



**DATE:** June 11, 2021

**TO:** Mayor and City Council

**FROM:** Bob Larson, City Administrator

**SUBJECT:** American Rescue Plan Act (ARPA) – Coronavirus State and Local Fiscal Recovery Fund

### **Summary**

In early March, Congress passed a bill for providing fiscal assistance to all levels of government including municipalities. The payment to cities is based on population and Gig Harbor's share has been set at \$2.99 million. Funds will be distributed in two allotments: the first half in 2021 and the second half in 2022. The deadline to obligate or encumber the funds is December 31, 2024 and they must be spent by December 31, 2026. Use of funds for projects past this date is prohibited. Funds not spent by the end of 2026 must be returned to the federal government.

### **Allowable Use of Recovery Funds**

Under the Act, cities can use the funds for these four general purposes:

1. To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;
3. For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and
4. To make necessary investments in water, sewer or broadband infrastructure

### **Prohibited Expenditures - Guidance**

On May 10, the U.S. Treasury released an Interim Final Rule to provide guidance to cities and other governmental units on how it can spend funds allocated to them by the American Rescue Plan Act (“ARPA”). The guidance is effective immediately and summarizes the prohibited uses of the funds.

In general, any use of ARPA funds outside of the four (4) categories listed above is prohibited. ARPA also includes explicit prohibitions on how the funds can be used. The prohibitions include:

- a) Depositing funds into any pension fund.
- b) Using funds to directly or indirectly to offset a reduction in the net tax revenue resulting from a change in law, regulation or administrative interpretation.

The Treasury Guidance provides additional clarifications on these prohibitions as summarized below. Despite these prohibitions, a City still has significant flexibility with how it spends the ARPA funds. The Treasury Guidance provides flexibility to use funds for programs and projects that are not expressly described in the Guidance, provided that it responds to the negative economic impacts of the COVID-19 public health emergency, and/or is designed to address an economic harm resulting from or exacerbated by the public health emergency.

### **Administration of Recovery Funds**

We have been notified that Washington state will distribute the funds through its Office of Financial Management (OFM) which has sent details to us this past week about the process it will be using for distributing the funds and the requirements for same.

### **Recommended Projects for ARPA Funding**

Mayor Kuhn and staff have developed a list of recommended projects with estimated costs:

- Civic Center HVAC overhaul and replacement (\$100,000 cooling system vs. \$500,000 complete replacement if necessary; we need to hire a consultant to determine the extent of work required)
- Council Chambers/Municipal Court video and audio modifications (\$75,000-160,000; state-approved vendors)
- Canterwood Boulevard - Watermain Emergency Intertie (\$400,000); (we have completed 50%+ of the design/permitting and changing it to a federally funded project would cause delays such that we would probably miss our 2022 construction window)
- North Well #9 development (\$2,000,000) (11944 Olympus Way)
- North Harborview Drive Sanitary Sewer replacement (\$1,900,000) (Vernhardson Street to Goodman Avenue)

### **Infrastructure That Does Not Meet ARPA Criteria**

Not all eligible infrastructure projects are within the scope of the infrastructure investment category. Funding for infrastructure projects could include water, sewer, broadband or respond to a “specific pandemic public health need.”

Water and sewer projects are allowed if they would otherwise qualify for funding under the Clean Water Act and Safe Drinking Water Act state revolving fund programs. These programs are broad and will capture a variety of different types of drinking water and water quality projects. However, the Treasury Guidance provides more specific criteria for broadband projects. For example, the Guidance states that broadband projects must target underserved areas. Cities will need to make sure that their broadband projects meet the requirements in the Guidance or risk losing funding.

### **Rainy Day Funds, Financial Reserves and Outstanding Debt**

Funds may not be used for rainy day funds, financial reserves or funds of a similar nature. Treasury deemed these funds to be ineligible because contributions “would not address these needs or respond to the COVID-19 public health emergency but would rather constitute savings for future spending needs.” Funds cannot be used for the payment of interest or principal on outstanding debt instruments. This includes short-term revenue or tax anticipation notes, or other debt service costs.

### **Settlements, Judgements, Consent Decrees**

Payments required from a settlement agreement, judgment, consent decree or judicially confirmed debt restructuring plan in a judicial, administrative or regulatory proceeding are not considered eligible uses of the funds. The exception to this is if “the judgment or settlement requires the provision of services that would respond to the COVID-19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID-19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to [those] needs.”

### **Non-essential Workers**

ARPA allows cities to give Premium Pay to their essential workers. A worker is not considered to be engaged in essential work if the employee performed telework from a residence, which would exclude them from premium pay. Payments to workers who do not meet these criteria are not authorized under ARPA (but of course can be made with a City’s other funds).

### **Limits to Revenue Losses**

Treasury is using the Census Bureau's definition of "general revenue from own sources" as the method of measuring whether a city had lost revenue. The Guidance does not allow a city to use refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions are excluded from the eligible use of funds. Revenue generated by utilities and insurance trusts is also excluded.

**Federal Matching Requirements**

Funding from the Fiscal Recovery Funds may not be used as a non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements.