



Angela Rogensues, President  
Dave Dwyer, Asst. Secretary-Mayor Pro Tem

Melody Magee, Vice-President  
Gary Boike  
Henry Newnan

Mindy Moore, Secretary  
Jonathan Lafferty

**A Special Meeting of the City Council – Thursday, December 19, 2024 at 2:00 p.m.** to be held at the Warren Community Center Auditorium, located at 5460 Arden Road, Warren, MI 48092

Members of the audience who would like to address the City Council this evening may do so under the Audience portion and will be allowed 3 minutes to speak.

### **AGENDA**

- 1 CALL TO ORDER
- 2 ROLL CALL
- 3 ADOPTION OF THE AGENDA-Acknowledge Receipt of Special Meeting Notice.
- 4 CONSIDERATION AND ADOPTION OF A RESOLUTION approving modifications to the allocations of ARPA Funds at the recommendation of the Administration and Guidehouse.
- 5 AUDIENCE PARTICIPATION
- 6 ADJOURNMENT

**MINDY MOORE**  
**Secretary of the Council**



CITY CONTROLLER  
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WARREN, MI 48093-6726  
(586) 574-4600  
[www.cityofwarren.org](http://www.cityofwarren.org)

December 18, 2024

Mindy Moore  
Council Secretary

RE: Reallocation of ARPA Funds

Dear Council Secretary Moore:

Guidehouse, our consultant with regard to the use and reporting of American Rescue Plan Act funds (ARPA), has advised us that the obligation of funds via Memorandums of Understanding (MOU) may pose a risk of denial for costs incurred after the obligation deadline of December 31, 2024. This advisory is the result of an analysis of Treasury policies regarding the criteria for "obligating" funds to projects.

The analysis was prepared by the Government Accountability Office (a non-partisan, independent organization) at the behest of members of Congress. While the analysis is not a legal opinion and has no binding effect, it is still significant to consider especially in light of the changing political landscape in Washington.

It is our determination, with Guidehouse's concurrence, that it is better for us to utilize the funding available in SLFRF eligible areas where need exists and the risk of federal claw back is minimized. For that reason we are requesting modifications to the allocation of ARPA funds. In summary, what we are proposing is to limit the funding for previously approved projects to the amounts that are contractually committed to contractors and allocate the residual amounts to infrastructure projects where contracts have been awarded.

Attached is a memorandum from Guidehouse in support of our request.

The reallocation of funds will not affect projects that are in progress. Funds will be provided from available fund balances to complete the Modular Library, Weigand Park Splash Pad and ongoing Halmich Park improvements.

Council Secretary Mindy Moore  
 RE: Reallocation of ARPA funds  
 December 18, 2024  
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The specific changes are as follows:

			Amount
	Original	Contractually	To Be
<b>Current Allocations:</b>	Allocation	Obligated	Reallocated
Modular Library	\$ 2,000,000	\$ 233,780	\$ 1,766,220
Parks & Recreation - Halmich Park Bathroom Renovations	1,000,000	401,960	598,040
Parks & Recreation - Weigand Park Splash Pad	1,200,000	986,862	213,138
Sidewalk Repairs	1,800,000	-	1,800,000
Infrastructure	1,070,271	-	1,070,271
<b>TOTAL</b>	<b>\$ 7,070,271</b>	<b>\$ 1,622,602</b>	<b>\$ 5,447,669</b>
			ARPA
<b>Reallocated - Water &amp; Sewer Infrastructure Projects</b>	Project #		Allocation
<i>All amounts are awarded contracts - all contractors are federally registered</i>			
Frazho (Hoover to Schoenherr)	24-5421		\$ 1,877,100
Prospect (Waltham to Fairfield)	S-24-817		758,427
Common (Schoenherr to Hayes)	W-24-821		1,071,813
Ryan Road (10-11 Mile)	WP-23-771		1,740,329
<b>TOTAL</b>			<b>\$ 5,447,669</b>

Attached please find a resolution appropriate for the reallocation and commitment of ARPA funds. Also attached is a schedule showing the final distribution of ARPA monies. We ask that you please schedule a special meeting for the approval of this item as it must be in place by December 31, 2024.

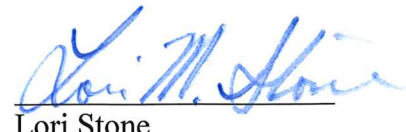
Sincerely,

  
 Mark Knapp  
 Assistant City Controller

Concurred:

  
 Richard Fox  
 City Controller

Concurred:

  
 Lori Stone  
 Mayor



## Memorandum

**To:** City of Warren Leadership

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**From:** Guidehouse, Detroit (the consultants)

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**Date:** 12/17/24

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**Re:** Government Accountability Office (GAO) Observations

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### Overview

The Government Accountability Office (a non-partisan, independent organization) posted a series of observations on December 2, 2024, regarding Treasury's implementation of SLFRF "costs incurred" and "obligations". These observations are potentially relevant to the City's ARPA obligation strategy.<sup>1</sup>

### Summary

The Government Accountability Office Observation:

- Explored whether and/or to what extent the Interim Final Rule and Treasury FAQs allow recipients to use funds for costs incurred and obligations after the obligation deadline (12/31/24) are a valid exercise of Treasury's discretion under the ARPA statutory language.
- Is not a legal decision or legal opinion. The GAO letter has no binding effect on Treasury or on the status of the Interim Final Rule and Treasury FAQs. It was submitted in response to Congressional Requestors as information that may be relevant to Congress' oversight of the SLFRF program.

### GAO Primary Observation

- The SLFRF statute directs that recipients of certain program funds "shall only use the funds ... to cover costs incurred by December 31, 2024.
- *"We caution that Treasury could violate the purpose statute if it permits recipients to use SLFRF amounts either for costs incurred or obligations made after December 31, 2024."*
- Based on appropriations law (and cited legal decisions), as well as the plain meaning of "obligation," GAO finds that obligations of SLFRF amounts arise when a legal liability of the recipient to pay has attached. Obligations require more than mere estimates of anticipated expenses. And to the extent (as contemplated by the IFR and FAQs) that Treasury permits recipients to use SLFRF for some anticipated

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<sup>1</sup> Regarding the Purpose Availability of Amounts Appropriated for Payments to State and Local Governments | U.S. GAO, December 2, 2024: [Department of the Treasury—Observations Regarding the Purpose Availability of Amounts Appropriated for Payments to State and Local Governments | U.S. GAO](#)

costs (such as reporting, legal, audit, personnel) for which they do not yet bear any liability, Treasury may be acting “beyond its permissible range of discretion.”

### Recommendations

Given that GAO observations are pre-decisional, we (the consultants) have evaluated potential risks along with their likelihood. Key areas for discussion:

1. Federal claw backs in the new administration: We view funds on a spectrum of risk (see below). One criterium for risk is the vehicle, and we rank the vehicles from fully spent to MOUs as least to most risky.
2. Obligation Strategy: If possible, the City should seek to obligate funding via legal agreements (purchase orders/contracts).
3. FY2025 Budget Implications

Potential Obligation Mechanism Risk Matrix						
Obligation Vehicle						
Expenditures incurred by Dec. 31, 2024	Legal Agreements (Contracts, Subawards) executed by Dec. 31, 2024	Contract Change Orders and Contingencies in FY2025+	Administrative Cost Estimate – Reasonably Anticipated Compliance Needs	Administrative Cost Estimate – Ancillary Compliance Needs	Personnel Estimate	MOUs – representing downline expenses that have no legal liability
Lowest Risk	Potential Risk Rationale					Highest Risk
“We caution that Treasury could violate the purpose statute if it permits recipients to use SLFRF amounts either for costs incurred or obligations made after December 31, 2024.”	“obligations of SLFRF amounts arise when a legal liability of the recipient to pay has attached, and obligations require something beyond mere estimates or anticipated expenses.”	While GAO does not directly address contract change order and contingencies, one could argue that there is no legal liability established by the obligation deadline.	“...we caution that Treasury may act beyond the reach of its permissible range of discretion if it applies its interpretation of “obligation” to permit recipients to use SLFRF funds for some anticipated costs for which they do not yet bear any liability. These tenuous costs include those arising after December 31, 2024, that are necessary for compliance with the SLFRF statute, its implementing regulations, or the grant agreement.”	“qualitative differences exist between expenses resulting from compliance with a direct SLFRF statutory requirement and expenses arising from other independent federal laws such as environmental regulations”	“... Treasury’s broad website guidance appears to permit recipients to use SLFRF funds for payroll costs that arise after the statutory deadline of December 31, 2024... we caution that Treasury could violate the purpose statute if it permits recipients to use SLFRF amounts for such costs arising between December 31, 2024, and December 31, 2026.”	“We found that projected costs alone cannot constitute valid obligations ... Thus, written estimates and other documentation justifying these estimated expenses did not meet the threshold required for a binding obligation.”
THE ILLUSTRATION ABOVE REPRESENTS THE POTENTIAL RELATIVE RISK OF ARPA SLFRF OBLIGATION VEHICLES, BASED ON GAO’S FINDINGS. RISK IS ASSESSED AS IF GAO’S RECOMMENDATIONS WERE TO BE IMPLEMENTED; HOWEVER, THE GAO LETTER HAS NO BINDING EFFECT ON TREASURY AT THIS TIME. FURTHER EXECUTIVE OR LEGISLATIVE ACTION WOULD BE REQUIRED TO APPLY THE GAO RECOMMENDATIONS.						

### For questions or additional clarity contact:

Marcel Evans, State and Local Government  
(313) 774-765 | [maevans@guidehouse.com](mailto:maevans@guidehouse.com)

**RESOLUTION ALLOCATING AMERICAN RESCUE PLAN ACT FUNDING IN FISCAL  
YEAR 2025**

At a Special Meeting of the City Council of the City of Warren, County of Macomb, Michigan, held on \_\_\_\_\_, 2024 at \_\_\_\_\_ Eastern Standard Time, in the Council Chamber at the Warren Community Center Auditorium, 5460 Arden, Warren, Michigan.

PRESENT: Councilmembers: \_\_\_\_\_

ABSENT: Councilmembers: \_\_\_\_\_

The following preamble and resolution were offered by Councilmember \_\_\_\_\_ and supported by Councilmember \_\_\_\_\_.

WHEREAS, the City of Warren received an allocation of \$27,318,439 in American Rescue Plan Act funding (ARPA), and

WHEREAS, the Administration and the City's ARPA consultant has recommended a reallocation of a portion of those funds from allocations committed under Memorandums of Understanding to infrastructure projects under formal contract, and

THEREFORE, IT IS RESOLVED, that City Council approves the following modifications to ARPA project funding:

- a. Reductions in project funding totaling \$5,447,669 as follows:
  - i. \$1,766,220 from the Modular Library Project
  - ii. \$598,040 from Halmich Park Improvements
  - iii. \$213,138 from Weigand Splash Pad
  - iv. \$1,800,000 from Sidewalk Repairs
  - v. \$1,070,271 from unspecific Infrastructure Replacements

**RESOLUTION ALLOCATING AMERICAN RESCUE PLAN ACT FUNDING IN FISCAL  
YEAR 2025**

b. Allocations of project funds to infrastructure projects totaling \$5,447,669 as follows:

- i. \$1,877,100 to Frazho (Hoover to Schoenherr) Project 24-5421
- ii. \$758,427 to Prospect (Waltham to Fairfield) Project S-24-817
- iii. \$1,071,813 to Common (Schoenherr to Hayes) Project W-24-821
- iv. \$1,740,329 to Ryan Road (10 Mile to 11 Mile) Project WP-23-771

BE IT FURTHER RESOLVED, that the SLFRF Expenditure Category for all the above listed infrastructure projects is 5.11 Drinking Water Transmission and Distribution.

AYES: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

NAYS: Councilmembers: \_\_\_\_\_

RESOLUTION DECLARED ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Mindy Moore  
Secretary of the Council

**CERTIFICATION**

STATE OF MICHIGAN    )  
                                      ) SS.  
COUNTY OF MACOMB    )

I, Sonja Buffa, duly elected City Clerk for the City of Warren, Macomb County, Michigan, hereby certifies that the foregoing is a true and correct copy of the resolution adopted by the Council of the City of Warren at its meeting held on \_\_\_\_\_, 2024.

\_\_\_\_\_  
Sonja Buffa, City Clerk

City of Warren  
American Recovery Plan Act  
\$27,318,439  
Project Listing

	ARPA Allocation
Water & Sewer Infrastructure Projects:	
<b>Original Allocation:</b>	
Yvonne & Yvette (Schoenherr to DeMott)	\$ 265,000
Beierman (9 Mile to Stephens)	650,000
Warner (Stephens to 10 Mile)	569,644
Arden Avenue (Chalfonte to Exeter)	150,000
Cosgrove Drive (Fenwick to Martin)	380,356
Chicago Road (13 Mile to Van Dyke)	833,712
Innovate Mound	6,989,679
Subtotal	9,838,391
<b>Requested Reallocation:</b>	
Frazho (Hoover to Schoenherr)	1,877,100
Prospect (Waltham to Fairfield)	758,427
Common (Schoenherr to Hayes)	1,071,813
Ryan Road (10-11 Mile)	1,740,329
Reallocated Funds	5,447,669
 Total Water & Sewer Infrastructure Projects	 15,286,060
 Administrative & Compliance:	
Guidehouse	409,777
 Revenue Loss - Police & Fire Salaries	 10,000,000
 Modular Library	 233,780
 Parks & Recreation - Halmich Park Bathroom Renovations	 401,960
 Parks & Recreation - Weigand Park Splash Pad	 986,862
 GRAND TOTAL	 \$ 27,318,439