

The County of Yuba

County Administrator



TO: Board of Supervisors

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

SUBJECT: County Administrator: Authorize continuation and additional funding for the Yuba Sutter Food Bank administered Vulnerable Populations Food Delivery Program, using a portion of the CARES Act grant monies.

DATE: November 10, 2020

NUMBER: 571/2020

Recommendation:

It is recommended that the Board take the following actions:

1. Make a finding of a public purpose to continue the Vulnerable Populations Food Delivery Program in the amount of \$140,000, via federal Coronavirus Aid, Recovery, and Economic Security Act (CARES Act) 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 continuation of the Vulnerable Populations Food Delivery Program.
3. Authorize the Board Chair to sign any required documents to enter into an agreement with the Yuba Sutter Food Bank in an amount not to exceed \$140,000 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

Background:

From January through October 2020, the Coronavirus (COVID-19) has evolved from an isolated disease in 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 21, 2020 the World Health Organization (WHO) issued a Global Health Emergency, shortly followed by President Trump's declaration of the Coronavirus outbreak in the United States on February 3, 2020. On March 19, 2020 California 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.

In the late summer, California Department of Public Health (CDPH) announced a phased reopening of our state economy in publishing *California's Blue Print for a Safer Economy*. However, the pandemic remains fragile and fluid, and many sectors of our community remain closed. Our food establishments have disproportionately suffered from extended closures and limitations of dine-in services. Evidence indicates that proper wearing of facial coverings and social distancing significantly reduce the spread of COVID-19, yet wearing a facial covering is exceptionally difficult when eating or drinking. Furthermore, opening dine-in services at extremely limited capacities is not a viable business model for many food establishments. While safe guarding our residents from the transmission of COVID-19, there have been a number of unintended consequence, including negative economic impacts, which in total effect the holistic wellbeing of our community's health.

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. 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. Providing meals directly to their homes not only greatly reduces the individual's risk and exposure to the deadly virus, but also safeguards the limited resources of our medical system.

Additionally, as a fundamental human need, our medically fragile and senior residents are entitled to quality meals and groceries, despite the 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.¹ Without sufficient nutrition, a person's ability to care for themselves or others and complete daily functions begins to dwindle. By continuing to fund the Yuba Sutter Food Bank's administration of the Vulnerable Populations Food Delivery Program, the further deterioration of our vulnerable population's health is reduced dramatically, which directly effects Yuba County's totality of health.

Discussion:

Yuba County has received 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.

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.*²

¹<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2696644/>

²<https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf>

Program Overview:

In partnership with Yuba County, the Yuba Sutter Food Bank established the Vulnerable Population Food Delivery Program in response to COVID-19. The Food Bank provides Yuba County residents shelf-stable food, fresh produce (fruits and vegetables), dairy items, frozen meat, and bread, twice a month. With the initial allocation of CARES Act funding, the Food Bank expanded this delivery to include (2) pre-made meals for program participants, reducing hunger in high-risk individuals, primarily seniors, and providing 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 are served. Yuba County IHSS recipients are eligible and included on the delivery roster as well. Additional residents interested in this program may call the Yuba Sutter Food Bank's call center to apply.

All individuals 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-19 on our community.

Committee Action:

In partnership with Yuba County, the Yuba Sutter Food Bank established the Vulnerable Population Food Delivery Program in response to COVID-19. The Food Bank provides Yuba County residents shelf-stable food, fresh produce (fruits and vegetables), dairy items, frozen meat, and bread, twice a month. With the initial allocation of CARES Act funding, the Food Bank expanded this delivery to include (2) pre-made meals for program participants, reducing hunger in high-risk individuals, primarily seniors, and providing for basic nutritional needs of our most vulnerable residents.

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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.”³ 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.”⁴

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.⁵

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. 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.⁶

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

⁴ <https://www.un.org/en/universal-declaration-human-rights/>

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

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 time frame in which CARES Act funding must be utilized.

Fiscal Impact:

General Fund -	None
Non-General Fund -	\$140,000
Source of Funds -	County of Yuba, federal, CARES Act funding

Attachments:

SIGNED Funding Agreement for Vulnerable Populations Food Delivery Program
SIGNED Resolution for Vulnerable Populations Food Delivery Program