

NEXT LEGISLATION
ORDINANCE 22-120
RESOLUTION 22-10

AGENDA
SPECIAL COUNCIL MEETING
APRIL 27, 2022
12:30 P.M.

1. PLEDGE OF ALLIGENCE
2. AGENDA: ADDITIONS/DELETIONS

PUBLIC PARTICIPATION

FIRST READING

- 1) RESOLUTION 22-08 A RESOLUTION AUTHORIZING EXPENDITURE FROM AMERICAN RESCUE PLAN ACT FUNDS, AND DECLARING AN EMERGENCY.
- 2) RESOLUTION 22-09 A RESOLUTION AUTHORIZING INCREASE IN MICRO-PURCHASE THRESHOLD AND ADOPT UNIFORM GUIDANCE PROCUREMENT POLICY, AND DECLARING AN EMERGENCY

RESOLUTION 22-08

**A RESOLUTION AUTHORIZING EXPENDITURE FROM
AMERICAN RESCUE PLAN ACT FUNDS, AND
DECLARING AN EMERGENCY.**

WHEREAS, the Village has received a distribution of monies (the “ARPA Funds”) from the American Rescue Plan Act of 2021 (“ARPA” or the “Act”); and

WHEREAS, Congress passed the Act effective March 11, 2021; and

WHEREAS, Section 603 created the Coronavirus Local Fiscal Recovery Fund which, among other things, appropriated money to cities, non-entitlement units of local government, and counties to mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (Covid-19); and

WHEREAS, Section 603(c) generally provides that:

(1) USE OF FUNDS. Subject to paragraph (2), and except as provided in paragraphs (3) and (4), a metropolitan city, non-entitlement unit of local government, or county shall only use the funds provided under a payment made under this section to cover costs incurred by the metropolitan city, non-entitlement unit of local government, or county, by December 31, 2024 -

(A) to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(B) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;

(C) for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or

(D) to make necessary investments in water, sewer, or broadband infrastructure.

WHEREAS, Department of Treasury Final Rule, published by the Federal Register on January 27, 2022, at Vol. 87, No. 18, 4438 – 4454, and effective April 1, 2022, provides in part that:

Treasury is including an option for recipients to use a standard allowance for revenue loss. Specifically, in the final rule, recipients will be permitted to elect a fixed amount of loss that can then be used to fund government services. This fixed amount, referred to as the “Standard Allowance,” is set at up to \$10 million total for the entire period of performance not to exceed the recipient’s SLFRF award amount.

WHEREAS, the Rule further observes based on extensive analysis by the Treasury that:

The \$10 million level is based on average revenue loss across state and local governments, taking into consideration potential variation in revenue types and losses and continued uncertainty faced by many recipients regarding revenue shortfalls.

WHEREAS, the Rule further clarifies that recipients can use SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the formula set forth in the Rule. Government services generally include any service traditionally provided by a government, unless treasury has stated otherwise.

WHEREAS, some common examples of “government services” identified by Treasury in the Rule and in the “Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule” (hereinafter “the SLFRF Overview of Final Rule”) are as follows:

- Road building and maintenance, and other infrastructure
- Health services
- General government administration, staff, and administrative facilities
- School or educational services
- Construction of schools and hospitals
- Environmental remediation
- Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)
- Maintenance or pay-go funded building infrastructure
- Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure

WHEREAS, the Treasury has recognized in the SLFRF Overview of Final Rule “Government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise” and that “Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements.” and

WHEREAS, the SLFRF Overview of the Final Rule further states that funds utilized pursuant to the standard revenue loss allowance continue to have certain restrictions, including generally prohibiting:

- Offsetting a reduction in net tax revenue
- Deposit into pension funds
- Debt service or replenishing financial reserves
- Satisfaction of settlements or judgments

- Contributions to financial reserves or “rainy day” funds
- Use for projects that conflicts with or contravenes the American Rescue Plan Act
- Use in violation of Terms and Conditions of the award or conflict of interest requirements under the Uniform Guidance
- Use of funds in violation of other applicable laws and regulations or outside of SLRF program requirements

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Middlefield, County of Geauga and State of Ohio, that:

SECTION 1. Village Council hereby elects the Standard Allowance as set forth in Department of Treasury Final Rule, published by the Federal Register on January 27, 2022, at Vol. 87, No. 18, 4438 – 4454, and effective April 1, 2022, for expenditure of funds received under the American Rescue Plan Act (“ARPA”).

SECTION 2. This Ordinance is hereby determined to be an emergency measure, necessary for the immediate preservation of the peace, health and safety of the residents of the Village of Middlefield, so that the Village may take full advantage of all distributed monies through the ARPA Fund and may file its annual report with the U.S. Treasury Department indicating said election. Therefore, this Ordinance shall take effect immediately upon its passage.

PASSED this _____ day of _____, 2022.

Mayor

President Pro Tempore

ATTEST:

Fiscal Officer

Resolution 22-09

**A RESOLUTION AUTHORIZING INCREASE IN MICRO-
PURCHASE THRESHOLD
AND ADOPT UNIFORM GUIDANCE PROCUREMENT POLICY,
AND DECLARING AN EMERGENCY**

WHEREAS, the Village has received a distribution of monies (the “ARPA Funds”) from the American Rescue Plan Act of 2021 (“ARPA” or the “Act”); and

WHEREAS, Congress passed the Act effective March 11, 2021; and

WHEREAS, Section 603 created the Coronavirus Local Fiscal Recovery Fund which, among other things, appropriated money to cities, non-entitlement units of local government, and counties to mitigate the fiscal effects stemming from the public health emergency with respect to the Coronavirus Disease (Covid-19); and

WHEREAS, expenditure of ARPA funds is subject to the federal Uniform Guidance requirements set forth in 2 C.F.R. 200; and

WHEREAS, the Village is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

WHEREAS, 2 C.F.R. 200.318 requires all recipients of federal funds to maintain documented procurement standards and policies; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a “higher threshold consistent with State law”; and

WHEREAS, under Ohio law, Villages are required to conduct competitive bidding purchases and contracts if such purchases and contracts exceed the following threshold:

1. Purchase of materials, machinery, and tools to be used in constructing, maintaining and repairing roads and culverts, where the amount involved exceeds \$50,000. R.C. 5549.21.
2. Contracts for the maintenance or repair of roads, where the amount involved exceeds \$45,000. The board must advertise once, not later than two weeks prior to the letting of the contract, in a newspaper of general circulation in the Village. The award must be to the lowest responsible bidder. R.C. 5575.01.
3. Contracts for the construction and erection of a memorial building or monument when the amount involved exceeds \$50,000. R.C. 511.12(B).
4. Contracts for equipment for fire protection, mechanical resuscitation, underwater rescue and recovery, and communication estimated to exceed \$50,000. R.C. 505.37 and 505.376.
5. Contracts for street lighting systems where the cost exceeds \$50,000. R.C. 515.01.
6. Contracts for street lighting improvements where the cost exceeds \$50,000. The board shall accept the lowest and best bid, if the successful bidder meets the requirements of section 153.54 of the Revised Code. The board may reject all bids. R.C. 515.07.
7. Contracts for building modifications for energy savings pursuant to R.C. 505.264, where the estimated cost exceeds \$50,000 (with certain exceptions). Award must be to the lowest and best bidder in accordance with the provisions of R.C. 307.86 to 307.92.
8. Contracts for private sewage collection tiles where the cost exceeds \$50,000. R.C. 521.05. The successful bidder must meet the requirements of R.C. 153.54.

WHEREAS, pursuant to 2 C.F.R. 200.320(a)(1)(iv), the Village desires to adopt higher micro-purchase thresholds than those identified in 2 C.F.R. §§200.67, 200.321(a), and 48 C.F.R. § 2.101.

NOW THEREFORE, BE IT RESOLVED by the Council of the Village of Middlefield, County of Geauga and State of Ohio, that:

SECTION 1. In compliance with the Uniform Guidance, and specifically 2 C.F.R. 200.318, the Village adopts the attached Uniform Guidance Procurement Policy to be used for all expenditures of ARPA funds.

SECTION 2. In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of Ohio law, the Village hereby self-certifies the following micro-purchase thresholds, each of which is a “higher threshold consistent with State law” under 2 C.F.R. §200.320(a)(1)(iv)(C) for the reasons set forth in the recitals to this resolution:

- A. \$50,000 for the purchase of materials, machinery and tools to be used in constructing, maintaining and repairing roads and culverts;
- B. \$45,000 for contracts for the maintenance or repair of roads;

- C. \$50,000 for contracts for the construction and erection of a memorial building or monument;
- D. \$50,000 for contracts for equipment for fire protection, mechanical resuscitation, underwater rescue and recovery, and communication;
- E. \$50,000 for contracts for street lighting systems;
- F. \$50,000 for contracts for street lighting improvements;
- G. \$50,000 for contracts for building modifications for energy savings, subject to the exceptions set forth in R.C. 307.86 to 307.92; and
- H. \$50,000 for contracts for private sewage collection tiles.

SECTION 3. The self-certification made herein shall be effective as of the date hereof and shall be applicable until the end of the current fiscal year of the Village – December 31, 2022, but shall not be applicable to Federal financial assistance awards issued prior to the date hereof, including ARPA funds.

SECTION 4. In the event that the Village receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Village shall comply with the more restrictive threshold when expending such funds.

SECTION 5 The Village shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

SECTION 6. This Ordinance is hereby determined to be an emergency measure, necessary for the immediate preservation of the peace, health and safety of the residents of the Village of Middlefield, so that the Village may take full advantage of all distributed monies through the ARPA Fund and elect the “standard allowance” option prior to the April 30, 2022 federal filing deadline. Therefore, this Ordinance shall take effect immediately upon its passage.

PASSED this _____ day of _____, 2022.

Mayor

President Pro Tempore

ATTEST:

Fiscal Officer