

# AZCARES Fund Update

June 15, 2020

# Apache Junction Allocation - Review

- \$4.8 million – reimbursement based on salary and benefit costs of public safety personnel.
- Reimbursement fulfills the Fed. requirements for funding.
- The required application submitted on ***June 30, 2020.***
- ***We do not have the funds yet.***

# Apache Junction Allocation - Review

- Discourage thinking of these funds as blank check.
- Recommend taking a slow and cautious fiscal approach.
- Many cities and towns are delaying action until August or later.

# Examples from Cities/Towns/Counties

## 1. Reserve for Vital Services

- Estimated Revenue Loss
- Rainy day Fund and “Future Needs”
- As much as 50% or more of funding

# Examples from Cities/Towns/Counties

## 2. City Operations

- Public Safety needs
- Emergency Operations needs
- PPE, sanitation, testing
- Facility retrofit, telework
- 25% or more of funding

# Examples from Cities/Towns/Counties

## 3. Community Investment

- Business Assistance
- Utility Assistance
- Non Profit Assistance
- Homelessness assistance
- Food assistance
- 15%-20% of Total Funding

# The Case for Reserves

- The impact on the economy was swift and dramatic.
- History has shown recovery is slow.
- There are many unknowns about the impact on revenue.
- The pandemic continues to spread in Arizona.
- Fiscal stewardship and maintenance of vital services (like public safety) for residents, businesses, and visitors is priority.
- State is showing dramatic decrease and impacts the budget directly.
- Historic impact on local collections haven't been as dramatic as the state, but have been and will likely be severe.
- Unknown impact on winter visitors & winter revenue.

# City Operational Needs

- Examples of Police facilities and vital equipment needs.
  - Dispatch Remodel - \$219,000 GF, \$125,000 Other Funds
  - Radios at end of life - High Cost
    - \$8,000 per radio
    - 3 radios need replacement
  - COPS grant
    - Grant Award spells out higher required amounts required by city.
    - Only cover up to \$1 million for 8 officers.
    - City required match is \$1.4 million.
    - Still feel strongly we need to accept this grant.
  - Other equipment that has gone unfunded in years past.
    - Example: Protective (riot) gear
  - Overtime is likely to go up as spread continues.



# City Operational Needs

- Examples of other facilities and equipment needs.
  - Emergency Management
    - Generator at city hall to maintain connection between City owned facilities.
      - \$39,000 prep work & \$45,000 for generator
- Unknown costs related to facility retrofit and telework.

# AZ Constitution Gift Clause Question

Can cities establish a small business assistance program with AZCares monies without violating the Constitutional provision referred to as the “gift clause?”

# AZ Constitution Gift Clause - Cont'd

What is the Gift Clause? Ariz. Const. Art. 9, § 7

- “Neither the state, nor any county, city, town, municipality, or other subdivision of the state shall ever...make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation...”
- Full text:  
<https://www.azleg.gov/viewDocument/?docName=http://www.azleg.gov/const/9/7.htm>

# AZ Constitution Gift Clause - Cont'd

The Gift Clause purpose is to “prevent government bodies from depleting the public treasury by giving advantages to special interests or by engaging in nonpublic enterprises.” *See Wistuber v. Paradise Valley Unified School District*, 141 Ariz. 346, 349 (1984).

# AZ Constitution Gift Clause - Cont'd

- A government expenditure will be upheld if: 1) it has a public purpose; and 2) the consideration (a bargained for exchange) the government entity receives “is not grossly disproportionate to the amounts paid to the private entity.” *See Cheatham v. DiCiccio*, 240 Ariz. 314, 318 (2016) *citing Turken v. Gordon*, 223 Ariz. 342 (2010).
- Further, indirect benefits (such as additional sales tax revenues or increased jobs) cannot be considered for purposes of determining the adequacy of consideration; only benefits that are bargained for by the parties and that the private party promises to provide constitute consideration. *Id.*

# AZ Constitution Gift Clause - Cont'd

- Courts must not be overly technical; they shall give appropriate deference to the findings of elected officials and a public purpose will only be found lacking where the governing body's discretion has been unquestionably abused. *Id.*

# AZ Constitution Gift Clause - Cont'd

- Governor and Attorney General (AG) both declined to give an opinion due to potential conflict of interest related SB1487 investigations.
- SB 1487 - Signed into law April 2016.
  - Requires the AG to investigate alleged violations of state statute or the Arizona Constitution by a county, city or town. Violations can result in the withholding of state shared revenues.
- League of Cities have recommended that Cities and Towns consult with their legal counsel to determine legality and risk.

# Business Assistance Examples

- Federal Coronavirus Relief Funds
  - Direct s – Phx., Tuc., Mesa, Mar. & Pima Counties
  - Prioritized needs, COVID impact
    - Rough approximation of 20% for small business
    - Still uncertain as to success - may depend on criteria, exceptions, eligible expenses, etc.
    - Mandate to spend by December 30



# Business Assistance – Cont'd

- AZCARES Fund
  - Through state to municipalities
  - Individual municipalities have been slower to act
- Deployed programs
  - Unique plans for program administration
  - Unique allocations, requirements

# Business Assistance – Cont'd

- Pinal County
  - \$15,000 per business max (no specific cap set, estimating 500 businesses)
  - Rent, utilities (3 months)
  - Very low barrier to access funding
- City of Maricopa
  - \$ non-specific, submit need
  - Rent (3 months), PPE & cleaning equipment
  - Council determine awards, follow up doc, clawback

# Non-Profit Assistance

- Access to funds
  - Depends on the program
  - Separate category from for-profit business

# Non-Profit Assistance

- Pinal County Community Development Block Grant (CDBG) Coronavirus funding
  - Prevent, prepare for, and respond to the pandemic
  - Four Apache Junction non-profits applied and are set to receive from \$10 – 25k

# Non-Profit Assistance – Cont'd

- Four Pinal County agencies that serve AJ & requires equal distribution of funds to AJ are set to receive from \$10 – 80k
- Any non-profit was eligible to apply for CDBG-CV funds
- Application period opened June 22 & closed July 5

# Next Steps

- Get the funds in our coffers.
- Continue to monitor pandemic.
- Continue to monitor impacts on local and state economy.
- Continue to research gift clause issue.
- Continue to research program options.
- Bring back to August 3<sup>rd</sup> city council work session.

# Discussion/Questions