adverse economic impact of COVID-19. Any remaining funding after initial allocation of grants up to the amount requested or \$10,000 would be distributed based on need and not to exceed an amount of \$15,000.
 - 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 October 31, 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.
 - Non-profits funded in the previous round of Yuba County grants administered by YSCUW may apply for additional funding, not to exceed the maximum allowed by the program.
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;

² <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>

- They are a non-profit 501 (C) 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 continue the non-profit grant program as outlined above, that YSCUW administer the program. The County would grant to YSCUW the additional amount of \$250,000 to be used to administer, and disburse grants of varying amounts to eligible non-profits in accordance with the terms of the Funding Agreement between the County and YSCUW to be amended. 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 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.”³

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.

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.

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 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 -	\$250,000
Source of Funds -	County of Yuba, federal, CARES Act funding

Attachments:

569/2020 Non-Profit Grant Program Description - Round Two
569/2020 Resolution - Non-Profit Relief Grant - Round Two
569/2020 Funding Agreement with YSCUW - Amendment #1