

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
AMERICAN RESCUE PLAN COMMITTEE
COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
JUNE 20, 2022 – 5:30 PM
SPECIAL MEETING MINUTES

PRESENT: Commissioner Jimmy Keefe, ARP Committee Chairman
Commissioner Glenn Adams
Commissioner Toni Stewart
Amy Cannon, County Manager
Tracy Jackson, Assistant County Manager
Sally Shutt, Assistant County Manager
Brian Haney, Assistant County Manager
Rick Moorefield, County Attorney
Vicki Evans, Finance Director
Ivonne Mendez, Deputy Finance Director
Brenda Jackson, ARP Program Manager
Tye Vaught, Management Analyst
Candice H. White, Clerk to the Board

1. CALL TO ORDER

Commissioner Keefe called the special meeting to order.

2. APPROVAL OF AGENDA

MOTION: Commissioner Stewart moved to approve the agenda.
SECOND: Commissioner Adams
VOTE: UNANIMOUS (3-0)

3. ITEMS OF BUSINESS

A. Small Business Priority Application Funding Recommendations

BACKGROUND

After successfully completing steps 1-4 of the Small Business Economic Assistance Program's application process, staff recommends approval of these listed small businesses to receive Coronavirus State and Local Fiscal Recovery Funds. Each application has been reviewed objectively and has submitted appropriate documents or records that show that the business possesses a reasonable capacity to use the recommended award in a fiscally responsible way and perform a public purpose. Staff's recommendations total \$58,500 and are contingent on the successful execution of a contract with the County. Staff conducted site visits to confirm each business's operating address and ensured NC Secretary of State filings were current for corporations and limited liability companies.

Elite Facilities, LLC

Requested Funding: \$48,000

Recommended Funding: \$29,000

LMI FTE positions retained: 2

LMI FTE positions created: 1

Elite Facilities, LLC is a gym facility that contains exercise equipment, tables, chairs, and a smoothie bar selling power blend flavors. The business has been in operations in Cumberland County since October 2020, services offered include physical fitness, body enhancement, physical strength, personal training, and nutritional sessions. In March of 2020, Governor Cooper mandated that indoor facilities like gyms/fitness centers would temporarily close to slow the spread of the COVID-19 virus caused a reduction in participants attending the gym. The mandate profoundly affected the owner as a new business.

H3 Cleaning Solutions, LLC

Requested Funding: \$50,000

Recommended Funding: \$29,500

LMI FTE positions retained: 2

LMI FTE positions created: 3

H3 Cleaning Solutions, LLC has operated in Cumberland County since April 2015. The business provides janitorial services to office buildings, banks, schools, and churches. Business loss contracts due to the mandatory closing of facilities and/or the reduction in building occupancy due to remote work. When existing building closed due to COVID-19 mandates, the owner divided hours of employees among the remaining contract maintain their employment. This meant having to retrain employees based on the type of cleaning required for the business site.

RECOMMENDATION / PROPOSED ACTION

Staff requests that these funding recommendations be forwarded to the June 20, 2022 Board of Commissioners Meeting as an Item of Business.

Brenda Jackson, ARP Program Manager, stated at the June 6, 2022 ARP Committee meeting, 8 businesses were approved to move forward with a recommended \$217,572 in funding. Ms. Jackson presented the background information recorded above and funding recommendations for 2 additional small businesses totaling \$58,500. Commissioner Keefe stated the position retention numbers seem to be low and asked how these numbers were determined. Ms. Jackson stated there is no mathematical formula, but it is what the applicant requested based on their business needs. Chairman Adams stated the positions retained are low to moderate income positions, but the businesses may have more employees. Ms. Cannon stated per the policy approved by this committee, the businesses only have to retain one position. Chairman Adams asked that the total number of employees also be included to show the businesses are thriving.

MOTION: Commissioner Adams move to fund Elite Facilities, LLC and H3 Cleaning Solutions, LLC for a total of \$58,500 and forward to the Board of Commissioners June 20, 2022 meeting as an Item of Business.

SECOND: Commissioner Stewart

VOTE: UNANIMOUS (3-0)

B. Recruitment and Retention Recommendation

BACKGROUND

On June 6, 2022, the Board of Commissioners directed staff to bring a recommendation forward to the Board's ARP Committee regarding the provision of retention incentives using a portion of the County's ARP allocation. This directive came following a presentation from staff indicating concerns regarding the County's high vacancy and turnover rates, combined with the fact that pay for many of the County's positions are not competitive with the market and most employees are near the minimum rate for their positions regardless of their tenure with the County due to the lack of a mechanism to move employees through their grade. The County's vacancy rate was 22.4 percent as of June 13, 2022, and the FY 2022 turnover rate is currently at 25.54 percent, though this number will be higher at the conclusion of the fiscal year.

The County's adopted FY 2023 Budget includes a 4 percent cost-of-living adjustment for employees and funding to conduct a Compensation and Classification Study that will examine the County's classification and compensation system, compare the salaries of Cumberland County's positions with comparable jurisdictions, and provide recommendations to address salary compression, inequity, and competitive pay within the ranges. However, the cost-of-living adjustment does not keep up with inflation, and it will take time to complete the study with implementation likely needing to be phased in over time.

In order to help retain our existing employees and prevent the County's vacancy rate from continuing to increase, staff recommends providing retention incentives for County employees in order to help stem the tide of employee turnover and vacancies until the recommendations from the compensation study and other strategies can be implemented.

Staff Recommendation

Staff recommends providing employees who are in a pay status as of July 5, 2022, with up to \$4,000 in one-time retention incentives, distributed in three payments across FY 2023, with \$1,500 paid out in July, \$1,000 paid out in December, and \$1,500 paid out in June 2023. The incentives will be prorated for part-time employees, and employees must be actively employed by the County at the time an incentive is paid out in order to receive the incentive. County Management, including the County Manager and Assistant County Managers, will not receive the incentive.

Additionally, staff recommends providing any employees hired after July 5, 2022, through November 1, 2022, with a retention incentive of \$1,000 if they are still with the County in June 2023. Again, this would not apply to County Management and would be prorated for part-time employees. This is intended to provide an additional incentive to be used in recruiting employees and retaining them through the end of FY 2023.

Staff considered a number of alternative scenarios such as limiting these incentives to departments and/or positions with higher turnover rates and recommending tiered incentives based on annual employee salary, however we believe that our vacancy rates have been and will continue to be fluid between departments, and that providing different levels of incentives for different departments or employees may exacerbate the problem among those departments and employees who may feel their loyalty to the County is of less value than their coworkers.

Anticipated Cost

Based on the number of currently filled positions, excluding County Management and factoring in the reimbursement the County receives for DSS and Child Support positions, staff estimates the total maximum cost of providing these incentives to be \$8,176,292.49. This figure includes the additional cost of employee- paid benefits such as FICA, Retirement, Worker's Compensation and the County's 401K contributions.

While we cannot predict the impact these incentives will have, we know they will not completely solve the County's retention and vacancy issues, meaning as employees continue leaving our organization, the anticipated cost of providing these incentives will go down. Our hope, however, is that they will make an impact and help our departments weather the storm over the next year while we work to implement other incentives and ideas aimed at retaining and rebuilding our workforce.

ARP Eligibility and Funding

The U.S. Treasury's Final Rule for the American Rescue Plan Act states that funds "may be used to provide worker retention incentives, which are designed to persuade employees to remain with the employer as compared to other employment options. Recipients must be able to substantiate that the employees were likely to leave employment in the absence of the retention incentive and should document their assessment." The primary example provided as an allowable method for this substantiation is the presence of an alternative employment offer for an employee.

Staff has consulted with the County's legal staff, as well as with the UNC School of Government and the North Carolina Association of County Commissioners, and the consensus has been that simply providing evidence of the County's increased turnover and vacancy rates, even where extreme, is not sufficient justification to provide retention incentives broadly. However, the U.S. Treasury's Final Rule does provide jurisdictions with the ability to claim a standard allowance for revenue loss of \$10 million, which Cumberland County has done. The use of these funds is less restrictive than other ARP-eligible categories. As such, local governments may use these funds to cover clearly eligible government services costs, such as employee salaries and benefits incurred during the pandemic, in order to free up General Fund money for ARP-enabled projects without triggering federal eligibility and reporting requirements. Cumberland County, like many other local governments across the State, has done this and currently has \$8.2 million in freed-up revenue replacement capacity that could be used to provide these retention incentives.

Should the Board wish to use these funds to provide retention incentives under this framework with the first payment in July, approval of a budget amendment will be required at the first Board of Commissioners' meeting in August.

Thank you for your consideration of this recommendation and please feel free to reach out if you have any questions.

RECOMMENDATION / PROPOSED ACTION

Staff requests that these recruitment and retention recommendations be forwarded to the June 20, 2022 Board of Commissioners Meeting as an Item of Business.

Brian Haney, Assistant County Manager, presented the background information recorded above and the following PowerPoint presentation.

Background

- Pay not competitive with market
- No mechanism to move employees through grades
- Most employees near minimum of grade, regardless of tenure
- **Employee Vacancy:** 22.75% of positions vacant as 6/20/22
- **Turnover Rate:** 25.54% currently (up from 21.5% the past two fiscal years)

Recommended FY 2023 Budget includes:

- 4% COLA for employees
- Increases for law enforcement and detention employees
- Funding for Compensation Study in FY 2023 that should provide recommendations to help address recruitment and retention issues going forward

Mr. Haney stated it will take time to complete the Compensation Study and more time to implement the study's recommendations. Mr. Haney stated the belief is that something needs to be done immediately to keep more of the county's employees from leaving and incentivize them to remain with the county until more can be done to resolve these issues. Mr. Haney outlined staff recommendations below.

Staff Recommendations

Use portion of County ARP funds to provide Retention Incentives for County employees

- \$4,000 paid throughout FY 2023 for qualifying employees in pay status as of July 5, 2022
 - \$1,500 in July 22 payroll
 - \$1,000 in December
 - \$1,500 in June 2023
- \$1,000 for employees in a pay status after July 5 through Nov. 1, 2022
 - Paid in June 2023 if still with County

Part-time employees receive pro-rated amount; does not include County Management

Commissioner Keefe asked whether there was a salary cut-off. Mr. Haney stated not in this recommendation. Ms. Cannon stated there was considerable discussion at the staff level about a salary cut-off; a brief discussion followed. Commissioner Keefe suggested starting with a lower amount in the July 22 payroll and escalating the incentive amount throughout FY23. Commissioner Adams stated the only problem he has with the recommendation for retention

incentives is that it does nothing for recruitment because if all the employees are retained, the vacancy rate will stay the same. Mr. Haney stated the goal of this recommendation was to provide something that could be implemented quickly in order to retain employees and admittedly, it is not a significant amount of money compared to some employees' salaries and salaries offered by other jurisdictions.

Mr. Haney displayed and reviewed graphs depicting vacancy rate by grade and vacant and filled positions by grade. Mr. Haney stated the data depicted in these graphs was taken into consideration when staff looked at other options, and vacancy rates continue to be fluid between departments. Questions followed. Mr. Haney stated in talking with the Finance Office, if there is one incentive amount across the organization, it can be paid out quickly in the July 22 pay period but if a tiered system is used, it would require additional time to get everything set up which would push the first incentive into August.

Mr. Moorefield stated as the county attorney, he had intended to remove himself from the incentives. Ms. White stated as the clerk who serves at the pleasure of the board, she should also be removed from the incentives. Mr. Haney continued with his presentation.

Cost Projections and Available Funding:

Maximum Cost: \$8,176,292.49

- Includes FICA, Retirement, Worker's Comp, County 401K
- Will be reduced through additional turnover

Available Funding: \$8,200,000

- Remaining freed-up ARP Revenue Replacement Capacity

Mr. Haney stated ARP authorizes the use of funds to provide worker retention incentives; however, staff consulted with the County's legal staff, as well as with the UNC School of Government and the North Carolina Association of County Commissioners, and the consensus has been that simply providing evidence of the County's increased turnover and vacancy rates, even where extreme, is not sufficient justification to provide retention incentives broadly. Mr. Haney stated the U.S. Treasury's Final Rule does provide jurisdictions with the ability to claim a standard allowance for revenue loss of \$10 million, which Cumberland County has done, in order to free up General Fund money for ARP-enabled projects without triggering federal eligibility and reporting requirements. Mr. Haney stated Cumberland County has done this and currently has \$8.2 million in freed-up revenue replacement capacity that could be used to provide these retention incentives.

Commissioner Keefe asked whether this recommendation would bring ARP funding down to zero. Vicki Evans, Finance Director, stated if the budget ordinance amendment presented at this meeting is approved, ARP funding will be down to \$1,068,000 unassigned. Ms. Cannon stated there still needs to be a discussion about Shaw Heights sewer. Mr. Haney reviewed the recommendations below.

Recommendation

- If amenable, move to June 20, 2022, Board of Commissioners meeting for consideration
- If approved by the Board, can issue first incentive payments with July 22, 2022 payroll and bring Budget Amendment to Board in August

Commissioner Keefe stated no one can say that these incentives will stop employees from leaving and fundamentally he is against giving money to positions that are filled; everyone is doing more with less and he cannot accept that the incentives are not solely for departments that are so short staffed. Commissioner Adams stated some of the vacancies are pre-pandemic.

MOTION: Commissioner Adams moved to approve the recommendation.

SECOND: Commissioner Stewart

VOTE: PASSED (2-1) (Commissioner Adams and Stewart voted in favor; Commissioner Keefe voted in opposition)

C. Consideration of Required ARPA Subaward Policy

Cumberland County
Section I – Board Approved Policies
Subsection 3: Cumberland County Financial / Audit
Policy No. 3-12: Policy for Subaward & Monitoring for Expenditures of American
Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds
(ARPA/CSLFRF)

1.0 PURPOSE

Cumberland County has received an allocation of funds from the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARPA/CSLFRF).

2.0 SCOPE

These funds may be used for the following categories of expenditures, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
3. Provide services to disproportionately impacted communities to include providing housing support, healthy childhood environments, social, emotional and mental health services;
4. Provide premium pay for essential workers offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors;
5. Invest in water, sewer, and broadband infrastructure, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.
6. Revenue replacement; and,

7. Administrative expenses.

These funds are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Part 200 (UG), as provided in the Assistance Listing (21.027). ARP/CSLFRF rules authorize the Cumberland County to enter subaward agreements with subrecipients to assist in carrying out the terms of the ARP/CSLFRF. When Cumberland County enters into a subaward as a subrecipient, it acts as a pass-through entity, as described in 2 CFR 200.1, and the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds (v.3.0 February 2022) provides, in relevant part:

Subrecipient Monitoring: SLFRF recipients that are pass-through entities as described under 2 CFR 200.1 are required to manage and monitor their subrecipients to ensure compliance with requirements of the SLFRF award pursuant to 2 CFR 200.332 regarding requirements for pass-through entities.

First, your organization must clearly identify to the subrecipient: (1) that the award is a subaward of SLFRF funds; (2) any and all compliance requirements for use of SLFRF funds; and (3) any and all reporting requirements for expenditures of SLFRF funds.

Next, your organization will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

Accordingly, your organization should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records of all award agreements identifying or otherwise documenting subrecipients' compliance obligations.

Recipients should note that non-entitlement units of local government (NEUs) are not subrecipients under the SLFRF program. They are SLFRF recipients that will report directly to Treasury.

Recipients should also note that subrecipients do not include individuals and organizations that received SLFRF funds as end users to respond to the negative economic impacts of COVID-19 on these organizations. Such individuals and organizations are beneficiaries and not subject to audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F.

Separately or in addition, many recipients may choose to provide a subaward (e.g., via contract or grant) to other entities to provide services to other end—users. For example, a recipient may provide a grant to a nonprofit to provide homeless services to individuals experiencing homelessness. In this case, the subaward to a nonprofit is based on the services that the Recipient intends to provide, assistance to households experiencing homelessness, and the nonprofit is serving as the subrecipient, providing services on behalf of the recipient. Subrecipients are subject to audit pursuant to the Single Audit Act and 2 CFR part 200, subpart F regarding audit requirements.

In addition, Subpart D of the UG dictates subrecipient and award requirements for expenditure of ARP/CSLFRF funds. 2 CFR 200.332 states that:

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the [required] information at the time of the subaward . . . When some of [the required information] is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described by 2 CFR 200.208.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient, [specific] monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals.

(f) Verify that every subrecipient is audited as required by [2 CFR 200, Subpart F] when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR 200.501.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in 2 CFR 200.339 and in program regulations.

3.0 STATEMENT OF THE POLICY

Cumberland County hereby adopts and enacts the following Subaward and Monitoring Policy for the expenditure of ARPA/CSLFRF funds.

SUBAWARD AND MONITORING POLICY FOR EXPENDITURE OF AMERICAN RESCUE PLAN ACT OF 2021 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

I. POLICY OVERVIEW

Title 2 U.S. Code of Federal Regulations Part 200, (2 CFR 200) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called Uniform Guidance (UG), specifically Subpart D, defines requirements of pass-through entities initiating subaward agreements with Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARP/CSLFRF). Cumberland County (hereinafter [COUNTY]) shall adhere to all applicable subaward and monitoring requirements governing the use of ARP/CSLFRF. This policy establishes procedures for classifying, making an award to, and monitoring a sub-recipient consistent with ARP/CSLFRF grant award terms and all applicable federal regulations in the UG.

Responsibility for following these guidelines lies with Cumberland County's ARPA Staff Committee who are charged with the administration and financial oversight of the ARP/CSLFRF funds.

II. DEFINITIONS

The definitions in 2 CFR 200.1 apply to this policy, including the following:

Contract: for the purpose of Federal financial assistance, a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a federal award. For additional information on subrecipient and contractor determinations, see § 200.331. See also the definition of subaward in this section.

Contractor: an entity that receives a contract as defined in this section.

Pass-through Entity: a non-Federal entity that provides a subaward to a subrecipient to carry out part of a federal program. The COUNTY is the pass-through entity when it awards a subaward to a subrecipient.

Recipient: an entity, usually but not limited to non-Federal entities that receives a federal award directly from a federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.

Subaward: an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient: an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a federal awarding agency.

III. SUBRECIPIENT CLASSIFICATION

The COUNTY must make a case-by-case determination whether an agreement with another government entity or private entity, that is not a beneficiary, casts the party receiving the funds in the role of a subrecipient or contractor. 2 CFR 200.331.

A subaward is for the purpose of carrying out a portion of a federal award and creates a federal assistance relationship with the subrecipient. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what federal assistance;
- (2) Has its performance measured in relation to whether objectives of a federal program were met;
- (3) Has responsibility for programmatic decision-making.
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. Characteristics indicative of a procurement relationship between the non-federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

In determining whether an agreement between a pass-through entity and another non-federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

The COUNTY will use the above criteria to determine if an agreement involving the expenditure of ARP/CSLFRF is a contract or subaward. The County Attorney's Office will document the determination in the Subrecipient or Contractor Classification Checklist in Appendix 1. (Appendix 1: Subrecipient or Contractor Classification Checklist.)

If the agreement involves a contractor relationship (including a contract for services), the COUNTY must follow its UG Procurement Policy when entering into a contract.

If the agreement involves a subrecipient relationship, the COUNTY must proceed to Sections IV. through VII. below.

IV. ASSESSMENT OF RISK

Before engaging in a subaward, the COUNTY must evaluate a subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward to determine whether to award the subaward and the appropriate subrecipient monitoring.

Finance Department staff will conduct the risk assessment, which will include consideration of the following factors:

- (1) The subrecipient's prior experience with the same or similar subawards;
- (2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with 2 CFR 200 Subpart F and the extent to which the same or similar subaward has been audited as a major program;
- (3) Whether the subrecipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a federal awarding agency). 2 CFR 200.332(b).

The results of the risk assessment must be documented in the Subrecipient Assessment of Risk form in Appendix 2 and will be used to dictate the types and degree of subrecipient monitoring. (Appendix 2: Subrecipient Assessment of Risk) The COUNTY will assign an overall risk level to the subrecipient indicating the following:

Low Risk / Moderate Risk / High Risk

There is a low risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements. There is moderate risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements. There is high risk that the subrecipient will fail to meet project or programmatic objectives or incur significant deficiencies in financial, regulatory, reporting, or other compliance requirements.

If a proposed subrecipient is deemed high risk, the ARPA Program Manager must provide written justification to proceed with the subaward. The justification must be approved by the County Attorney's Office.

V. SUBRECIPIENT MONITORING

The COUNTY will develop and implement a subrecipient monitoring plan for the particular subaward based on the findings of the Subrecipient Assessment of Risk. According to 2 CFR 200.332(d). The monitoring plan must involve:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward.
- (3) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by 2 CFR 200.521.
- (4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section 2 CFR 200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

The COUNTY's monitoring plan will vary based on the overall subrecipient risk assessment as low risk, medium risk, or high risk, detailed as follows:

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Subrecipient Deemed Low Risk	Subrecipient Deemed Medium Risk	Subrecipient Deemed High Risk
<ul style="list-style-type: none"> • Payment validations (monthly) • Report reviews (quarterly) • Desk reviews (at least once per year and more frequently if requested by [County/City/Town/Village] or subrecipient) • Onsite reviews (upon request of [County/City/Town/Village] or subrecipient) • Audit review (yearly) 	<ul style="list-style-type: none"> • More detailed financial reporting • Payment validations (monthly) • Report reviews (bi-monthly) • Desk reviews (within 6 months of project start and every six months thereafter) • Onsite reviews (within 12 months of project start and annually thereafter, or more frequently as requested by [County/City/Town/Village] or subrecipient) • Audit review (yearly) • Procedures engagement (if subrecipient not subject to Single Audit Act; yearly) 	<ul style="list-style-type: none"> • More detailed financial reporting • Compliance training (one-time) • Prior approvals for certain expenditures • Payment validations (monthly) • Report reviews (monthly) • Desk reviews (within 3 months of project start and at least quarterly thereafter) • Onsite reviews (within 6 months of project start and bi-annually thereafter, or more frequently as requested by [County/City/Town/Village] or subrecipient) • Audit review (yearly) • Procedures engagement (if subrecipient not subject to Single Audit Act; yearly)

Payment validation: All subrecipient documentation for project expenditures must be reviewed by the ARPA Finance Accountant for compliance with subaward requirements. Any non-compliant expenditures will be denied and the subrecipient will be provided a reasonable description of the reason for denial and an opportunity to cure the deficiency. For a subrecipient on a reimbursement-based payment structure, the validation will occur before a reimbursement payment is approved. For a subrecipient that received an up-front payment, any funds found to have been expended in violation of the subaward requirements must be repaid to the COUNTY.

Report review: A subrecipient must submit quarterly financial and performance reports, based on the schedule set forth in the subaward. The nature and scope of the reports will depend on the project and be spelled out in the subaward. The reports will be reviewed by the ARPA Program Manager or Management Analyst. Any deficiencies or other performance concerns will be addressed with the subrecipient in a timely manner and could trigger additional monitoring requirements or other interventions, as specified in the subaward.

Desk review: The COUNTY will conduct a meeting to review the subrecipient's award administration capacity and financial management. The meeting may be held virtually or in person. Topics covered will depend on project scope and subrecipient risk assessment and may

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include governance, budgeting, accounting, internal controls, conflict of interest, personnel, procurement, inventory, and record keeping. The COUNTY will produce a report which summarizes the results and any corrective actions if deemed necessary. The report will be shared in a timely manner with the subrecipient.

Onsite review: The COUNTY will conduct an on-site meeting at the subrecipient's location to review the subrecipient's project performance and compliance. Topics covered will depend on project scope and subrecipient risk assessment and may include project procurement, data systems, activity and performance tracking, project reporting, inventory, and software systems. The COUNTY will produce a report which summarizes the results and any corrective actions deemed necessary. The report will be shared in a timely manner with the subrecipient.

Audit review: The COUNTY must verify that every subrecipient is audited as required by 2 CFR 200 Subpart F (Single Audit) when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR 200.501.

The COUNTY must obtain a copy of the subrecipient's Single Audit from the Federal Audit Clearinghouse (FAC). Within six months of the acceptance of the audit report by the FAC, the COUNTY will issue a management decision for any audit findings related to the subaward. The decision will clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. (The decision will include reference numbers the auditor assigned to each finding.) The decision will provide a timetable for responsive actions by the subrecipient. Prior to issuing the management decision, the COUNTY may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs.

Procedures engagement: Applicable only to subrecipients who are not subject to the Single Audit Act. An auditor will perform specific procedures and report on findings. The scope must be limited to the following compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting. The review will be arranged and paid for by the COUNTY. The COUNTY will verify completion of the procedure's engagement. Within six months of the acceptance of the procedure's engagement report, the COUNTY will issue a management decision for any findings related to the subaward. The decision will provide a timetable for responsive actions by the subrecipient. Prior to issuing the management decision, the COUNTY may request additional information or documentation from the subrecipient, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs.

The specific monitoring plan for each subrecipient, including the type and frequency of reviews, will be detailed in the subaward agreement. For all requirements beyond those listed under the Low Risk category above, the COUNTY will notify the subrecipient of the following in the subaward:

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- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

To implement the monitoring plan, ARPA Program Manager or Management Analyst must perform periodic reviews and document findings in the Subrecipient Monitoring Form (Appendix 3: Subrecipient Monitoring Form).

VI. SUBRECIPIENT INTERVENTIONS

The COUNTY may adjust specific subaward conditions as needed, in accordance with 2 CFR 200.208 and 2 CFR 200.339. If the COUNTY determines that the subrecipient is not in compliance with the subaward, the COUNTY may institute an intervention. The degree of the subrecipient's performance or compliance deficiency will determine the degree of intervention. All possible interventions must be indicated in the subaward agreement.

The COUNTY must provide written notice to the subrecipient of any intervention within thirty days of the completion of a report review, desk review, onsite review, audit review, or procedures engagement review or as soon as possible after the COUNTY otherwise learns of a subaward compliance or performance deficiency.

Pursuant to 2 CFR 200.208, the written notice must notify the subrecipient of the following related to the intervention:

- (1) The nature of the additional requirements;
- (2) The reason why the additional requirements are being imposed;
- (3) The nature of the action needed to remove the additional requirement, if applicable;
- (4) The time allowed for completing the actions if applicable; and
- (5) The method for requesting reconsideration of the additional requirements imposed.

The following interventions may be imposed on a subrecipient, based on the level of the compliance or performance deficiency:

Level 1 Interventions. These interventions may be required for minor compliance or performance issues.

- (1) Subrecipient addresses specific internal control, documentation, financial management, compliance, or performance issues within a specified time period
- (2) More frequent or more thorough reporting by the subrecipient
- (3) More frequent monitoring by the COUNTY
- (4) Required subrecipient technical assistance or training

Level 2 Interventions. These interventions may be required, in addition to Level 1 interventions, for more serious compliance or performance issues.

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- (1) Restrictions on funding payment requests by subrecipient
- (2) Disallowing payments to subrecipient
- (3) Requiring repayment for disallowed cost items
- (4) Imposing probationary status on subrecipient

Level 3 Interventions. These interventions may be required, in addition to Level 1 and 2 interventions, for significant and/or persistent compliance or performance issues.

- (1) Temporary or indefinite funding suspension to subrecipient
- (2) Nonrenewal of funding to subrecipient in subsequent year
- (3) Terminate funding to subrecipient in the current year
- (4) Initiate legal action against subrecipient

VII. SUBAWARD AGREEMENT & EXECUTION

The subaward agreement will be drafted by the County Attorney's Office using the Subaward Agreement Template. Contract terms and conditions may vary based on several factors, including subrecipient risk assessment findings, as documented in the Subrecipient Assessment of Risk. The County Manager may fully execute the subaward agreement, subject to any required budget amendments by the COUNTY's governing board, preaudit requirements, electronic processing through the COUNTY's financial system.

Ms. Evans stated adoption of Policy Number 3-12: Policy for Subaward and Monitoring for expenditures for ARPA, is required before Cumberland County can enter into a subaward agreement in which the funding sources are ARP/CSLFRF funds. Ms. Evans stated a School of Government template was used for the subaward policy. Ms. Evans stated the policy provides definition to distinguish between a subrecipient and contractor, it describes how the county determines an entity is a subrecipient or contractor, sets out criteria about conducting a risk assessment on awarding funds to a proposed recipient and lays out parameters to monitor subrecipients based on their level of risk. Ms. Evans stated it is lengthy policy and differentiates which staff will conduct certain activities.

MOTION: Commissioner Stewart moved to approve Policy No. 3-12: Policy for Subaward & Monitoring for Expenditures of American Rescue Plan Act Coronavirus State and Local Fiscal Recovery Funds (ARPA/CSLFRF).
SECOND: Commissioner Adams
VOTE: UNANIMOUS (3-0)

D. ARPA Project Ordinance Revision

BACKGROUND

Staff requests that the ARP Committee consider the approval of Budget Revision 220652, a

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revision to the ARPA Project Ordinance. This revision serves to create a line-item budget within the ordinance for the Cape Fear Valley Health System to provide a Community Paramedic program and Fayetteville State University to provide technical assistance, counseling, and business planning services to the community.

RECOMMENDATION / PROPOSED ACTION

Staff requests that Budget Revision 220652 be forwarded to the June 20, 2022 Board of Commissioners Meeting as an Item of Business.

Ms. Evans stated ARPA Project Ordinance Revision 220652 is an amendment that allocates \$874,000 from the behavioral health services expenditure category for Cape Fear Valley to provide a community paramedic program and \$250,000 for Fayetteville State University to provide advisory services, education, entrepreneurial summits, and expos to businesses. Ms. Evans stated this \$1,124,00 assignment was offset by decreasing the administrative unassigned amount by \$1,124,000. Ms. Evans responded to Commissioner Keefe's question about Item 6.1. at \$10M. Commissioner Keefe stated he felt the county was on the path with nothing to show for the \$65.1M because it is being used for operations rather than as investments in the community

MOTION: Commissioner Adams moved to approve ARPA Project Ordinance Revision 220652.

SECOND: Commissioner Stewart

VOTE: PASSED (2-1) (Commissioner Adams and Stewart voted in favor; Commissioner Keefe voted in opposition)

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DRAFT ARPA GRANT PROJECT ORDINANCE AMENDMENT				as of May 16, 2022		JUNE 20, 2022 ADJUSTMENTS		BUDGET ORDINANCE AMENDMENT B220652	
ARPA Reporting Code	Fund 240 Expenditure Category	Project Description	Cost Object	Appropriation of CSLFRF Funds	Project Allocation Total	Appropriation of CSLFRF Funds	Appropriation of CSLFRF Funds	Project Allocation Total	
1.12	Public Health (2404551)	Behavioral Health Services: CPVH to provide a Community Paramedics program	Contracted Services			\$ 874,000	\$ 874,000	\$ 874,000	
1.13	Public Health (2404551)	Substance Use Services: Purchase Narcan for distribution to the Sheriff's Office and County Fire Departments	Medical Supplies	\$ 140,000	\$ 140,000		140,000	140,000	
2.2	Negative Economic Impacts (2404552)	Household Assistance: Rent, Mortgage, and Utility Aid Mortgage Assistance: Make funding available to assist residents at risk of foreclosure.	Contracted Services	2,000,000	2,000,000		2,000,000	2,000,000	
2.2	Negative Economic Impacts (2404552)	Household Assistance: Rent, Mortgage, and Utility Aid Rental Assistance: Make funding available to assist renters at risk of eviction.	Contracted Services	1,500,000	1,500,000		1,500,000	1,500,000	
2.10	Negative Economic Impacts (2404552)	Assistance to Unemployed or Underemployed Workers: Trade job training program in partnership with FTCC, Mid-Carolina COG - Workforce Development, and Cumberland County Schools	Contracted Services	2,000,000	2,000,000		2,000,000	2,000,000	
1.8 2.29-2.33	Public Health (2404551)	COVID19 Assistance to Small Business (1.8) Assistance to Small Businesses (2.29-2.33)	Contracted Services	3,500,000	3,500,000		3,500,000	3,500,000	
1.9 2.34	Public Health (2404551)	COVID19 Assistance to Non-Profits (1.9) Assistance to Non-Profits (2.34)	Contracted Services	3,500,000	3,500,000		3,500,000	3,500,000	
2.15	Negative Economic Impacts (2404552)	Long-term Housing Security: Affordable Housing - New construction of a multi-family housing development in the Shaw Heights neighborhood (QCT 24.01).	Engineering/Construction	10,000,000	10,000,000		10,000,000	10,000,000	
2.18	Negative Economic Impacts (2404552)	Housing Support: Other Housing Assistance - First-time homebuyers' program	Contracted Services	2,500,000	2,500,000		2,500,000	2,500,000	
2.30	Negative Economic Impacts (2404552)	Assistance to Small Businesses: Technical Assistance, Counseling, or Business Planning - FSU to provide advisory services, education, entrepreneurial summits and expos to businesses	Contracted Services			250,000	250,000	250,000	
5.5	Infrastructure (2404555)	Clean Water: Other Sewer Infrastructure - Construction of a sanitary sewer system to be located in the Shaw Heights neighborhood (QCT 24.01).	Engineering/Construction	12,000,000	12,000,000		12,000,000	12,000,000	
5.15	Infrastructure (2404555)	Drinking Water: Other Water Infrastructure - Construction of a water system to be located in the Gray's Creek Water and Sewer District	Engineering/Construction	10,000,000	10,000,000		10,000,000	10,000,000	
5.21	Infrastructure (2404555)	Broadband: Other projects Broadband expansion into underserved areas in partnership with the State of NC, and a vendor to be selected through a competitive RFP process	Contracted Services	1,000,000	1,000,000		1,000,000	1,000,000	
6.1	Revenue Replacement (2404556)	Provision of Government Services Salaries and benefit costs of Public Safety Personnel	Salaries/Benefits	10,000,000	10,000,000		10,000,000	10,000,000	
1.4	BOC Meeting Room	Physical plant changes to Public Facilities that respond to the COVID-19 Public Health Emergency	Engineering/Construction	3,000,000	3,000,000		3,000,000	3,000,000	
7.1	Administration (2404557)	Administrative Expenses - 3.5 County positions to manage CSLFRF programs and compliance requirements. ARPA allows up to 10% of total award.			4,028,690			2,904,690	
			Salaries	1,321,348			1,321,348		
			Benefits	389,281			389,281		
			Operating	125,335			125,335		
			Unassigned	2,192,726		[1,124,000]	1,068,726		
NA	Unallocated Funds	Funds to be allocated at a future date	Unallocated Funds						
TOTAL				\$ 65,168,690	\$ 65,168,690	\$ -	\$ 65,168,690	\$ 65,168,690	

American Rescue Plan (ARP) Fund 240

The Board is requested to approve Budget Ordinance Amendment B220652 to update the ARPA Grant Project Ordinance as approved by the BOC ARP Committee on June 20, 2022. This budget ordinance amendment adds \$250,000 in funding for FSU for a business planning program and \$874,000 for CPVH to operate a community paramedics program. These additions will be offset by a decrease to the unassigned amount in the administration category.

4. UPDATES

There were no updates.

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5. ADJOURN

MOTION: Commissioner Stewart moved to adjourn.

SECOND: Commissioner Adams

VOTE: UNANIMOUS (3-0)

There being no further business, the meeting adjourned at 6:15 p.m.

Approved with/without revision:

Respectfully submitted,

Candice H. White
Clerk to the Board