

Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.org.



AMENDED AGENDA
Consent Section L, Item 1, Added May 12, June 7, & June 29 Meeting Minutes

AGENDA

OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY
Council Chambers, 305 West Third Street
September 21, 2021
Closed Session - 4:30 PM
Appointment Items - 5:00 PM
Regular Meeting - 6:00 PM

This meeting is held pursuant to the State Emergency Services Act, the Governor's Emergency Declaration, and Governor's Executive Order N-29-20 as extended by N-21-08 to allow members of the City Council or staff to participate via teleconference.

As a precautionary measure to help slow the spread of COVID-19, the City Council facilities are temporarily closed to the public. The public is encouraged to view the meeting from home on the City's website at Oxnard.org/city-meetings, Spectrum channel 10, Frontier channel 35, or YouTube at Youtube.com/oxnardnews. Video recordings are typically available online immediately following the meeting. *Please see the link for the Measure M pre-recorded presentation video for each agenda item below.

The public may provide comments to the City Council via email at cityclerk@oxnard.org no later than 2:00 p.m. on the day of the meeting. Please identify the meeting date and agenda item in the Subject line.

A telephone option for public comments is also available at this time. Requests to speak must be submitted no later than 2:00 p.m. on the day of the meeting. Use the form on the city's website to submit your request: Oxnard.org/city-meetings, or call the City Clerk's Office at (805) 385-7803, or email your request to cityclerk@oxnard.org.

*The City has filed pre-election and post-election lawsuits regarding the validity of Measure M. The judge has not yet ruled on the legal sufficiency of Measure M.

A. ROLL CALL, POSTING OF AGENDA

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

At this time, a person may address the legislative body only on matters appearing on the closed session agenda. The presiding officer shall limit public comments to three minutes.

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Government Code Section 54956.9(d)(1))

Name of case: **John Curtis Newman, III v. City of Oxnard; et al.**

United States District Court, Central District, Case No. 2:20-cv-03173-ODW-JC

Legislative Body: City Council

D. APPOINTMENT ITEMS (5:00 PM)

1. City Manager Department

SUBJECT: Presentation by Southern California Edison on Wildfire Mitigation. (10/10/5)

RECOMMENDATION: That City Council receive a presentation by Southern California Edison

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item time estimates: (Presentation / Council Discussion / Public Comment)

on Wildfire Mitigation.

(Live presentation at the request of Southern California Edison).

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

2. City Manager Department

SUBJECT: Oxnard Convention & Visitors Bureau (OCVB) Annual Report. (15/10/5)

RECOMMENDATION: That the City Council receive the OCVB FY19/20 and FY20/21 Annual Report.

(Live presentation by Oxnard Convention & Visitors Bureau President & CEO Julie Mino)

Legislative Body: City Council

Contact: Ashley Golden, (805) 385-7478

E. OPENING CEREMONIES (6:00 PM)

Pledge of allegiance to the flag of the United States.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Resolution to Joseph M. Rodriguez for over 37 Years of Outstanding Service to the City of Oxnard.

2. SUBJECT: Presentation of a Proclamation Designating September 15 - October 15, 2021 as "Hispanic Heritage Month."

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

At this time, the legislative body will consider public comments for a maximum of thirty minutes. A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. If the allotted 30 minute time period expires before all speakers have had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing.

H. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

The City Manager/Executive Director/Secretary shall report on items of interest to the legislative body occurring since the last meeting. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion.

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

I. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY
BUSINESS/COMMITTEE REPORTS

At this time, a member of the legislative body may make a brief announcement, or make a brief report on his or her activities. Further, members of the legislative body may request to schedule consideration of whether to place an item on a future agenda. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. The member's report shall not exceed three minutes, unless additional time is granted by the presiding officer.

J. REVIEW OF INFORMATION/CONSENT AGENDA

The members of the legislative body will consider whether to remove Information/Consent Agenda items for discussion later during the meeting.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

At this time, a person may address the legislative body only on matters appearing on the information/consent agenda. The presiding officer shall limit public comments to three minutes.

L. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the May 18, 2021, June 1, 2021, June 15, 2021, and June 29, 2021 Regular Council Meetings and the May 12, 2021 and June 7, 2021 Special Council Meeting, as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. Public Works Department

SUBJECT: CalRecycle Rubberized Pavement Grant Program Application.

RECOMMENDATION: That City Council adopt a resolution authorizing:

1. The City Manager or Public Works Director, or his/her designee to execute in the name of the City of Oxnard all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project for an amount not to exceed \$250,000 in California Department of Recycling and Recovery (CalRecycle) Rubberized Pavement Grant Program funds, to be used for the resurfacing of several streets identified in the FY 2021-26 Capital Improvement Plan (CIP); (This item did not originate in Committee.)

Legislative Body: City Council

Contact: Brian Yanez, (805) 200-5412

3. Public Works Department

SUBJECT: Execute Purchase Order to Commodity Trucking Acquisition, LLC dba Tri-County Transportation for Backfill and Resurfacing Material Sales, Delivery and Haul Away Services PW 21-82.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Purchase Order with Tri-County Transportation for Backfill and Resurfacing Material Sales, Delivery and Haul Away Services in the amount not to exceed \$270,000 for a three-year term from January 1, 2022 to December 31, 2024.

(Public Works and Transportation Committee approved 3-0)

Legislative Body: City Council

Contact: Brian Yanez, (805) 200-5412

4. Housing Department

SUBJECT: First Amendment with Major Event Trailers for Rental of Mobile Restrooms, Showers, and Laundry Facilities for the K Street Temporary Emergency Shelter.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a First Amendment with Major Event Trailers (A-8277) to provide the rental of mobile restrooms, showers, and laundry facilities for the Temporary Emergency Shelter at 351 South K Street for an increased amount of \$98,043.59 for a total contract amount \$383,043.59.

Legislative Body: City Council

Contact: Emilio Ramirez, (805) 385-8094

5. Public Works Department

SUBJECT: Additional Budget Appropriation for Civic Annex 3rd Floor Tenant Improvement Project PW 20-21R.

RECOMMENDATION: That the City Council approve and authorize the City Manager to approve a budget re-appropriation in the amount of \$175,000 from General Fund contingency to the General Fund Capital Outlay Fund 301 for the Civic Annex 3rd Floor Tenant Improvement Project PW 20-21R (Project No. 171601).

Legislative Body: City Council

Contact: Brian Yanez, (805) 200-5412

M. PUBLIC HEARINGS

1. Community Development Department

SUBJECT: Planning & Zoning (PZ) Permit No. 20-580-05 (Zone Text Amendment) – An Amendment to the Oxnard City Code, Chapter 16 (Zoning Code) adding Medical Clinics and Hospitals as sensitive uses requiring separation from Firearm Ranges and Businesses Engaged in the Sale of Firearms and Ammunition. The proposed regulations would apply Citywide (Inland Zone) and pertain to the General Commercial (C-2) and Limited Manufacturing (M-L) zoning districts. (0/10/10)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing;
2. Determine the Zone Text Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3); and
3. Introduce an Ordinance for first reading (by title only, waiving further reading) adding Medical Clinics and Hospitals as sensitive uses requiring separation from establishing regulations to address Firearm Ranges and the Sales of Firearms and Ammunition.

(Planning Commission recommend approval 6-0).

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/3Adg5t3L_mc

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

N. REPORTS

1. City Manager Department

SUBJECT: Selection of American Rescue Plan Act Investment Projects

RECOMMENDATION: That the City Council begins making final decisions on American Rescue Plan Act (ARPA) investments. Staff recommends that the City Council makes tranche 1 investment decisions and as many tranche 2 investment decisions as the City Council deems appropriate. If the City Council does not decide on investment decisions totaling \$59,540,662, the City Council can decide on the balance at a later date.

ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/7a470lozT_k

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

2. Fire Department

SUBJECT: Purchase Order for Bauer Compressors Inc. in the amount of \$1,255,173 for replacement Self Contained Breathing Apparatus (SCBA)

RECOMMENDATION: That the City Council authorize the Mayor to execute a Purchase Order with Bauer Compressors, Inc. in the amount of \$1,255,173 for the purchase of 118 Self-Contained Breathing Apparatus (SCBAs) and related accessories and training.

(Presentation will be live upon consultant's request).

Legislative Body: City Council

Contact: Alexander Hamilton, (805) 385-7700

3. Community Development Department

SUBJECT: Joint Use Agreement with Southern California Edison Company. (0/10/10)

RECOMMENDATION: That City Council approve and authorize the Mayor to execute the attached Joint Use Agreement with Southern California Edison Company, denoted as JUA203904272, pertaining to the Rice Avenue right of way adjacent to the westerly boundary of the Sakioka Farms Specific Plan area.

(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/T7BG3Kjv_xY

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

O. ADJOURNMENT



CITY COUNCIL AGENDA REPORT

APPOINTMENT ITEMS (5:00 PM) AGENDA ITEM NO. D.2

DATE: September 21, 2021

TO: City Council

FROM: Ashley Golden, Assistant City Manager, (805) 385-7478, ashley.golden@oxnard.org

SUBJECT: Oxnard Convention & Visitors Bureau (OCVB) Annual Report. (15/10/5)

RECOMMENDATION

That the City Council receive the OCVB FY19/20 and FY20/21 Annual Report.
(Live presentation by Oxnard Convention & Visitors Bureau President & CEO Julie Mino)

BACKGROUND

The Oxnard Convention and Visitors Bureau (“OCVB”) was initially formed in May 1974 as a nonprofit corporation for the purpose of generating economic benefits to the City of Oxnard (“City”) by promoting the area and attracting more visitors. The vision of the OCVB is to lead Oxnard’s travel and tourism industry in promoting and marketing Oxnard as a premier leisure and business travel destination, seeking to bring significant economic and social benefits to our community. As such, OCVB’s mission statement is to establish the Oxnard area as a recognized destination for tourism and business travel. To promote Oxnard in primary markets and the local community, OCVB produces print, online, and social media materials, working collaboratively with neighboring Convention and Visitors Bureaus, Ventura County Coast, Central Coast Tourism Council, and Visit California to promote tourism across our region. Of importance is staying up to date on current travel trends and markets, so that the proper marketing and outreach is undertaken to maximize OCVB’s efforts. Going forward, OCVB’s stated goals include continuing to provide connectivity between visitor sectors. Doing this will require City support in implementing their long-term strategic plan.

DISCUSSION

This report serves as the OCVB report for FYs 19-20 and 20-21. Although the FY 19-20 Annual Report was scheduled for October 2020, due to the uncertainty and shutdown of the travel and tourism industry due to the pandemic the Annual Report was not brought forward. Many of OCVB's 19-20 initiatives and projects naturally had to be delayed due to the pandemic, therefore this report serves as the Annual Report for FYs 19-20 and 20-21

One of the OCVB’s key performance indicators, and the foremost method for tracking success, is through hotel statistics. Unfortunately, Travel and Tourism was one of the hardest hit industries in the wake of the Covid 19 pandemic. In 2020 the City hotel statistics were down for the first time in 8 years.

OCVB was able to quickly pivot their marketing messaging, providing Oxnard hoteliers with pertinent information and put out “Responsible Travel” messaging. While the messaging may have looked different during this time, OCVB continued to stay active in marketing our destination to keep Oxnard top of mind when people were able to return to traveling.

Year-end numbers for 2019 and 2020, which are based on a calendar year, are as follows:

- 2019 Average Daily Rate is at \$152.23, up 1.3% over the previous year

- 2019 Average Occupancy is at 74.2%
- 2020 Average Daily Rate is at \$141.27, which is only down 7.7% from the previous year
- 2020 Average Occupancy is at 53.8%

While these numbers are low for the year ending 2020, Oxnard did outperform neighboring cities on Average Daily Rate. All of our neighboring cities hovered around the 50% occupancy levels, similar to Oxnard. The Central Coast as a whole outperformed all of California's statewide numbers. With travel starting to return, Oxnard is experiencing rates and occupancies that exceed 2019 (pre-pandemic) numbers in most 2021 months.

The pandemic allowed OCVB time to focus on local community efforts and internal procedures. One such initiative included a community-focused "Oxnard Together" video which went viral in the Oxnard community reaching 56,344 residents. Another initiative was reimagining Oxnard Restaurant Week where we encouraged residents to order takeout from our Oxnard restaurants to support them during the shutdown(s). This campaign received over 45,000 views from Oxnard locals. We also developed a robust Crisis Communications Plan and an addendum to our Marketing Plan outlining our steps and strategy to prepare for economic recovery.

The OCVB launched a new custom website built on a content management system compatible with our existing platforms, featuring a fresh look; a thoughtful site map; a redesigned media hub; a search engine friendly event calendar; a new dynamic map and a booking widget allowing users to check city wide rates and book stays all in one place, with all revenue going directly to our hotels rather than a third party. For FY20/21 VisitOxnard.com experienced traffic from 173,000 users completing 222,000 sessions.

OTHER STATS (FYs 19-20 & 20-21)

1. OCVB continues to have a strong social media presence with more than 57,570 combined followers across Facebook, Instagram, Twitter, YouTube, Spotify, Pinterest and LinkedIn.
2. In September 2019, OCVB rebranded the organization to "Visit Oxnard", updating the logo, brand guidelines and marketing materials.
3. OCVB implemented a targeted e-newsletter in FY20/21 directly targeting 659 meeting planners.
4. The OCVB general tourism e-newsletter has 5,258 e-subscribers with up to a 30% open rate (industry average is 15%).
5. The OCVB had at least 54 high value news pickups in FY 20/21 from our public relations efforts and hosted 6 overnight press trips once travel was allowed to resume.
6. OCVB ran two leveraged-media co-op campaigns in partnership with Visit California and Expedia, both with matching funds from Visit California. The Fall 2020 campaign received 3.8 million impressions, 2,200 room nights booked and generated \$428,900 in hotel room bookings. The Spring 2021 campaign received 6.6 million impressions, 2,400 room nights booked and generated \$530,100 in hotel room bookings.
7. OCVB attended 17 group and leisure tradeshow in FY19/20 & FY20/21, making connections with thousands of potential visitors and meeting planners.
8. The OCVB team combined, sits on 19 industry Board of Directors and Committees throughout our region, state and nation.
9. OCVB was also recognized for their efforts in FY 19/20 & FY 20/21 receiving the following awards from industry partners: Small Business Best Place to Work on the Central Coast awarded by Pacific Coast Business Times 2019, 2020, & 2021. Chairpersons Award of Excellence 2019, & Best Place to Work 2020 awarded by Oxnard Chamber of Commerce. Best Place to Work in California awarded by California Travel Association 2020. Public Relations Society of America Image Award for Visit Oxnard Media Kit 2021. American Advertising Award for Visit Oxnard Logo Design 2020 and Visit Oxnard Press Kit 2021. Stella Award for Best CVB/DMO in the Far West from Northstar Meetings Group 2020. Smart Women in Meetings award, Stellar Performer from Smart Meetings 2020. Best Brochure International, Central Coast Visitors Map from International Association of Visitor Information Providers 2020.

Oxnard Tourism Marketing District ("OTMD")

Lodging business owners decided to pursue formation of the OTMD in order to create a dedicated revenue source

devoted to marketing Oxnard as a tourist, meeting, and event destination. On March 5, 2019, City Council approved OCVB to form the Oxnard Tourism Marketing District ("OTMD"), which includes an annual assessment rate of one and one-half of one percent (1.5%) of gross short-term room rental revenue in addition to the existing Transient Occupancy Tax (TOT), and other guest charges and fees. The OTMD is expected to generate approximately \$730,000 on an annual basis for promotion of travel and tourism specific to Oxnard, when not in a pandemic or emergency situation. The City is paid a fee equal to one percent (1%) of the amount of assessment collected to cover its costs of collection and administration from funds collected for the OTMD. The OTMD will have a five (5) year term, beginning April 1, 2019 through March 31, 2024. The assessment was implemented beginning April 1, 2019.

This approach has been used successfully in other destination areas throughout the state to improve tourism and drive additional room nights to assessed lodging businesses. The OTMD includes all lodging businesses located within the boundaries of the City of Oxnard, except lodging businesses with fifty-four (54) rooms or less and RV parks.

OCVB Agreement

The City Council approved a five-year agreement with OCVB on May 21, 2019, of which we are in the third year of the five-year agreement. This contract will expire on June 30, 2024. The 2019 contract amount represented a \$300,500 (47%) reduction from the previous agreement compensation of \$641,124.

Given all the demands on City funds, OCVB has found that the formation of the OTMD was a vital method to achieve the goals of the organization, while at the same time reducing the City's financial assistance. Since the OTMD funding is limited to marketing the specific lodging business paying into the OTMD, it is vital that the City provide direct funding to OCVB to ensure that Oxnard as a whole is promoted as a premier leisure and business travel destination. As the data shows, the promotion leads to the continued growth and success of hotel performance, thus generating more TOT funds and additional tax revenue streams for the City of Oxnard. OCVB has indicated they will request Council consideration of their contract renewal during the FY21/22 Annual Report, which is expected in October 2022. The goal would be to have the OCVB and OTMD be on the same timeline.

LOOKING FORWARD

OCVB is still looking forward to the addition of three new hotel properties coming on-line in the next two years, which is projected to bring a 34% increase in available hotel rooms. Exhibit B of the current Agreement (A-8142) defines performance measures. These include:

1. Serve as the City's official tourism agency,
2. Develop a comprehensive marketing program, and
3. Participate in activities related to the branding of the City.

In alignment with these measurables, the Council will consider, as part of the American Rescue Plan Act (ARPA) funding two overarching projects the OCVB would manage if the funding is approved.

1. A City Wayfinding program,
2. Additional Marketing Initiatives. Including; Digital Advertising campaigns with proven strong ROI, Branding, Publications and Destination Management projects to directly assist the City of Oxnard in the amount of \$436K.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

FINANCIAL IMPACT

There is no impact associated with this report. On May 21, 2019, the City Council approved an agreement with OCVB (Agreement No. A-8142) to receive the following financial contributions from the City's general fund:

1. 2019, \$340,624 in year one,
2. 2020 \$350,000 in year two,
3. 2021 \$300,000 in year three,
4. 2022 \$265,000 in year four, and
5. 2023 \$270,000 in year five.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Ashley Golden, Assistant City Manager

ATTACHMENTS

1. VO_Marketing Plan_FY1920
2. VO_MarketingPlan_FY2122
3. VO_MarketingPlanAddendum_FY2021 (2)
4. VO_AnnualReport_Powerpoint_FINAL_0908212



Marketing Plan

2019–2020

Marketing Plan Overview

1

There's something for everyone in Oxnard, a Southern California coastal city where Pacific Coast Highway meets Highway 101. Oxnard is home to miles of pristine white sand beaches, electric nightlife, some of the best taquerias in the state, historic Victorian-era architecture, the California Strawberry Festival and an expansively picturesque harbor that serves as the closest access point to the Channel Islands National Park.

The Visit Oxnard Marketing Plan is designed to reach travelers whose interests and behaviors align with the unique experiences found here. The following pages contain strategies for connecting with these travelers through messages that resonate. Read on to learn how we'll increase overnight stays and visitation to Oxnard in 2019–2020.



ABOUT VISIT OXNARD

The mission of Visit Oxnard is to promote and market Oxnard as a premier leisure and business travel destination that brings significant economic and social benefits to our community. Visit Oxnard is funded by a 1.5 percent tourism assessment charged by area hotels with 51+ rooms as well as a yearly contracted amount from the City of Oxnard.

The Visit Oxnard Board of Directors is made up of a diverse group of professionals with expertise from various sectors of the tourism and hospitality industries. With 11 to 19 Board seats, our current breakdown consists of:

5 *Hotel Representatives*

1 *City Council Member*

1 *City Employee*

1 *Downtown Representative*

1 *Harbor Representative*

1 *Chamber Of Commerce Representative*

2 *Tourism Attraction*

Representatives (Golf Course, Museum, Arts, Shopping Center)

2 *Restaurant & Winery Representatives*

1 *Transportation Representative*

1 *Public Affairs Representative*

1 *Entrepreneurial Representative*

2

2019–2020 GOALS

- Increase overnight stays and visitation during off-season
- Improve perception of Oxnard to residents and visitors
- Increase online audience across social and digital platforms

Research



IN OUR STATE

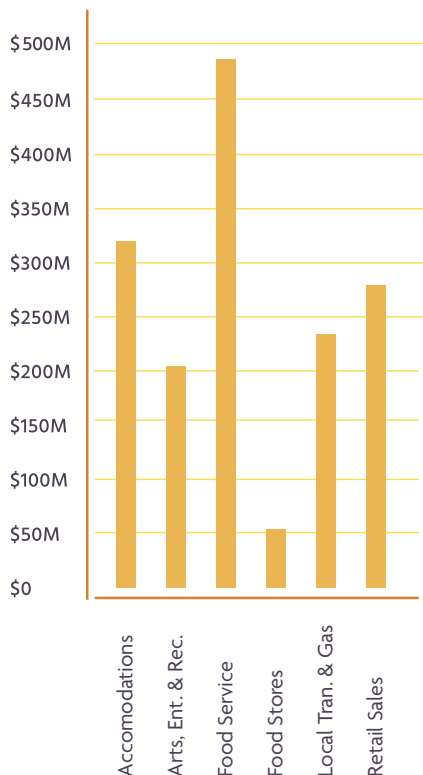
We make data-driven decisions to develop effective strategies that drive ROI. We utilize reports prepared by Dean Runyan Associates and released by Visit California to inform these decisions. Here's what these reports tell us about travel spending on a Statewide level:

- Direct travel-related spending in California totaled \$140.6 billion in 2018, a 5.4 percent increase from the previous year.
- Direct travel-generated employment neared 1.16 million people, a 1.7 percent increase from 2017.
- Travel-generated tax revenue topped \$11.8 billion, a 7.3 percent increase from the previous year.
- Room demand increased by 2 percent.
- Visitor arrivals on domestic flights increased by 7.3 percent.
- Approximately \$6 out of \$10 spent at local visitor destinations were attributable to residents of other states and countries.
- The GDP of the California travel industry was \$79 billion in 2018, which represents about 2.5 percent of the total GDP of the State.

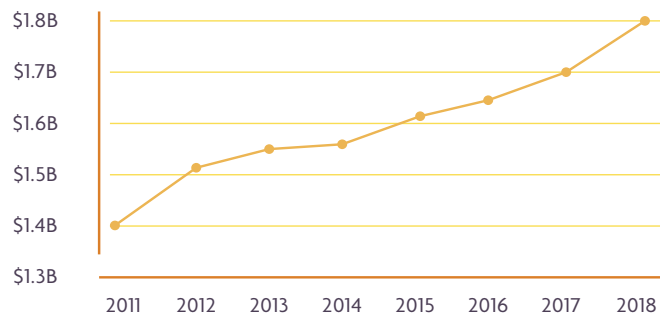
IN OUR COUNTY

Next, we narrow our focus to research specific to Ventura County Coast. Here is a snapshot of how local travelers spent their money in 2018 and overall changes in travel spending since 2010, provided by Visit California.

TRAVEL SPENDING BY INDUSTRY



VENTURA COUNTY HISTORY OF TRAVEL SPENDING



Looking Ahead to 2019–2020



Using everything we've learned, we have identified focal geographic markets for the coming year, along with key message points and how we will measure success.

GEOGRAPHIC MARKETS

TIER ONE

- Bay Area
- Southern California
- Central Valley

TIER TWO

- Arizona
- Nevada
- Texas
- Canada

KEY SELLING POINTS

- Easy access to uncrowded beaches
- California value destination
- Gateway to the Channel Islands National Park
- Conveniently located off Highways 101 and 1
- Centrally located between major gateway destinations
- Diverse cultural experiences
- Home of Dallas Cowboys Training Camp
- Year-round sunshine

MEASUREMENT OF SUCCESS

- STR reports and Transient Occupancy Tax
- Visa Vue statistics
- Website traffic
- Social media engagement
- E-mail marketing efforts
- Monitor advertising effectiveness
- Monthly stat summary reports
- Advertising equivalency from PR efforts



Personas



When crafting brand messaging, it's critical to speak directly to the consumer. To convey this value proposition effectively, we must have a clear understanding of who our target audiences are and how they will be receiving our message. Research tells us the most sustainable and effective way to connect travelers with destinations is to go beyond demographics and understand those travelers' beliefs, dreams, motivations and passions. In the next few pages, we've built out "personas" that represent the audiences on which Oxnard will focus in 2019–2020, based upon the data we've gathered. While our marketing efforts will extend beyond the individual personas presented here, using real-life examples allows us to get to know potential visitors' motivations and interests.

ADVENTUROUS ANDREW

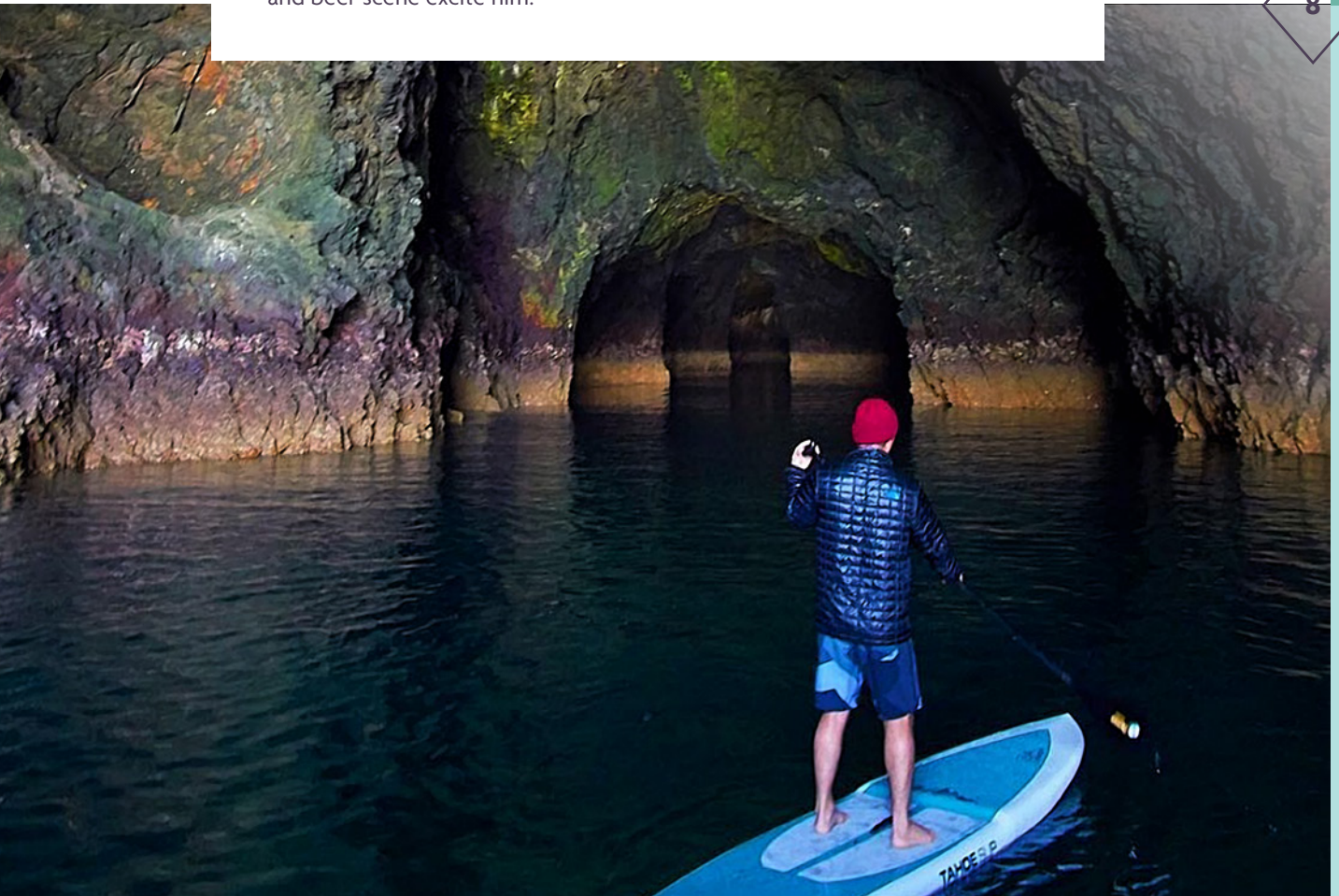
SEEKS EXPERIENCES THAT CONNECT HIM TO THE OUTDOORS

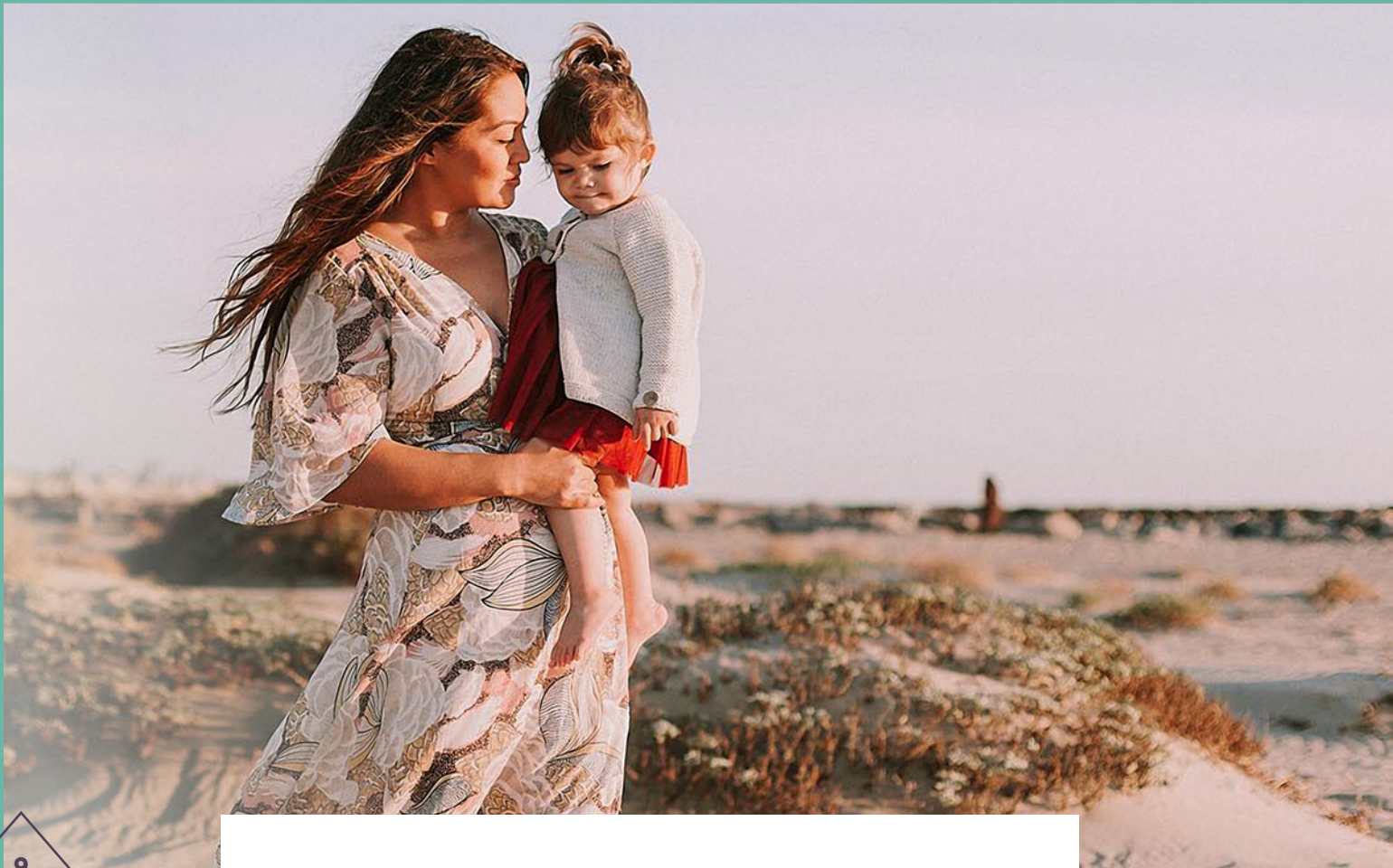
What matters to Andrew?

Andrew likes to stay busy. When he has free time, he chases new experiences that make him feel connected to the outdoors. Andrew has an open mind, looks for opportunities and is known to decide at the last minute to go follow the surf or weather to a new destination. He consumes news and entertainment in the digital sphere and stays connected through social media, such as Facebook and Instagram, which is where he'll learn about Oxnard. Outdoor adventurers are a growing population, so this is a natural persona for Oxnard to target.

How Oxnard appeals to Andrew

Oxnard is home to many unique geographical assets ideal for outdoor adventure and exploration. It's the perfect place for Andrew to indulge in his favorite water sports. He can participate in the sports he knows and loves or try new ones. When the sun goes down, the welcoming nightlife and food and beer scene excite him.





MULTITASKING MOM MELISSA

SEEKS EXPERIENCES THAT BRING HER FAMILY TOGETHER

What matters to Melissa?

Melissa is always looking for new vacations where her family can spend time together and have a special getaway without traveling too far from home. As a young mother, Melissa loves her family and wants her kids to learn to enjoy traveling the way she does. She finds inspiration for activities, meals and travel planning on Pinterest and stays connected to her friends and family on Instagram. She makes decisions based on reviews, feedback from friends, and what she perceives will bring her family closer together, and she's always got her eye out for a good deal.

How Visit Oxnard appeals to Melissa

Oxnard has tons to offer, including a variety of activities that make everyone in her family happy. The beautiful Channel Islands National Park helps Melissa blend family fun with education and an appreciation for nature. The Channel Islands Harbor, Channel Islands Maritime Museum and The Murphy Auto Museum give everyone in the family something to get excited about. Melissa knows Oxnard offers an abundance of outdoor and indoor enjoyment for the whole family.

CULTURE CRAVING COLLETTE

SEEKS RELAXING EPICUREAN AND CULTURAL EXPERIENCES

What matters to Collette?

Collette enjoys new experiences, but she'll definitely do her research and planning. She looks for fresh ways to have rejuvenating moments that will allow her to connect with the people she cares about. When she finds a new favorite, whether it's a restaurant, hotel, wine, or special event, she will generously share it with her friends and family. Collette likes to leave a vacation feeling relaxed and revitalized. To accomplish that, she will do her research online before making reservations, so there is opportunity to reach her on multiple platforms and connect with her on an ongoing basis through social media and e-mail marketing.

How Oxnard appeals to Collette

With a higher household income, Collette's decisions aren't guided by money as much as her perception of the best option. She makes decisions based on perceived quality and comfort. She will appreciate Oxnard's beautiful setting, being able to engage in relaxing outdoor activities, and foodie experiences with great beer and wine offerings. She will enjoy bringing friends along to Oxnard for the ultimate girls' getaway.



Meetings



MEETING PLANNER PERSONA

The meeting planner persona is challenging to pinpoint. Many professionals have the job duties of a meeting planner, and they can range in age, experience, gender and style. However, many professionals who actually plan meetings for organizations, regardless of size, have other official job titles. Executive assistants, human resources managers, project managers, events coordinators or directors often manage meeting planning for their organizations, requiring broader targeting criteria. What unites these individuals? Their desire for affordable meeting locations, with an abundance of unique and engaging non-work activities for their attendees and their families.



MEETING PLANNING PAID MEDIA

Much like leisure travelers, meeting planners are drawn to experiences that will delight participants and become memorable for their organization. A variety of platforms will be utilized to convey the Visit Oxnard message to potential meeting planners. Due to the expense of most print publications, Ventura County Coast's spending power is being leveraged on behalf of Visit Oxnard in several meetings publications.

MEETINGS TACTICS:

- Custom audience targeting with programmatic video
- Attendance at trade shows and conferences
- Trade show geo-fencing to encourage planners to consider Oxnard
- SMERF-focused digital campaigns
- Updates and improvements to current Cvent profile and advertising
- LinkedIn video advertising

Based on stakeholder feedback, most meetings booked in Oxnard are generated from the greater Los Angeles market. This will continue to be the main geographical target for the meeting planning paid media, with other markets to slowly be tested as time and budget allow.

Paid Media



Just like travelers themselves, media consumers are drawn to an experience. We are creating a paid media strategy that will speak to users and their individual expectations, passions and lifestyles. This plan will utilize cutting-edge technology and expanded digital capabilities along with traditional devices.

ADVERTISING

Visit Oxnard has a comprehensive media strategy that includes a high percentage of digital advertising blended with the traditional platforms of print and outdoor.

The digital strategy utilizes social media advertising on Facebook and Instagram as well as the use of programmatic digital advertising through Verdin's in-house DSP. Programmatic advertising refers to the use of real-time bidding and targeting of ideal online users within a DSP platform.

This system allows us to buy inventory from ad exchanges and manage advertising campaigns.

DSP BENEFITS

- Ability to target lifestyles, passions and personalities of potential travelers in key markets
- Improved transparency of campaign performance, budget and results
- Nimble ability to optimize, edit and review performance 24/7
- Higher performance campaigns, in all industries
- Ability to create pixelated retargetable audiences
- Improved reporting on all campaigns as a complement to Google Analytics

PAID MEDIA TACTICS

- Execute two unique advertising campaigns, "Mix Things Up in Oxnard" and "You Don't Know Oxnard," which will be deployed through the DSP and Facebook and Instagram ads
- Develop additional video assets to be used in the "You Don't Know Oxnard" campaign
- Redesign and enhance Visit Oxnard's existing collateral to align with the destination's new brand

VISITOR'S GUIDE

55,000 guides will be printed and distributed to 771 locations outside of Ventura County—throughout California, Arizona and Texas as well as over 100 locations in Ventura County.



Earned Media



An important piece of our integrated media strategy will be a focused effort on earned media, also known as public relations.

As news and information consumption shifts from the page to the pocket, the power of influence has shifted from large, established media organizations to savvy individuals and micro-media outlets. While traditional media outlets maintain their sway over segments within the key 35- to 54-year-old demographic, younger and more urban audiences now cite social media and digital tastemakers as strongly impacting decisions on what to do and where to go.



PUBLIC RELATIONS

Using an integrated approach, we can continue to maximize visibility for Oxnard by creating a cohesive brand message through traditional media relations and ever-evolving digital strategies.

PUBLIC RELATIONS TACTICS

Press Releases

In order to keep Oxnard top of mind to travel journalists, regular press releases are created and distributed to the media with announcements that include new developments, special events and promotions. In addition, press releases are also developed on a regular basis from monthly blogs. Targeted media includes drive-in markets as well as other audiences that coincide with Visit Oxnard's outreach through advertising and other means.

Besides participating in familiarization tours with Ventura County Coast and Visit California, press tours are also conducted directly through Visit Oxnard, hosting both individuals and group writers. These tours help to further showcase the city's diverse attractions and offerings with opportunities to receive full feature coverage on Oxnard.

Travel Writer Organizations

Visit Oxnard's Public Relations Contractor maintains memberships in Society of American Travel Writers (SATW) and Outdoor Writers of California in order to distribute information on behalf of Visit Oxnard.

VISIT CALIFORNIA

Visit Oxnard will work closely with Visit California in leveraging a variety of different partnerships. Visit Oxnard President & CEO Julie Mino is a member of the Visit California Brand & Content Committee, while Visit Oxnard Director of Marketing & Communications Brittney Hendricks sits on the Visit California Public Relations committee.

PARTNERSHIP TACTICS:

- Participate in pilot advertising programs
- Have a voice in creating regional content initiatives
- Deliver regional content submissions
- Gain industry insights
- Influence State tourism initiatives
- Leverage ideas and implement first

CENTRAL COAST TOURISM COUNCIL

Visit Oxnard will work closely with the Central Coast Tourism Council (CCTC) in leveraging a variety of different partnerships.

PARTNERSHIP TACTICS:

- Participate in the annual Central Coast map
- Have a voice in creating regional content initiatives
- Deliver regional content submissions
- Participate in co-op print and digital advertising opportunities
- Public Relations Contractor supports Visit Oxnard's participation in CCTC by serving on the PR Committee with monthly conference calls and call-to-action duties

Visit Oxnard Director of Marketing & Communications Brittney Hendricks sits on the CCTC Board of Directors and Marketing Committee influencing Central Coast tourism initiatives. Visit Oxnard is currently bought into CCTC's East Coast Campaign initiative through a seed contribution by Ventura County Coast as well as a co-op with CCTC for U.K. media representation with London-based company, SLC.

Owned Media



SOCIAL MEDIA

Publishing engaging content on various social media platforms will help Visit Oxnard continue to connect and interact with our audiences, thus building brand awareness, fostering valuable relationships and empowering brand ambassadors to tell the story of this unique destination.

SOCIAL MEDIA TACTICS:

- Post consistently across platforms, including Facebook, Instagram, Twitter, Pinterest, YouTube, and LinkedIn and manage a Spotify playlist, using our scheduler with SEM Rush/Sked Social and monitoring social analytics
- Focus on Facebook, Instagram and Pinterest to connect with our target personas on the platforms they enjoy most
- Share news coverage that features Oxnard, its residents and locally-owned businesses, focusing on Twitter for newsworthy posts
- Generate web traffic on Pinterest by joining tribes and pinning brand-consistent, visually appealing destination pins to persona-relevant boards
- Network professionally on LinkedIn and share B2B-friendly updates on organizational activity, generating interest for our destination within our industry and target meetings audience
- Use branded video content to tell our stories, knowing that video drives conversions at rates exponentially higher than still photography
- Share local stories that highlight the welcoming and diverse character of Oxnard
- Use contests and giveaways to promote events, grow the brand and gather marketing assets
- Share user-generated photos to build our audience and showcase real people's experiences in our destination
- Show faces of diverse groups of people who enjoy coming to Oxnard and represent our personas

EMAIL MARKETING

A monthly e-newsletter will continue to be sent the first week of the month.

EMAIL MARKETING TACTICS:

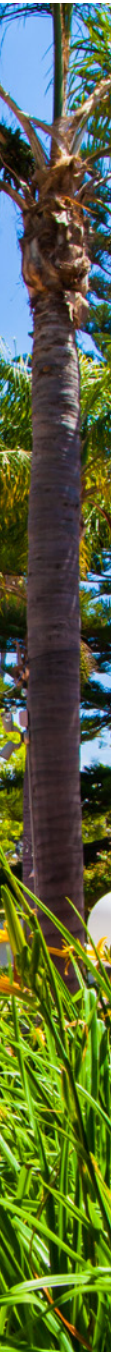
- Focus on specific themes from Visit Oxnard's key messaging points, keeping in mind seasonality and upcoming events
- Provide special access to deals and offers via e-mail to demonstrate value to subscribers—it's important to keep people glad they signed up!
- Send e-mail recipients to the website by highlighting activities, restaurants and accommodations that build interest in planning an Oxnard getaway

Visit Oxnard will continue to gather e-mails and grow the e-newsletter list by collecting e-mails at local events, trade shows and conferences, participating in referral/leads programs through Ventura County Coast and Visit California partnerships, enabling an easy-to-find newsletter sign-up field on the visitoxnard.com homepage and hosting "enter email to win" giveaways.

A WEBSITE THAT CARRIES THE CONVERSATION

Increasing lodging occupancy hinges on the strength of our website, and in 2019/2020, we will be developing a new website. Digital communications send visitors to the site, which plays a pivotal role in persuading travelers to execute on a buying decision to visit Oxnard. We will focus on website features and content that most strongly influence this decision-making process, analyzing the site monthly for visitor behavior and usability.

Our utilization of SEM Rush, a search engine marketing and optimization tool, will assist us by providing site-wide content audits, providing recommendations upon which we can take action to improve traffic volumes, visit duration, page ranks and more.



VISIT OXNARD CA



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Marketing Plan

2021–2022



Marketing Plan Overview

1

Coming off a challenging year for hospitality and tourism due to the COVID-19 pandemic, it's important to note specific challenges faced by our industry, including regional shelter-in-place orders; out-of-state and international travel restrictions and State- and County-mandated business closures and tiers for reopening – all in addition to navigating a very real public health crisis affecting residents and visitors alike.

Visit Oxnard made pivots to its marketing strategy in line with industry guidance and research to encourage responsible travel and keep Oxnard top-of-mind for overnight stays and visitation.

This Marketing Plan outlines the framework and approach Visit Oxnard will take to continue on a positive path forward to economic recovery and growth.

ABOUT VISIT OXNARD

The mission of Visit Oxnard is to promote and market Oxnard as a premier leisure and business travel destination that brings significant economic and social benefits to our community. Visit Oxnard is funded by a 1.5 percent tourism assessment charged by area hotels with 51+ rooms as well as a yearly contracted amount from the City of Oxnard.

The Visit Oxnard Board of Directors is made up of a diverse group of professionals with expertise from various sectors of the tourism and hospitality industries. With 11 to 19 Board seats, our current breakdown consists of:

4 Hotel Representatives

Joe Cabral, Vice Chair, Best Western Oxnard Inn
Dolores Licon, Secretary, Homewood Suites
Toby Valdez, Treasurer, Embassy Suites by Hilton
Millicent Bennett, Residence Inn by Marriott

1 City Council Member

Bryan MacDonald, Mayor Pro Tem

1 City Employee

Ashley Golden, Assistant City Manager

1 Downtown Representative

Kim Recharte, Gold Coast Insurance Agency, Inc.

1 Harbor Representative

Marilyn Miller, Ventura County Harbor Department

1 Chamber Of Commerce Representative

Nancy Lindholm, West Ventura County Business Alliance

4 Tourism Attraction Representatives

Steve Buenger, Chair, Marine Emporium Landing
Jill Almonia, The Collection at RiverPark
David Neel, The Murphy Auto Museum
Gary Blum, Heritage Square

1 Restaurant Representative

Tony Dybeku, The Waterside Restaurant

1 Public Affairs Representative

Stacy Miller, Stacy Miller Public Affairs

1 Entrepreneurial Representative

Adam Gonzalez, 805Keto.com

1 Board Advisor

Brian Tucker, Ventura County Lodging Association

2021–2022 GOALS

- Increase overnight stays and visitation among leisure and business travelers
- Increase positive impressions and improve perception of Oxnard to residents and visitors
- Increase online audience across social and digital platforms

Research



The COVID-19 pandemic brought economic disruption to almost all sectors of the US economy in 2020, but few industries were as hard hit as travel. Total travel output decreased by 36% (-\$408B) in 2020, as compared to 2019 levels. Prior to the first reported case in the U.S., the travel industry had reached \$1.13 trillion growing 3% between 2018 and 2019. Expectations were for continued growth in travel for 2020, as economic indicators like unemployment were at all time lows.

IN OUR STATE

The outlook for the future is challenging, but promising: Visit California released new projections from Tourism Economics that show domestic visitor spending in California will reach 76% of 2019 levels this year and hit 94% next year. Overall visitor spending won't be back to 2019 levels until 2024. While we have a long road to full recovery, the projections reflect some improvement and offer hope that the comeback can be accelerated.

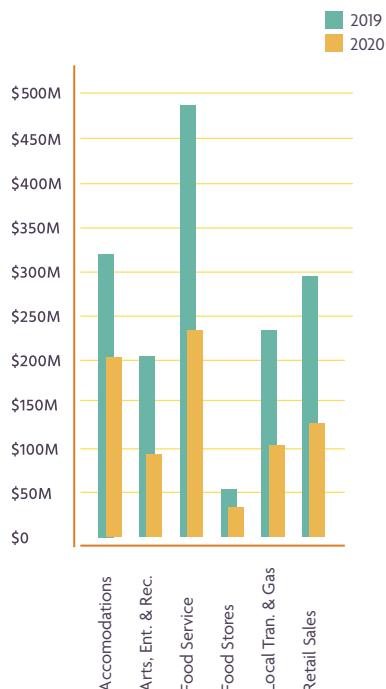
To assist us in making data-driven, informed decisions, we look to reporting from the past year provided by Dean Runyan Associates and released by Visit California. Here's what these reports tell us about travel spending on a Statewide level:

- The U.S. travel industry contracted 36% in 2020, whereas California's travel economy declined 55%.
- Travel spending declined 55% from \$144.9 billion in 2019 to \$65.1 billion in 2020.
- Direct travel-generated employment experienced a loss of approximately 316,000 jobs across the State. This represents a 26.8% decline. The largest amount of job losses occurred within accommodations and food services sectors, which lost approximately 174,000 travel industry jobs.
- Direct travel-generated earnings experienced a loss of \$13.9 billion, a 25.4% decline.
- Tax receipts generated by travel spending are down 45.6% compared to 2019. Local and State taxes have declined 49.1% and 51.3%, respectively.

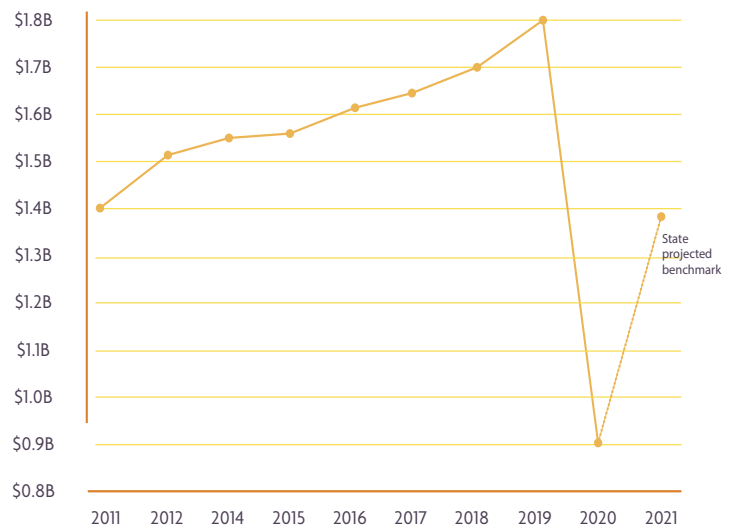
IN OUR COUNTY

Next, we narrow our focus to research specific to Ventura County Coast. Here is a snapshot of how local travelers spent their money in 2020 and overall changes in travel spending since 2011, provided by Visit California.

TRAVEL SPENDING BY INDUSTRY



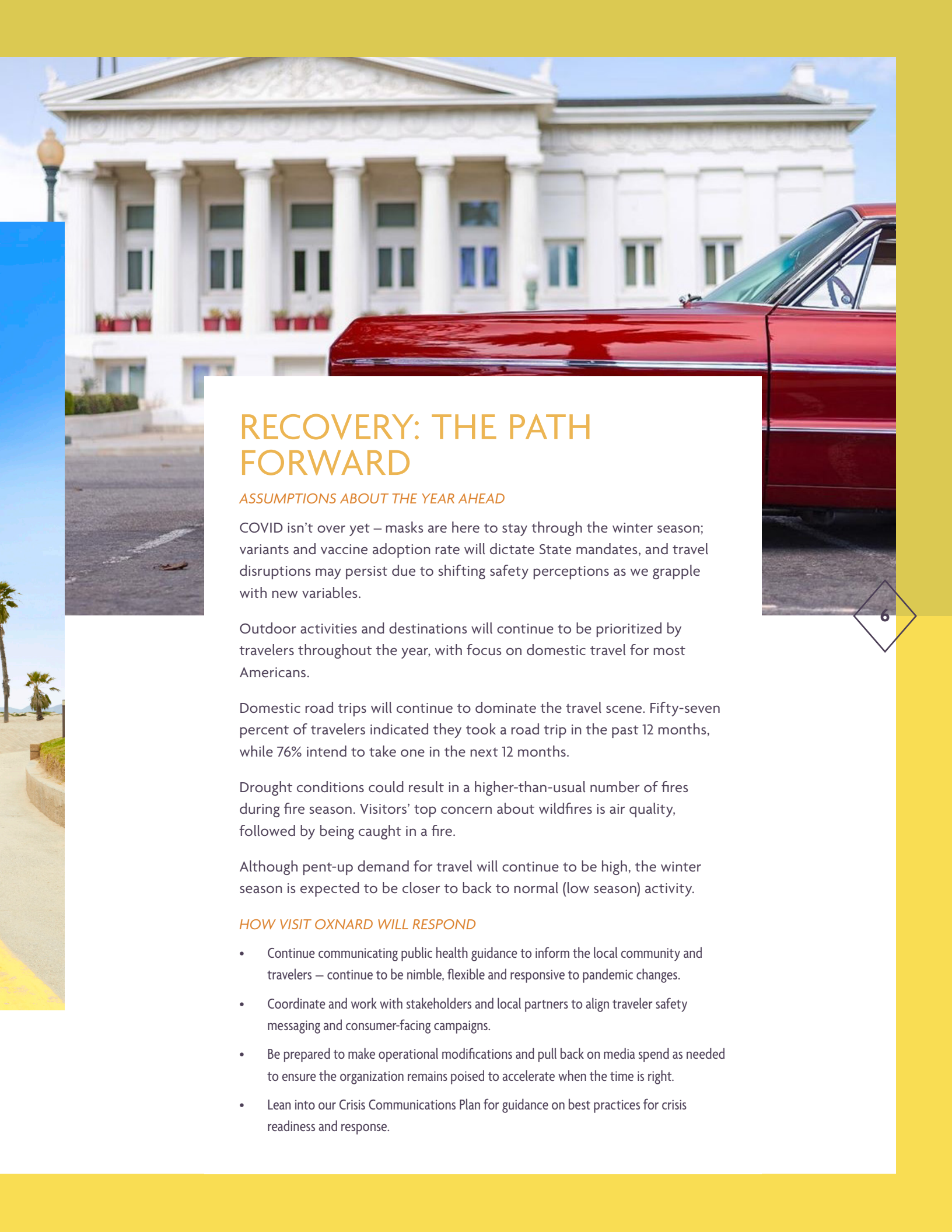
VENTURA COUNTY HISTORY OF TRAVEL SPENDING



Recovery: The Path Forward



Although strides have been made toward economic recovery, Visit Oxnard will undoubtedly face challenges as it navigates the road ahead. Here, we outline assumptions based on consumer sentiment indices that can be made about the coming year with plans for response.



RECOVERY: THE PATH FORWARD

ASSUMPTIONS ABOUT THE YEAR AHEAD

COVID isn't over yet – masks are here to stay through the winter season; variants and vaccine adoption rate will dictate State mandates, and travel disruptions may persist due to shifting safety perceptions as we grapple with new variables.

Outdoor activities and destinations will continue to be prioritized by travelers throughout the year, with focus on domestic travel for most Americans.

Domestic road trips will continue to dominate the travel scene. Fifty-seven percent of travelers indicated they took a road trip in the past 12 months, while 76% intend to take one in the next 12 months.

Drought conditions could result in a higher-than-usual number of fires during fire season. Visitors' top concern about wildfires is air quality, followed by being caught in a fire.

Although pent-up demand for travel will continue to be high, the winter season is expected to be closer to back to normal (low season) activity.

HOW VISIT OXNARD WILL RESPOND

- Continue communicating public health guidance to inform the local community and travelers – continue to be nimble, flexible and responsive to pandemic changes.
- Coordinate and work with stakeholders and local partners to align traveler safety messaging and consumer-facing campaigns.
- Be prepared to make operational modifications and pull back on media spend as needed to ensure the organization remains poised to accelerate when the time is right.
- Lean into our Crisis Communications Plan for guidance on best practices for crisis readiness and response.

Looking Ahead to 2021-2022



Using visitation data, we have identified focal geographic markets for the coming year, pulling back from international markets until we are further along in recovery. Oxnard's assets inform our key message points, and we will rely upon reporting to measure success.

GEOGRAPHIC MARKETS

TIER ONE

- Bay Area
- Southern California
- Central Valley

TIER TWO

- Arizona
- Nevada
- Texas
- Washington

MEASUREMENT OF SUCCESS

- STR reports and Transient Occupancy Tax
- Visa Vue statistics
- Website traffic
- Social media engagement
- E-mail marketing efforts
- Monitor advertising effectiveness
- Monthly stat summary reports
- Media mentions (qualitative) from PR efforts

KEY SELLING POINTS

- Easy access to uncrowded beaches
- California value destination
- Gateway to the Channel Islands National Park
- Conveniently located off Highways 101 and 1
- Centrally located between major gateway destinations
- Diverse cultural experiences
- Home of Dallas Cowboys Training Camp, CA Strawberry Festival and signature events
- Year-round sunshine



Personas



When crafting brand messaging, it's critical to speak directly to the consumer. To convey this value proposition effectively, we must have a clear understanding of who our target audiences are and how they will be receiving our message. Research tells us the most sustainable and effective way to connect travelers with destinations is to go beyond demographics and understand those travelers' beliefs, dreams, motivations and passions. In the next few pages, we've built out "personas" that represent the audiences on which Oxnard will focus in 2021–2022, based upon the data we've gathered. While our marketing efforts will extend beyond the individual personas presented here, using real-life examples allows us to get to know potential visitors' motivations and interests.

ADVENTUROUS ANDREW

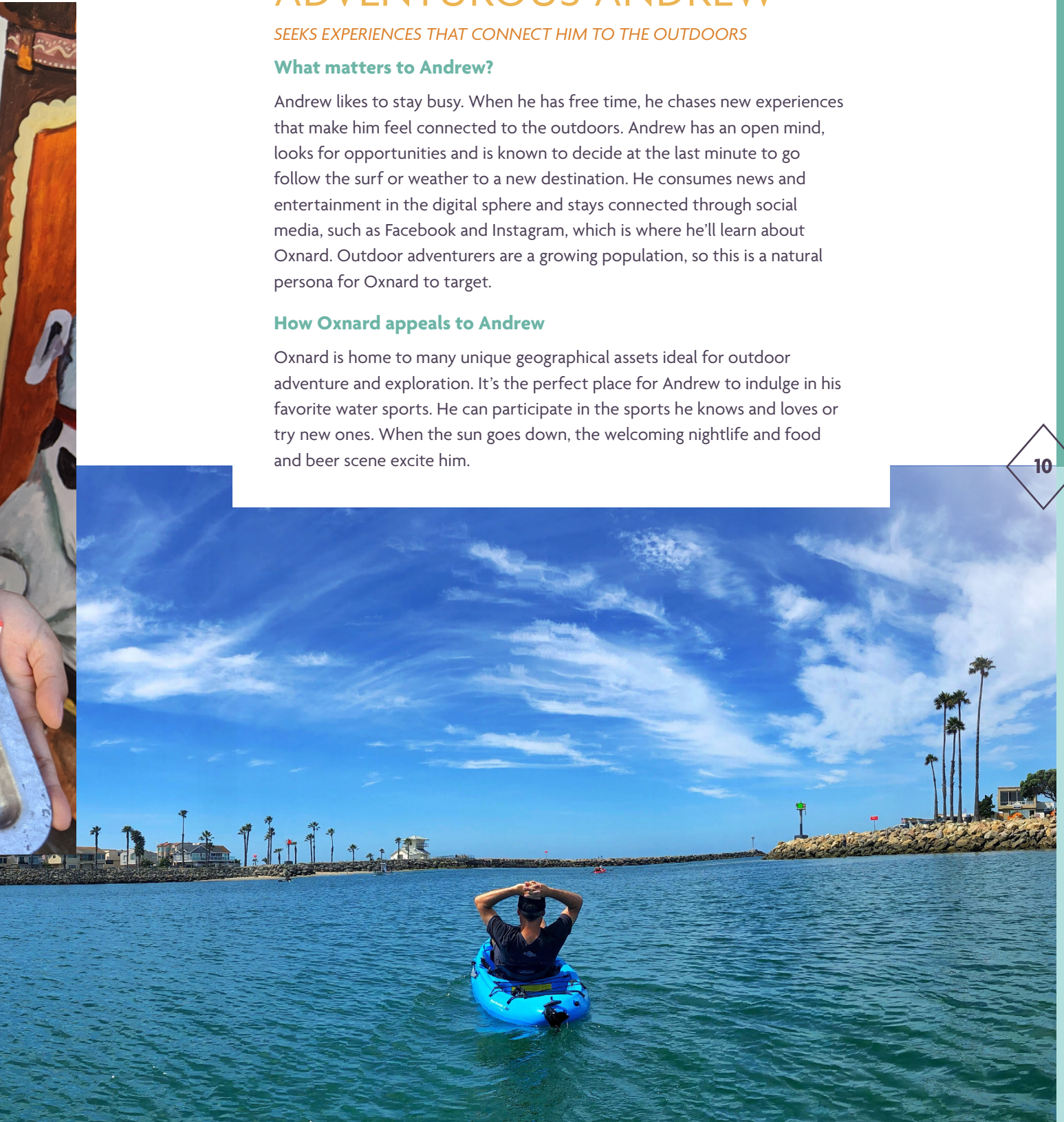
SEEKS EXPERIENCES THAT CONNECT HIM TO THE OUTDOORS

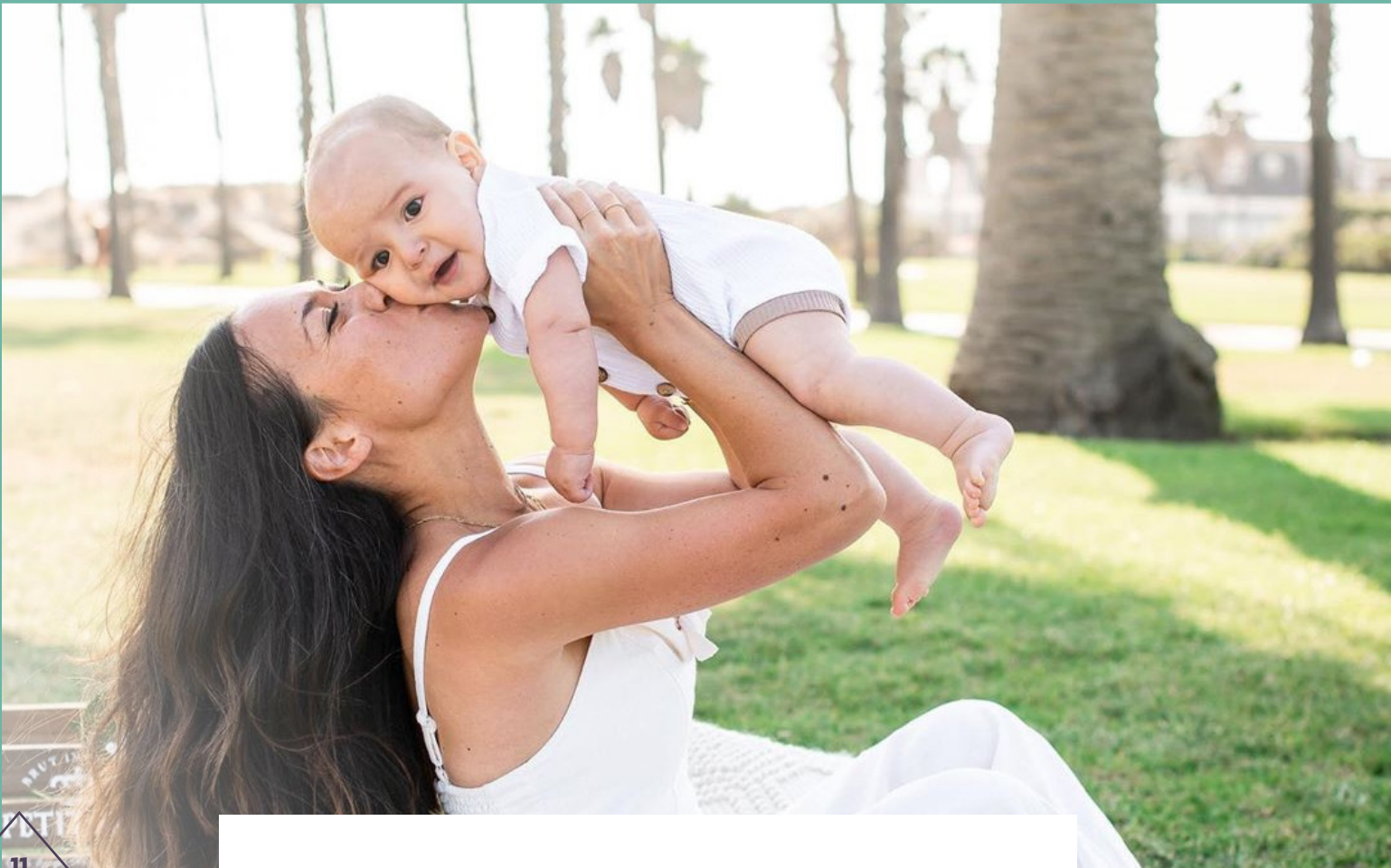
What matters to Andrew?

Andrew likes to stay busy. When he has free time, he chases new experiences that make him feel connected to the outdoors. Andrew has an open mind, looks for opportunities and is known to decide at the last minute to go follow the surf or weather to a new destination. He consumes news and entertainment in the digital sphere and stays connected through social media, such as Facebook and Instagram, which is where he'll learn about Oxnard. Outdoor adventurers are a growing population, so this is a natural persona for Oxnard to target.

How Oxnard appeals to Andrew

Oxnard is home to many unique geographical assets ideal for outdoor adventure and exploration. It's the perfect place for Andrew to indulge in his favorite water sports. He can participate in the sports he knows and loves or try new ones. When the sun goes down, the welcoming nightlife and food and beer scene excite him.





MULTITASKING MOM MELISSA

SEEKS EXPERIENCES THAT BRING HER FAMILY TOGETHER

What matters to Melissa?

Melissa is always looking for new vacations where her family can spend time together and have a special getaway without traveling too far from home. As a young mother, Melissa loves her family and wants her kids to learn to enjoy traveling the way she does. She finds inspiration for activities, meals and travel planning on Pinterest and stays connected to her friends and family on Instagram. She makes decisions based on reviews, feedback from friends, and what she perceives will bring her family closer together, and she's always got her eye out for a good deal.

How Visit Oxnard appeals to Melissa

Oxnard has tons to offer, including a variety of activities that make everyone in her family happy. The beautiful Channel Islands National Park helps Melissa blend family fun with education and an appreciation for nature. The Channel Islands Harbor, Channel Islands Maritime Museum and The Murphy Auto Museum give everyone in the family something to get excited about. Melissa knows Oxnard offers an abundance of outdoor and indoor enjoyment for the whole family.

CULTURE CRAVING COLLETTE

SEEKS RELAXING EPICUREAN AND CULTURAL EXPERIENCES

What matters to Collette?

Collette enjoys new experiences, but she'll definitely do her research and planning. She looks for fresh ways to have rejuvenating moments that will allow her to connect with the people she cares about. When she finds a new favorite, whether it's a restaurant, hotel, wine, or special event, she will generously share it with her friends and family. Collette likes to leave a vacation feeling relaxed and revitalized. To accomplish that, she will do her research online before making reservations, so there is opportunity to reach her on multiple platforms and connect with her on an ongoing basis through social media and e-mail marketing.

How Oxnard appeals to Collette

With a higher household income, Collette's decisions aren't guided by money as much as her perception of the best option. She makes decisions based on perceived quality and comfort. She will appreciate Oxnard's beautiful setting, being able to engage in relaxing outdoor activities, and foodie experiences with great beer and wine offerings. She will enjoy bringing friends along to Oxnard for the ultimate girls' getaway.



Meetings & Groups



MEETINGS & GROUPS

As company and event structure has changed, many professions have the job duties of a meeting planner in addition to other tasks at their respective companies and have other official job titles. Executive assistants, HR managers, project managers, event coordinators or directors often manage meeting planning for their organizations, requiring broader targeting criteria. What unites these individuals? Their desire for affordable meeting locations, with an abundance of unique and engaging non-work activities for their attendees and their families.

WEBSITE & REQUESTS FOR PROPOSALS

The “Meetings & Groups” section on VisitOxnard.com acts as a catch all for custom group experience planning, with a guide to meeting facilities and downloadable brochure; inspiration for wellness program building; virtual video tours and a digital RFP submission tool. Once received, our full-service team gets to work on venue recommendations, site negotiations, contract facilitation, site walkthroughs and more.

TRADESHOWS & CONFERENCES

Visit Oxnard participates in a robust schedule of tradeshows and conferences that generate appointments and leads for group bookings. Clientele in attendance at tradeshows are typically motivated and ready to book programs quickly, which presents the perfect opportunity for us to capture market share.

INDUSTRY INVOLVEMENT

Participation in leadership roles amongst our peers is imperative as we build upon our reputation in the consideration set for group bookings. As such, Visit Oxnard holds committee seats on the Destinations International Convention, Sales & Service Committee; West Coast DMO Alliance and Ventura County Coast Tradeshow Committee.

MEETINGS TACTICS

- Revamp and restart e-marketing initiatives directed to meeting planners.
- Attendance at tradeshows and conferences focused on companies looking to book programs in Southern California.
- Coordinate new photography of meetings and event venues to increase marketability.
- Expand reach via social and digital advertising, specifically using LinkedIn to reach professional networks.
- Print advertising leveraging spending power of Ventura County Coast.
- Participate in CalSAE opportunities to generate more association business.

FOCUS MARKETS

Corporate groups from Greater Los Angeles

California associations

Social, Military, Education, Religious and Fraternal (SMERF) groups with emphasis on faith-based groups

Sports groups

Wedding specialists

Sales & incentive programs



Paid Media



ADVERTISING

Visit Oxnard has a comprehensive media strategy that includes a high percentage of digital advertising blended with the traditional platforms of print and outdoor.

The digital strategy utilizes social media advertising on Facebook and Instagram as well as the use of programmatic digital advertising through partnerships with media buying agencies. Programmatic advertising refers to the use of real-time bidding and targeting of ideal online users within a DSP platform.

These systems allow us to buy inventory from ad exchanges and manage advertising campaigns.

DSP BENEFITS

- Ability to target lifestyles, passions and personalities of potential travelers in key markets
- Improved transparency of campaign performance, budget and results
- Nimble ability to optimize, edit and review performance 24/7
- Higher performance campaigns, in all industries
- Ability to create pixelated retargetable audiences
- Improved reporting on all campaigns as a complement to Google Analytics

PAID MEDIA TACTICS

- Execute a unique advertising campaign in partnership with The Journal of Lost Time, which will be deployed yearround on their network; through the DSP and in Facebook and Instagram ads

- Leverage media opportunities with industry partners to advertise on platforms like Expedia; Adara; TripAdvisor and on DSP networks and externally owned/paid channels
- Create branded stories with Weekend Sherpa to attract visitation from target markets including Los Angeles and the Bay Area.
- Print and digital ads with media outlets like Edible, LA Parent and Westways
- Outdoor placements with imagery and messaging from seasonal campaigns to expand upon a multichannel approach
- Video and photography asset curation in line with our target personas to be used in supplemental ad campaigns directed at those audiences
- Proposed destination management projects including projects at Oxnard Transit Center; a wayfinding system and a new OXNARD letters attraction

VISITOR'S GUIDE

30,000 guides will be printed and distributed to 771 locations outside of Ventura County—throughout California, Arizona and Texas as well as over 100 locations in Ventura County.



Earned Media



PUBLIC RELATIONS

Using an integrated approach, we can continue to maximize visibility for Oxnard by creating a cohesive brand message through traditional media relations and ever-evolving digital strategies.

RESOURCES & COLLATERAL

TravMedia

The industry standard for communicating travel news, TravMedia is a platform that serves as a press center; professional network and pitch hub wherein journalists alert travel organizations of upcoming story opportunities. Visit Oxnard maintains an annual membership and press release allotment through the service.

Visit Oxnard Press Kit

Visit Oxnard circulates its award-winning (ADDY Awards; Image Awards) press kit to journalists interested in covering our destination, including a Fact Sheet; History Sheet; Story Ideas; Calendar of Events and Accolades. This collateral takes the guess work out of background research, streamlining communications and increasing efficiency, while also serving as a tool to generate media coverage.

PUBLIC RELATIONS TACTICS

We contract with an expert specializing in luxury travel and lifestyle PR, with more than a decade of agency experience. In order to keep Oxnard top of mind to travel journalists, it is imperative that we leverage our contractor's expertise and strong relationships built across regional and national media outlets.

Tactics employed include regular press release distribution announcing new developments, special events and promotions; proactive and reactive pitching to reputable outlets with wide reach targeting our desired audience; influencer partnerships and press trip curation for high-value assignments.

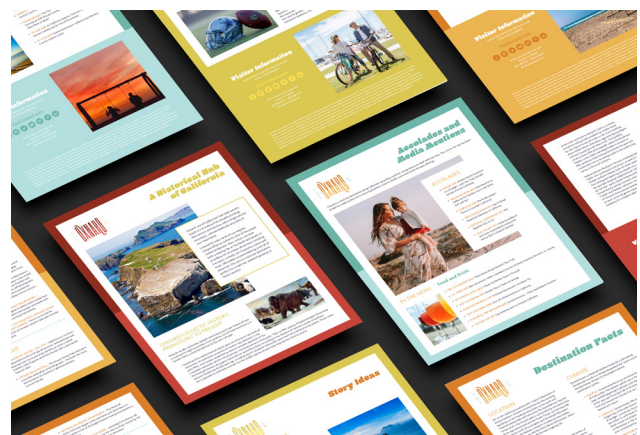
Press Trips

Press trips, or familiarization tours, are hosted directly by Visit Oxnard as well as collaboratively with industry partners like Ventura County Coast and Visit California. These press tours help to further showcase the city's diverse attractions and offerings with opportunities to receive full-feature coverage on Oxnard and consideration for inclusion in future features.

Leveraging a variety of partnerships for maximum exposure is key to expanding our reach beyond the limitations of any budgetary constraints. Visit Oxnard holds a seat on the Visit California Public Relations Committee; California Travel Association Communications Committee and works with regional organizations like Central Coast Tourism Council and Ventura County Coast on PR initiatives that benefit the region. This allows us to lean into efforts to promote the larger tourism ecosystem in which our destination exists, maximizing opportunities that arise to get Oxnard in the news by participating in editorial submissions and media events.

Media Markets & Receptions

As events resume, Visit Oxnard will work to participate in marketplaces and receptions that connect destinations and tourism businesses with consumer, lifestyle and travel media. Earning an invitation to participate in these delegations is an honor and brings recognition to our city among some of the top travel brands in the State and in the world.



Owned Media



SOCIAL MEDIA

Publishing engaging content on various social media platforms will help Visit Oxnard continue to connect and interact with our audiences, thus building brand awareness, fostering valuable relationships and empowering brand ambassadors to tell the story of this unique destination.

SOCIAL MEDIA TACTICS:

- Post consistently across platforms, including Facebook, Instagram, Twitter, Pinterest, YouTube, and LinkedIn and manage a Spotify playlist, using our scheduler Sked Social and monitoring social analytics
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- Generate web traffic on Pinterest by joining tribes and pinning brand-consistent, visually appealing destination pins to persona-relevant boards
- Network professionally on LinkedIn and share B2B-friendly updates on organizational activity, generating interest for our destination within our industry and target meetings and film audience
- Use branded video content to tell our stories, knowing that video drives conversions at rates exponentially higher than still photography
- Share local stories that highlight the welcoming and diverse character of Oxnard
- Use contests and giveaways to promote events, grow the brand and gather marketing assets
- Share user-generated photos to build our audience and showcase real people's experiences in our destination
- Show faces of diverse groups of people who enjoy coming to Oxnard and represent our personas

EMAIL MARKETING

A monthly e-newsletter will continue to be sent, highlighting news and events.

EMAIL MARKETING TACTICS:

- Focus on specific themes from Visit Oxnard's key messaging points, keeping in mind seasonality and upcoming events
- Provide special access to deals and offers via e-mail to demonstrate value to subscribers—it's important to keep people glad they signed up!
- Send e-mail recipients to the website by highlighting activities, events, restaurants and accommodations that build interest in planning an Oxnard getaway

Visit Oxnard will continue to gather e-mails and grow the e-newsletter list by collecting e-mails at local events, trade shows and conferences, participating in referral/leads programs through Ventura County Coast and Visit California partnerships, enabling an easy-to-find newsletter sign-up field on the visitoxnard.com homepage and hosting "enter email to win" giveaways.

A WEBSITE THAT CARRIES THE CONVERSATION

Increasing lodging occupancy hinges on the strength of our website, and in 2021/2022, we continue to optimize our newly built website, which features a fresh look; a thoughtful site map; a redesigned media hub; a more search-engine friendly event calendar; new resources for hospitality partners; a dynamic map featuring Oxnard's tourism districts and a direct booking engine.

Digital communications send visitors to the site, which plays a pivotal role in persuading travelers to execute on a buying decision to visit Oxnard. We will focus on website features and content that most strongly influence this decision-making process, analyzing the site monthly for visitor behavior and usability. Our new website also features a

Visit Oxnard is partnered with an SEM contractor, which will assist us by providing site-wide content audits, providing recommendations upon which we can take action to improve traffic volumes, visit duration, page ranks and more.

Film Permitting



FILM PERMITTING

The City of Oxnard has requested a partnership with Visit Oxnard in managing its film permitting and coordination efforts. This new department within our organization will be developed in collaboration with and under the guidance of City staff. We will consult with our peers to create a diligently researched department in line with industry standards and work to cross-train our team members to meet the demands of this new role.

Oxnard's proximity to Los Angeles makes it an ideal destination for filming; the correct positioning of Oxnard with location managers will secure future business for the City for years to come.

GOALS

- Attract film productions to increase tax revenues and bring economic benefits to tourism and hospitality businesses and to residents by supporting jobs within the City.
- Develop Oxnard's reputation in the film industry and foster hometown pride for residents seeing Oxnard portrayed favorably in film and television.

ROLES & RESPONSIBILITIES

The City of Oxnard will handle permit processing and coordination with the Fire Department,

Police and other relevant agencies, while Visit Oxnard acts as a liaison between film scouts; the City and local businesses. Visit Oxnard will be onsite to welcome location managers on site visits and during production and will handle all elements of destination promotion as it pertains to film.

ADVERTISING STRATEGY

- Gather and develop photography and video assets showcasing Oxnard locations in a manner that demonstrates sense of place.
- Build a contact list and network of active film scouts and production teams.
- Build and streamline digital permits, pertinent documents and resources, with downloads and digital forms available at VisitOxnard.com.
- Create a location manager sell sheet with quick facts, location inspiration and need-to-know information.
- Work with Economic Development Collaborative and Ventura County Film Commission to enhance listings on their website and build relationships.
- Attend the American Film Market and other relevant tradeshow and events.
- Advertise on LinkedIn to members of Location Managers Guild International and other relevant associations.
- Host an annual familiarization tour to top contacts to educate location managers on the breadth of our destination's location offerings.



Industry Relations



INDUSTRY RELATIONS

The tourism industry is a broad matrix of hotels, transportation, restaurants and attractions; convention centers; theme parks; destination marketing organizations, convention and visitors bureaus, tourism boards and tourism authorities; advocacy groups, travel media and so much more.

United in our goals, we do together what we cannot do by ourselves, aiming to bring economic vitality to our communities, sending messages of welcoming and inclusion to all.

BOARD & COMMITTEE INVOLVEMENT

Visit Oxnard is proud to hold membership and serve on boards of directors and various committees for the following prestigious organizations.

Cal Travel Board Member
Cal Travel Diversity & Inclusion Task Force Committee
Cal Travel Communications Committee
Cal Travel Homelessness Advisory Committee
Cal Travel California Comeback Committee
Central Coast Tourism Council Board Member
Destinations International Equity, Diversity & Inclusion Task Force
Destinations International Convention, Sales & Service Committee
Destinations International Global Leadership Committee
Visit California Public Relations Committee
Visit California DMO Leadership Committee
Visit California Brand & Content Committee
Ventura County Coast Board Member
Ventura County Coast Tradeshow Committee
West Coast DMO Alliance

MEMBERSHIP BENEFITS & OPPORTUNITIES

From toolkits that help us to set the correct benchmarks and calculate ROI to education summits to advocacy support, there are so many

benefits to working with our industry partners. In doing so, Visit Oxnard is able to:

- Participate in pilot and leveraged advertising programs
- Have a voice in shaping initiatives that impact the industry
- Access opportunities for earned content submissions and placements
- Gain industry insights
- Leverage ideas and implement first
- Garner recognition amongst peer destinations, elevating our brand in the consideration set

CO-OPS & LEVERAGED PROGRAMMING

Some of our most influential campaigns are built in partnership with other industry leaders. Recent top initiatives include placements in Visit California's 2021 California Visitor Guide and 2021 California Road Trips Guide; Central Coast Tourism Council's Central Coast Map; Brand USA City Page on VisittheUSA.com and participation in tourism campaigns to echo industry messaging (e.g., U.S. Travel's Power of Tourism campaign).

COMMUNITY RELATIONS

At the heart of what we do is a collaborative spirit between Visit Oxnard, stakeholders and residents to uplift our community and bring about a better tomorrow for our city. In addition to our involvement in partner promotions and event sponsorships, our team serves on the following committees with Oxnard-based organizations.

Oxnard Downtown District Identity & Placemaking Committee
Oxnard Chamber of Commerce (WCVBA) Board Member
Oxnard Chamber of Commerce (WCVBA) Business Advisory Committee
Oxnard Chamber of Commerce (WCVBA) Military Appreciation Committee

VISIT OXNARD CA



-  @OxnardCA
-  @VisitOxnardCA
-  Visit Oxnard CA
-  @VisitOxnardCA
-  Visit Oxnard
-  Visit Oxnard
-  Visit Oxnard

VISITOXNARD.COM



Marketing Plan Addendum

2020-2021

Marketing Plan Addendum

1

This Marketing Plan Addendum serves as a supplement to the Visit Oxnard Marketing Plan FY 19/20 and is not intended as a standalone document.

In March 2020, Visit Oxnard enacted its first ever Crisis Communications Plan in response to a Statewide shelter in place order issued as a result of the global coronavirus pandemic. The severe impact to tourism was felt immediately, and Visit Oxnard made pivots to its marketing strategy in line with industry guidance and research.

The following pages summarize key steps Visit Oxnard has taken and will continue to take to encourage responsible travel and keep Oxnard top-of-mind for overnight stays and visitation.

PREPARING FOR ECONOMIC RECOVERY

Despite the hard hits to Oxnard's tourism industry following a strong 2019, Visit Oxnard has not stopped working to ensure the return of this vital sector. Tourism will play a crucial role in accelerating the economic recovery of Oxnard, generating jobs and tax dollars that support the community's way of life.

While Visit Oxnard has worked to encourage responsible travel in alignment with State and County public health guidelines, many operations have been reallocated, scaled back and even paused to ensure the organization remains poised to accelerate when the time is right. These operational modifications include the following:

*Enacted **temporary reductions** in salary for all team members.*

*Leaned into **cooperative opportunities** with industry partners.*

*Paused or scaled back **paid marketing**, focusing on optimizations to owned channels.*

*Paused all **Familiarization Tours**.*

*Paused contract with **Public Relations** contractor, bringing efforts in-house.*

*Brought **Marketing Agency** activities in-house, including monthly reporting and creative services.*

*Reimagined **group sales** tactics to cultivate relationships with planners virtually.*

GEOGRAPHIC MARKETS

In lieu of a Tier One and Tier Two market strategy, Visit Oxnard is following industry guidance and targeting in-State, regional, national, then global audiences as the pandemic abates and consumer spending resumes.

Research



IN OUR STATE

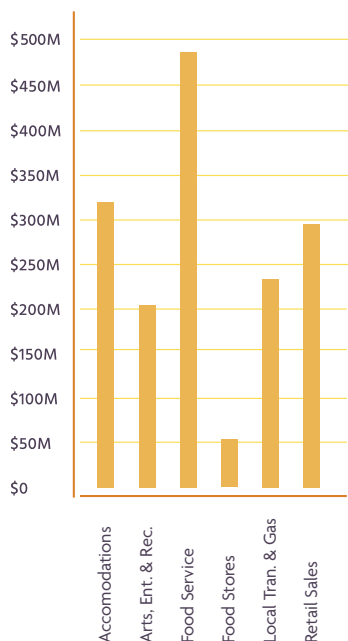
In light of the coronavirus pandemic, Tourism Economics projects California will lose \$72.1 billion in Statewide travel-related spending in 2020, nearly half of what was generated last year. The study also showed the pandemic would wipe out 613,000 California jobs by the end of May 2020, more than half the tourism industry's workforce. According to SMARInsights, consumer sentiment on willingness to travel hovers around 55% as of early August 2020, and there is political sensitivity to promoting travel while COVID-19 case numbers are high. These projections are hitting hard at California's tourism industry after a thriving 2019. Here are the pre-pandemic numbers:

- California's tourism economy grew for the 10th straight year in 2019 – a decade of excellence.
- Direct travel-related spending in California totaled \$144.9 billion in 2019, a 3.2 percent increase from the previous year.
- The industry created 20,000 more jobs — 1.2 million California workers employed by the travel industry.
- Travel-generated tax revenue topped \$12.2 billion, a 3.4 percent increase from the previous year. That amounts to \$920 in savings for each California household.
- For the decade, tourism's contribution to government treasuries increased by 33 percent – more money for roads, first responders and infrastructure attributable to residents of other states and countries.

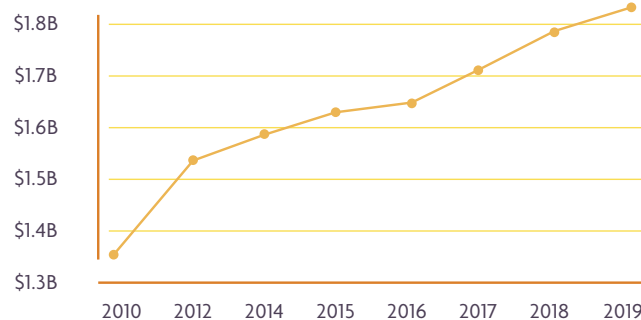
IN OUR COUNTY

Next, we narrow our focus to research specific to Ventura County. Here is a snapshot of how local travelers spent their money in 2019 and overall changes in travel spending since 2010, provided by Visit California.

TRAVEL SPENDING BY INDUSTRY



VENTURA COUNTY HISTORY OF TRAVEL SPENDING



IN OUR CITY

In Oxnard, visitor spending generated \$5.5 million in transient occupancy tax last year, up from \$3.3 million in 2011, providing a stream of revenue in the city to fund the community's way of life including support of essential programs, such as public safety, infrastructure and parks.

With tourism being one of the lead economic drivers and job creating sectors for the State, Visit Oxnard is continuing to monitor consumer sentiment, positioning itself for the rebound to capitalize on pent-up demand, keeping the city top of mind in a highly competitive destination marketing space.

Recovery Messaging Strategy



Visit Oxnard has adopted a strategy that outlines messaging adjustments through an eventual travel rebound. The four-phased approach is based on key traveler behavior periods, which we've identified in stages as "Wait, Ready, Set and Go."



Wait

QUARANTINED & SOCIAL DISTANCING

Visit Oxnard will activate locals and past guests, putting out soft messaging and imagery of wide-open spaces to remain visible, stay relevant and connected and to create an escape. We are supporting local businesses and our local community through messaging regarding what businesses remain open for limited services, and we are running a local's giveaway to keep our followers engaged.



Ready

TRAVEL PLANNING BEGINS TO RETURN

Visit Oxnard will enter the conversation with calls to action that gently encourage visitors to consider our destination, providing inspiration with imagery that showcases Oxnard and people enjoying it.



Set

INDUSTRY BEGINS TO ENCOURAGE TRAVEL

Visit Oxnard will boldly encourage travel to our destination, giving audiences reasons to believe, with imagery that showcases Oxnard and people enjoying specific attractions, restaurants and hotels.



Go

TRAVEL PICKS BACK UP TO REGULAR CADENCE

Visit Oxnard will quickly resume paid marketing efforts, boldly announcing that we are open for business. We will work with partners to create value-based offers/packages. We will create a sense of belonging and community. We will adjust our call to action to be action focused.

Recovery Marketing Tactics



The Visit Oxnard Marketing Plan FY 19/20 identifies key geographic markets for targeting: Tier One - the Bay Area, Southern California and the Central Valley - and Tier Two - Arizona, Nevada, Texas and Canada. In accordance with industry guidance, Visit Oxnard is moving away from this tiered approach to an outward rippling geographic targeting method as recovery progresses.

Key indicators that will dictate the progression of these tactics include lodging and airline bookings, search engine data and product readiness. Thanks to the monitoring of national consumer sentiment data, Visit Oxnard is able to take a measured approach in communicating with audiences along the path to recovery.



In-State

PHASE I: LOCAL & IN-STATE

Visit Oxnard is activating locals and our drive market with messaging on reopenings and health & safety, encouraging responsible travel. We are producing a series of reopening videos in partnership with the City of Oxnard: #OxnardTogether. We are partnering with Visit CA on a leveraged media campaign with matching funds through Expedia. We are participating in a “Stronger Together” media partnership program with Ventura County Coast. We continue to place ads on The Collection’s LED Billboard and the harbor’s Highway 101 Billboard. We are looking to roll out “You Don’t Know Oxnard” ads in key markets as travel planning resumes. We are utilizing owned channels to communicate with Californians and pitching editorial to in-State publications.

Regional

PHASE II: WESTERN UNITED STATES

Distribution of the 2020 Visitor Guide will continue in regional markets through EOY. Visit Oxnard will be featured in the Central Coast California map, published August 1 and distributed regionally. Visit Oxnard secured a placement in the California Road Trips Guide, distribution through VisitCalifornia.com, 1-800-GO-CALIF, welcome centers in late July 2020; polly-bagging w/ August issues of Better Homes & Gardens and Parents and September issue of Travel + Leisure. We will utilize owned channels to communicate with neighboring states and pitch editorial to regional publications.

National

PHASE III: UNITED STATES

Visit Oxnard has allocated spend toward a geo-fencing campaign at the Connect California Trade Show in Las Vegas in October 2020 and will simultaneously be in attendance at Connect Travel Marketplace 2020. Additional trade shows are in the works for early 2021. Visit Oxnard is continuing its outreach to Meeting Planners via targeted email campaigns and custom content development at VisitOxnard.com. We will utilize owned channels to communicate with US audiences and pitch editorial to national publications.

Global

PHASE IV: INTERNATIONAL

Visit Oxnard recently launched its first-ever Brand USA City Page, which will serve as a global landing page for our destination translated in multiple languages. The page will be promoted organically at VisittheUSA.com for 3 months and receive 4,000 clicks (paid) in a target market of choice. We continue to leverage co-op partnerships with CCTC for travel trade representation in the UK and are exploring other markets. We have purchased a dedicated e-newsletter going out to Visit CA’s global subscriber base this Fall 2020. We will pitch editorial to international publications.

VISIT OXNARD CA



@OxnardCA



@VisitOxnardCA



Visit Oxnard CA



@VisitOxnardCA



Visit Oxnard



Visit Oxnard



Visit Oxnard

VISITOXNARD.COM

VISIT OXNARD ANNUAL REPORT

FY19/20 & FY20/21



Julie Mino
PRESIDENT & CEO



**Brittney
Hendricks**
VP OF MARKETING &
COMMUNICATIONS



**Courtney
Freeman**
GROUP SALES MANAGER



**Michelle
Flippo**
OFFICE MANAGER

FY 21-22 VISIT OXNARD

Board of Directors

3

Executive Committee
Steve Buenger, Chair
Marine Emporium Landing

Joe Cabral, Vice-Chair
Best Western Oxnard Inn

Dolores Licon, Secretary
Homewood Suites

General Board
Jill Almonia
The Collection

Millicent Bennet
Residence Inn at River Ridge

Gary Blum
Heritage Square/Downtown Oxnard

Tony Dybeku
The Waterside Restaurant

Adam Gonzalez
805Keto.com

Nancy Lindholm
West Ventura Co. Business Alliance

Toby Valdez, Treasurer
Embassy Suites Suite at the Mandalay Beach Resort

Ashley Golden, City Manager's Office Representative
City of Oxnard

Bryan MacDonald,
Oxnard City Councilman

Marilyn Miller
Ventura County Harbor Dept.

Stacy Miller
Stacy Miller Public Relations

David Neel
Murphy Auto Museum

Kim Recharte
Gold Coast Insurance Agency

Brian Tucker, Board Advisor
Ventura County Coast

WHAT WE DO

HOW WE DO IT

4

Mission
To promote and market Oxnard as a premier leisure and business travel destination, bringing significant economic and social benefits to our community.

Brand Promise
Oxnard is a destination that offers value to those seeking experiences in family, cultural, outdoor adventure and group travel.

Values
Inclusivity, diversity and representation in marketing. Sensitivity to locals and residents. Follow through with our brand promise, ensuring that our brand is truthful and accurate in its messaging. Support to local retail and hospitality businesses. Build, maintain and grow a positive working relationship with local stakeholders and government officials.

Multifaceted Approach

Owned Media

Earned Media

Paid Media

Meetings & Tradeshow

Dedicated & Involved Team



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which will be shown live during City
Council on September 21, 2021

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Recovery Messaging Strategy



Visit Onward has adopted a strategy that outlines messaging adjustments through an eventual travel rebound. The four phased approach is based on key traveler behavior periods, which we've identified in stages as "Wait, Ready, Set and Go."

Wait

QUARANTINED & SOCIAL DISTANCING

Visit Onward will activate locals and past guests, putting out soft messaging and imagery of wide-open spaces to remain visible, stay relevant and connected and to create an escape. We are supporting local businesses and our local community through messaging regarding what businesses remain open for limited services, and we are running a local's giveaway to keep our followers engaged.

Ready

TRAVEL PLANNING BEGINS TO RETURN

Visit Onward will enter the conversation with calls to action that gently encourage visitors to consider our destination, providing inspiration with imagery that showcases Onward and people enjoying it.

Set

INDUSTRY BEGINS TO ENCOURAGE TRAVEL

Visit Onward will boldly encourage travel to our destination, giving audiences reasons to believe, with imagery that showcases Onward and people enjoying specific attractions, restaurants and hotels.

Go

TRAVEL PICKS BACK UP TO REGULAR CADENCE

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8

Recovery Marketing Tactics

The Visit Onward Marketing Plan FY 19/20 identifies key geographic markets for targeting: Tier One - the Bay Area, Southern California and the Central Valley - and Tier Two - Arizona, Nevada, Texas and Canada. In accordance with industry guidance, Visit Onward is moving away from this broad approach to an outward looking geographic targeting method as recovery progresses.

Key indicators that will dictate the progression of these tactics include lodging and online bookings, search engine data and product readiness. Thanks to the monitoring of national consumer sentiment data, Visit Onward is able to take a measured approach in communicating with audiences along the path to recovery.

In-State

PHASE I: LOCAL & IN-STATE

Visit Onward is activating locals and our drive market with messaging on reopenings and health & safety, encouraging responsible travel. We are producing a series of reopening videos in partnership with the City of Onward: #OnwardTogether. We are partnering with Visit CA on a leveraged media campaign with matching funds through Expedia. We are participating in a "Stronger Together" media partnership program with Ventura County Coast. We continue to place ads on The Collection's LED Billboard and the harbor's Highway 101 Billboard. We are looking to roll out "You Don't Know Onward" ads in key markets as travel planning resumes. We are utilizing owned channels to communicate with Californians and pitching editorial to in-State publications.

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Global

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Council on September 21, 2021

RESPONSIBLE TRAVEL MESSAGING

- **Responsible Travel Blog**
- “Enjoy Oxnard Responsibly” Billboards
- Travel advisory video featuring local businesses & Chief Whitney “Oxnard Together”

11



RESPONSIBLE TRAVEL MESSAGING

- **Responsible Travel Blog**
- “Enjoy Oxnard Responsibly” Billboards
- Travel advisory video featuring local businesses & Chief Whitney “Oxnard Together”

12



RESPONSIBLE TRAVEL MESSAGING

- Responsible Travel Blog
- "Enjoy Oxnard Responsibly" Billboards
- Travel advisory video featuring local businesses & Chief Whitney "Oxnard Together"

13



#OXNARDTOGETHER



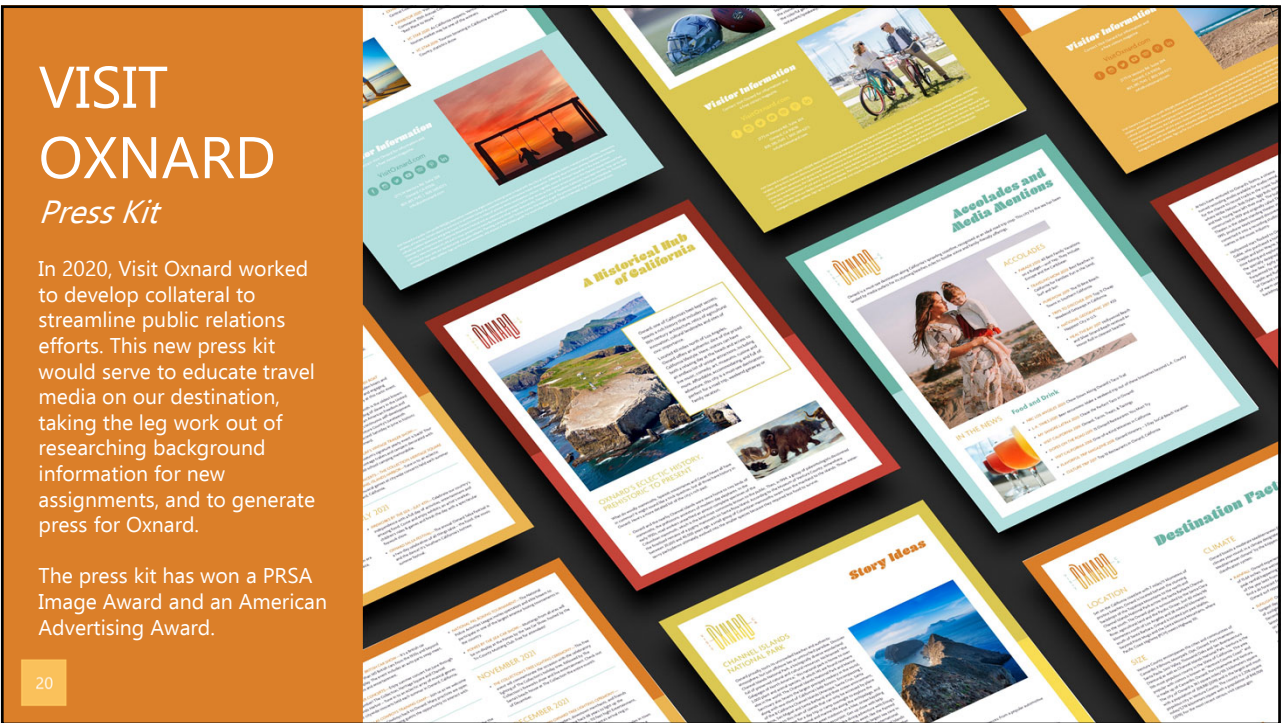
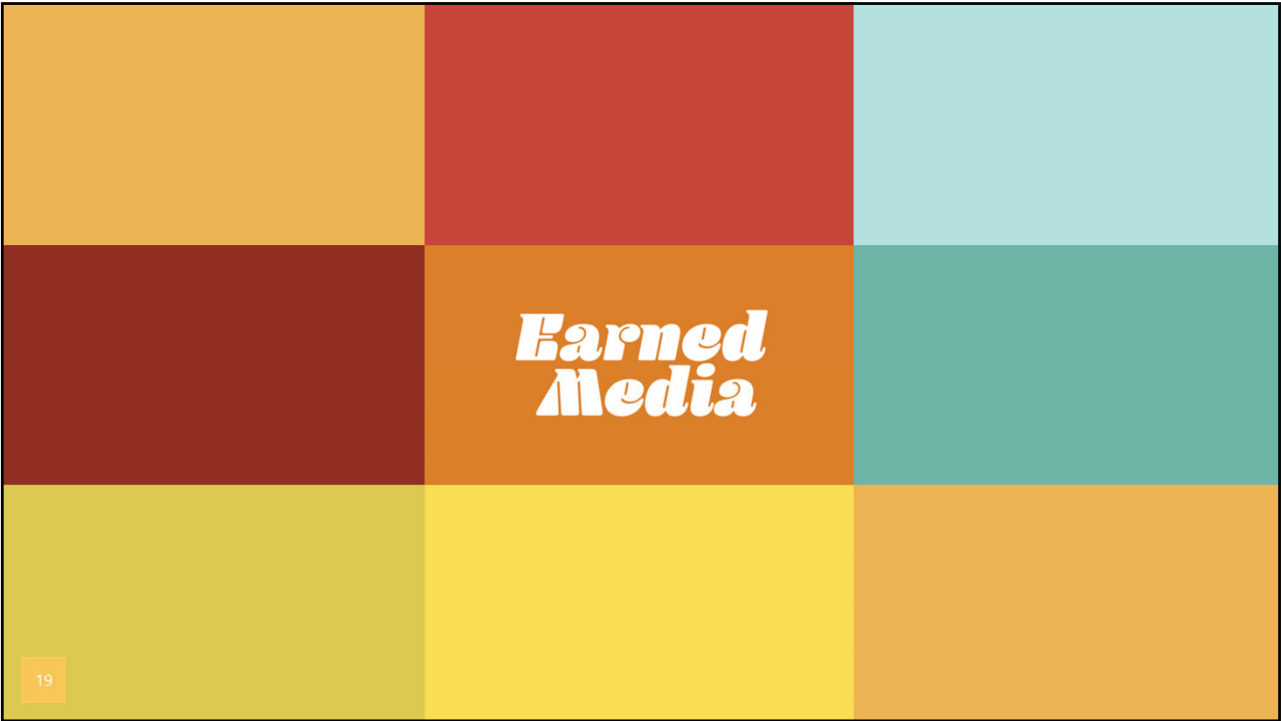
***Owned
Media***

14

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Council on September 21, 2021**

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Council on September 21, 2021**





10 PRESS TRIPS

138 HIGH VALUE PICKUPS

21

PRESS TRIPS & MEDIA COVERAGE



Paid Media

22

VISITOR MAGAZINE



23

558

LOCATIONS IN CALIFORNIA

73

LOCATIONS IN ARIZONA

72

LOCATIONS IN DALLAS, TEXAS

MIX THINGS UP

24

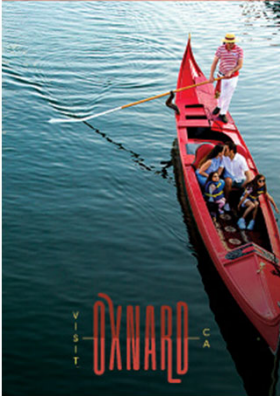
BRANDING CAMPAIGN

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EXPERIENCE
IT FOR
YOURSELF



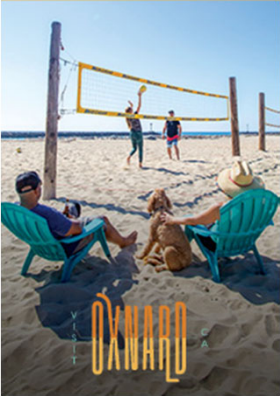
VISIT
OXNARD
CA

EXPERIENCE
IT FOR
YOURSELF



VISIT
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CA

EXPERIENCE
IT FOR
YOURSELF



VISIT
OXNARD
CA

EXPERIENCE
IT FOR
YOURSELF



VISIT
OXNARD
CA

29

BRANDING CAMPAIGN

EXPEDIA AD
CAMPAIGN

Fall 2020 & Spring 2021

4,600
ROOM NIGHTS
BOOKED

\$959k
IN GROSS
BOOKINGS

MORE THAN
11.1
RETURN ON
AD SPEND

30

ALL DREAMS WELCOME,
EVEN OPEN AIR ONES.

Oxnard
California
dream big

ALL DREAMS WELCOME,
EVEN TANDEM ONES.

Oxnard
California
dream big

31

INCLUSION IN THE
CALIFORNIA
TRAVEL
CONVERSATION

QUALIFIED LEADS
GENERATED FROM
CO-OPS

REDUCED RATES
ON AD BUYS AND
REMNANT SPACE
OPPORTUNITIES

INDUSTRY CO-OPS & COLLABORATIONS

32



16 TRADESHOWS

Tradeshow Attendance

CVENT Connect – 2019	Destination California – 2020
Destination West – 2019	Smart Meetings - 2020
Connect Annual Marketplace – 2019	Connect Marketplace – 2020
California Society of Association Executives- Seasonal Spectacular – 2019	California Society of Association executives – Seasonal Spectacular – 2020
Meetings Today Live! – 2019	Independent Planner Education Conference – 2021
Independent Planner Education Conference – 2020	Connect California – 2021
MPI – 2020	Smart Meetings – Los Angeles - 2021
Religious Conference Management Association Conference – 2020	Meetings Today Live – 2021
Travel & Adventure – Los Angeles – 2020	

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DALLAS COWBOYS TRAINING CAMP

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- VisitOxnard.com landing page
- 160,000 total impressions on social media to drive awareness and attendance
- Programmatic Advertising; 396,000 Impressions, 70% Completion Rate, 0.15% Click Through Rate
- LED Billboard at The Collection
- Print ads in VC Reporter
- VC Reporter e-newsletter distributed to 15k e-subscribers
- QR Code towers; 248 sessions with an average session duration of 1:47
- 3,400 email entries for VIP Giveaway packages
- Visit Oxnard branded materials throughout mid-way and VIP areas

40



COWBOYS PRESS COVERAGE

41



Dedicated & Involved Team

42

BOARD & COMMITTEE INVOLVEMENT

Cal Travel Board Member	Destinations International Convention, Sales & Service Committee	Commerce (WCVBA) Military Appreciation Committee
Cal Travel Diversity & Inclusion Task Force Committee	Destinations International Global Leadership Committee	Visit California Public Relations Committee
Cal Travel Communications Committee	Oxnard Downtown District Identity & Placemaking Committee	Visit California DMO Leadership Committee
Cal Travel Homelessness Advisory Committee	Oxnard Chamber of Commerce (WCVBA) Board Member	Visit California Brand & Content Committee
Cal Travel California Comeback Committee	Oxnard Chamber of Commerce (WCVBA) Business Advisory Committee	Ventura County Coast Board Member
Central Coast Tourism Council Board Member		Ventura County Coast Tradeshow Committee
Destinations International Equity, Diversity & Inclusion Task Force	Oxnard Chamber of	West Coast DMO Alliance

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CENTRAL COAST
California



VISIT OXNARD AWARDS

Small Business Best Place to Work on the Central Coast awarded by Pacific Coast Business Times 2019, 2020, & 2021

Business of the Year 2018, Chairpersons Award of Excellence 2019, & Best Place to Work 2020 awarded by Oxnard Chamber of Commerce

Best Place to Work in California awarded by California Travel Association 2020

ADDY Award for Visit Oxnard Logo Design 2020

Stella Award for Best CVB/DMO in the

Far West from Northstar Meetings Group 2020

Smart Women in Meetings award, Stellar Performer from Smart Meetings 2020

Best Brochure International, Central Coast Visitors Map from International Association of Visitor Information Providers 2020

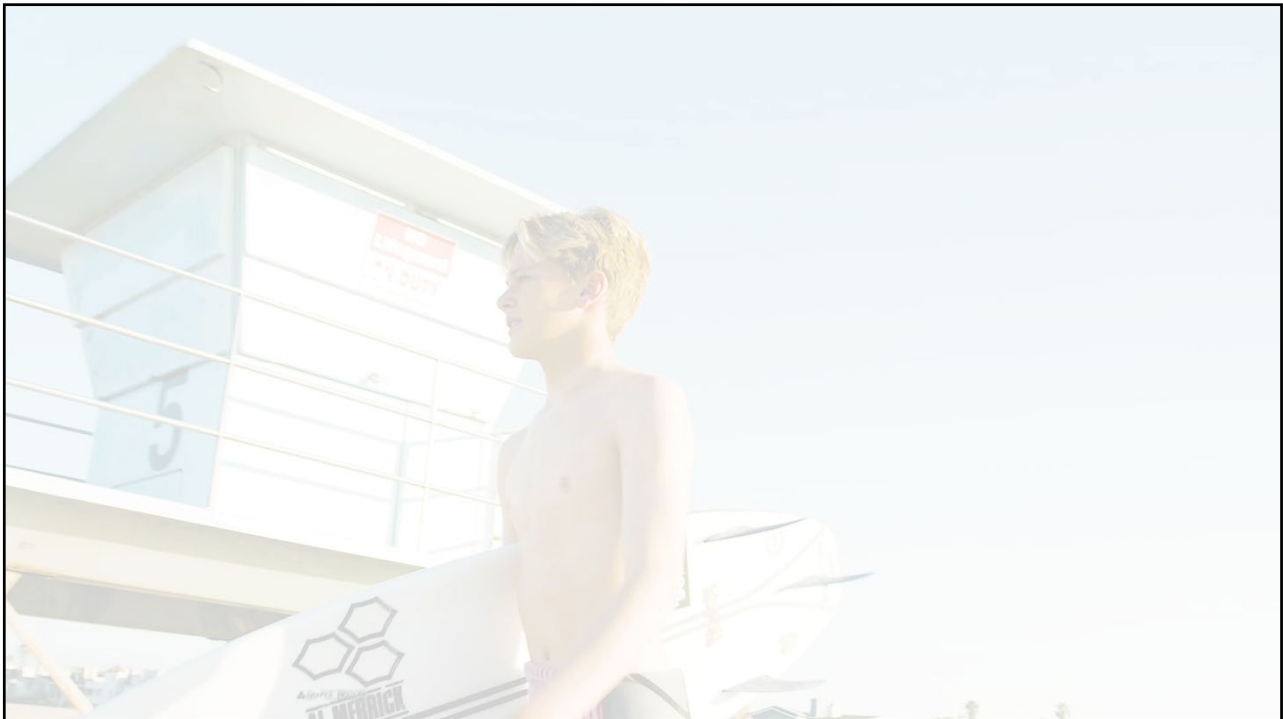
PRSA Image Award for Visit Oxnard Press Kit 2021

ADDY Award for Visit Oxnard Press Kit 2021



44

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CITY COUNCIL AGENDA REPORT

CEREMONIAL ITEMS AGENDA ITEM NO. F.1

DATE: September 21, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: Presentation of a Resolution to Joseph M. Rodriguez for over 37 Years of Outstanding Service to the City of Oxnard.

RECOMMENDATION

That the City Council adopt a resolution commending Joseph M. Rodriguez for over 37 years of outstanding service to the City of Oxnard.

BACKGROUND

Joseph M. Rodriguez began his career with the City of Oxnard in the Public Works Department as a Maintenance Worker in July of 1984 and in July of 1988 he became a Fleet Services Mechanic. In June of 2000, Joseph became a Senior Fleet Services Mechanic and advanced to Fleet Services Supervisor in 2004. Joseph became Interim Fleet Services Manager in December 2019 and was promoted to the position in June of 2020.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Luly Lopez, Executive Assistant I

ATTACHMENTS

1. Resolution Joseph Rodriguez

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
COMMENDING JOSEPH M. RODRIGUEZ FOR OVER 37 YEARS OF
EXEMPLARY SERVICE TO THE CITY OF OXNARD

WHEREAS, Joseph M. Rodriguez has provided over 37 years of exemplary service as an employee of the City of Oxnard; and

WHEREAS, Joseph began his career with the City of Oxnard in the Public Works Department as a Maintenance Worker in July of 1984 and in July of 1988 he became a Fleet Services Mechanic. In June of 2000, Joseph became a Senior Fleet Services Mechanic and advanced to Fleet Services Supervisor in 2004. Joseph became Interim Fleet Services Manager in December 2019 and was promoted to the position in June of 2020; and

WHEREAS, Joseph was recognized for providing exceptional leadership within the Fleet Services Division and for consistently providing dedicated service to citywide departments with over 900 vehicles and equipment valued at over \$40M. His commitment to professionalism and excellent internal service was recognized when he received the City of Oxnard Employee of the Year in 2005; and

WHEREAS, throughout Joseph's career he demonstrated a dedication to the goals, needs, and best interests of City departments, the residents and businesses in the City of Oxnard; and

WHEREAS, the experience and institutional knowledge embodied in Joseph will be greatly missed by his peers and the City of Oxnard.

NOW, THEREFORE, the City Council of the City of Oxnard does hereby resolve to commend, recognize and extend its gratitude to Joseph M. Rodriguez for over 37 years of exemplary service to the City of Oxnard and extends best wishes for a fulfilling retirement with family and friends.

PASSED AND ADOPTED THIS 21st day of September, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.1

DATE: September 21, 2021
TO: City Council
FROM: Rose Chaparro, City Clerk, (805) 385-7805, rose.chaparro@oxnard.org
SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the minutes of the May 18, 2021, June 1, 2021, June 15, 2021, and June 29, 2021 Regular Council Meetings and the May 12, 2021 and June 7, 2021 Special Council Meeting, as presented.

BACKGROUND

That the City Council approve the regular and special meeting minutes as presented.

STRATEGIC PRIORITIES

This agenda item is a routine operational item.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 05 12 2021 CC Special Meeting
2. MINUTES 05 18 2021 CC Regular Meeting
3. MINUTES 06 01 2021 CC Regular Meeting
4. Minutes 06 07 2021 CC Special Meeting
5. MINUTES 06 15 2021 CC Regular Meeting
6. MINUTES 06 29 2021 CC Regular Meeting

MINUTES
OXNARD CITY COUNCIL
SPECIAL COUNCIL MEETING
May 12, 2021
CLOSED SESSION

A. ROLL CALL, POSTING OF AGENDA, FLAG SALUTE

At 5:00 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Mayor Pro Tem Bryan A. MacDonald and Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, and Gabriel (Gabe) Teran were present via videoconference. Mayor Zaragoza participated in person. Councilmember Bert E. Perello was absent.

Staff members present were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members that participated via videoconference were Shiri Klima, Deputy City Manager; Alexander Hamilton, Fire Chief; John Colamarino, Assistant Fire Chief; Jaime Villa , EMS Coordinator; and Andrew E. Schouten, Partner at Wright, L'Estrange, & Ergastolo, Legal Counsel.

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Public comments were received from Douglas D. Partello and James Lavery.

C. CLOSED SESSION (5:00 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION
(Government Code Section 54956.9(d)(1))
Name of case: City of Oxnard v. County of Ventura
Ventura County Superior Court, Case No. 56-2021-00552428-CU-WM-VTA
Legislative Body: City Council

At 5:11 p.m., the City Council recessed to a closed session. At 6:18 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney reported the following out of closed session:

By a unanimous vote the City Council has given its legal counsel approval to seek appellate review regarding the denial of the City's motion for preliminary injunction in the action entitled City of Oxnard v. County of Ventura, et al., which concerns the provision of ambulance transport services in the City.

D. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 6:23 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
May 18, 2021

A. ROLL CALL, POSTING OF AGENDA

At 4:30 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council, in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Mayor Pro Tem Bryan A. MacDonald and Councilmembers Vianey Lopez, Oscar Madrigal, Bert E. Perello, and Gabriel (Gabe) Teran were present via videoconference. Mayor John C. Zaragoza participated in person.

Councilmember Gabriela Basua joined the meeting virtually at 7:20 p.m. via videoconference call.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Terrel Harrison, Cultural & Community Services Director; and Rose Chaparro, City Clerk.

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Ken Rozell, Chief Assistant City Attorney ; Denise Shadinger, Assistant Chief of Police; Alex Arnett, Commander; John Colamarino, Assistant Fire Chief; Steve Naveau, Human Resources Director; Mike More, Human Resources Risk Manager; Craig Beck, Interim Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Tatiana Arnaut, City Engineer; Omar Castro, Water Division Manager; Joseph Rodriguez, Fleet Services Manager; Emilio Ramirez, Housing Director; Vyto Adomaitis, Community Development Director; Jeff Pengilley, Community Development Assistant Director; Scott Kolwitz, Planning & Environmental Services Manager; Roger Brooks, Code Compliance Manager; Renee Rakestraw, Community Services Manager; Kevin Riper, Chief Financial Officer; and Eden Alomeri, Billing & Licensing Director participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
Name of case: City of Oxnard v. County of Ventura
Ventura County Superior Court, Case No. 56-2021-00552428-CU-WM-VTA
Legislative Body: City Council
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(4))

Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in two (2) potential cases.

Legislative Body: City Council

At 4:32 p.m., the City Council recessed to a closed session. At 5:02 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. APPOINTMENT ITEMS (5:30 PM)

1. Cultural & Community Services Department

SUBJECT: Senior Services Commission Annual Report. (10/5/5)

RECOMMENDATION: That City Council receives the Senior Services Commission annual report. (This item did not originate in Committee.)

Alice Sweetland, Senior Services Commissioner gave a report. Renee Rakestraw, Community Services Manager, was available for questions. No public comments were received. No formal action was required.

E. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Week of May 16 - 23, 2021 as "Public Works Week."

Mayor Zaragoza read the proclamation and presented it to Craig Beck, Public Works Director, who made some remarks.

2. SUBJECT: Presentation of a **Resolution No. 15,437** Commending Deirdre Frank for Over Eleven Years of Dedicated Service on the Planning Commission.

Council congratulated and thanked former Planning Commissioner Deirdre Frank for her years of dedication to the Planning Commission. Commissioner Frank accepted the acknowledgement and made a few remarks.

It was moved by Councilmember Perello, seconded by Mayor Pro Tem MacDonald, to approve the recommended action as presented. VOTE: MacDonald, Perello, Madrigal, Zaragoza, Teran, and Lopez voted in favor, the motion carried 6-0. Councilmember Basua was absent.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Johanna Anim Caviezel (Introduced herself as the new publisher for Citizen's Journal), Reverend Greg Runyon (Acknowledged Police Chief Benites for his leadership, transparency, and availability),

and Douglas D. Partello (Waste pick-up by Environmental Services). Written comments were received from Irene Rauschenberger and James Hines (pesticide ban).

H. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update, Ratification of Director of Emergency Services Orders.
(10/5/5)

RECOMMENDATION: That the City Council:

1. Receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.
2. Adopt **Resolution No. 15,438** ratifying orders issued by the Director in response to the COVID-19 Local Emergency.

The City Manager gave a report on the City's COVID-19 response.

It was moved by Councilmember Lopez, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Lopez, Teran, Zaragoza, MacDonald, Perello, and Madrigal voted in favor, the motion carried 6-0. Councilmember Basua was absent.

I. CITY COUNCIL REPORTS

Councilmember Teran reported that on May 1, 2021, it was May Day and he attended several community events in honor and recognition of our essential workers. Thanked Channel Islands Neighborhood Council for their efforts on the Water Quality Update. Attended the Ventura County Airports Master Plan meeting with Mayor Zaragoza.

Councilmember Perello announced that he serves on the Ventura County Airports Authority for the City of Oxnard. He provided an update on future plans to possibly bring commercial flights to the Oxnard Airport. He also talked about the current Covid-19 status and the concerns.

Councilmember Madrigal recognized the Bright Youth Group for all of their work and community outreach in the Colonia neighborhood, and bringing up issues to City staff. Congratulated all college graduates. He thanked Tatiana Arnaout, Senior Civil Engineer; Tim Bochum, City Traffic Engineer; and Alexander Nguyen, City Manager; for taking a walk around the Colonia neighborhood with him. He also recognized the Health and Science Academy at Pacifica High School for opening a pop-up vaccine location. He congratulated all the graduates in the community.

Mayor Zaragoza announced that he presented at the CRC Community Relations Commission meeting. He thanked Tiffany Lopez for her years of service as the former CRC Chair and acknowledged Adam Lopez in his new appointed as the new incoming CRC Chair. Mayor Zaragoza also met with Dr. Tom McCoy, Oxnard Union High School District Superintendent.

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L-8 was discussed among the Council and staff.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Pat Brown (Safety concerns about the trucks on Oxnard Blvd.) and Roger Poirier (L.8).

L. INFORMATION/CONSENT AGENDA

1. Housing Department

SUBJECT: Mobile Home Park Rent Stabilization System Annual Activity Report for 2020

RECOMMENDATION: That the City Council receive and file the 2020 Annual Activity Report for the Mobile Home Park Rent Stabilization System, as adopted by the Mobile Home Park Rent Review Board. This item did not originate in Committee.

2. Fire Department

SUBJECT: US Digital Purchase Order for \$332,674.87 to Purchase Five (5) G2 Fire Station Alerting Systems.

RECOMMENDATION: That the City Council authorize the Mayor to execute a Purchase Order with US Digital Designs in the amount of \$332,674.87 for the purchase of five (5) G2 Fire Station Alerting Systems. This item did not originate in Committee.

3. Cultural & Community Services Department

SUBJECT: Appointment of Two Representatives to the Ventura County Area Agency on Aging Advisory Council.

RECOMMENDATION: That City Council approve the recommendation from the Senior Services Commission and appoint two Senior Services Commissioners to the Ventura County Area Agency on Aging Advisory Council. This item did not originate in Committee.

4. Public Works Department

SUBJECT: Award Agreement A-8323 to Ardalan Construction Company, Inc., for Garden City Acres Park Improvement Project, Specification No. PW 20-54.

RECOMMENDATION: That the City Council:

1. Award and authorize the Mayor to execute Agreement A-8323 with Ardalan Construction Company, Inc. in the amount of \$479,379 for the Garden City Acres Park Improvement Project, Specification No. PW 20-54 (Project No. 145702);
2. Approve \$47,938 for project contingency for the Garden City Acres Park Improvement Project (Project No. 145702); and
3. Approve \$47,938 for engineering, inspection, survey and project management for the Garden City Acres Park Improvement Project (Project No. 145702).

This item did not originate in Committee as this is a capital improvement project

specifically listed in the City's Capital Improvement Program.

5. Public Works Department

SUBJECT: First Amendment to Agreement A-8135 with Conico Toro, Inc. for Delivery of Lubricants and Antifreeze to City Facilities.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a First Amendment to Agreement A-8135 with Conico Toro, Inc., in the amount of \$500,000 for a new not to exceed amount of \$856,100 and to extend the term to June 30, 2024 for the delivery of lubricants and antifreeze to City facilities. (Public Works and Transportation Committee approved 3-0.)

6. Police Department

SUBJECT: Office of Traffic Safety - Selective Traffic Enforcement Program Grant

RECOMMENDATION: That the City Council adopt **Resolution No. 15,439** authorizing:

1. The City Manager to apply for \$478,018.52 in grant funds from the State of California, Office of Traffic Safety (OTS), to be used for FY 2021-2022 Selective Traffic Enforcement Program (S.T.E.P);
2. The City Manager or designee to execute grant agreements and appropriate funds upon confirmation of grant award;
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the use of OTS grant funds; and
4. The Chief of Police or designee to submit all program-related progress or status reports. (Public Safety Committee approved 3-0.)

7. Police Department

SUBJECT: Office of Traffic Safety - Pedestrian and Bicycle Safety Grant

RECOMMENDATION: That the City Council adopt **Resolution No. 15,440** authorizing:

1. The City Manager to apply for \$25,694.49 in grant funds from the State of California, Office of Traffic Safety (OTS), to be used for FY 2021-2022 Pedestrian and Bicycle Safety;
2. The City Manager or designee to execute grant agreements and appropriate funds upon confirmation of grant award;
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for use of the OTS funds; and
4. The Chief of Police or designee to submit all program-related progress or status reports. (Public Safety Committee approved 3-0.)

8. Cultural & Community Services Department

SUBJECT: Agreement with the Oxnard School District for the Operations of the After

School Education and Safety Grant.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an agreement (A-8318) with the Oxnard School District (OSD) for the City to receive an amount not to exceed \$2,750,000 with a City match of \$130,000 of in-kind services. (Community Services Committee approved 3-0.)

It was moved by Councilmember Teran, seconded by Councilmember Perello, to approve the Information/Consent items as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Madrigal, Basua, and Teran voted in favor; motion passed 7-0.

M. PUBLIC HEARINGS

1. Community Development Department

SUBJECT: Recovery of Nuisance Abatement Costs. (0/10/5)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing to consider objections to the cost report of the property owners whose property is to be assessed for nuisance abatement costs;
2. Approve the cost report; and
3. Direct the City Manager or designee to file a certified copy of the cost report with the Ventura County Auditor-Controller.

The City Clerk announced the affidavit of publication and stated that no written communications were received.

Roger Brooks, Code Compliance Manager, gave a report and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were received.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: MacDonald, Perello, Lopez, Zaragoza, Madrigal, Teran, and Basua voted in favor, the motion carried 7-0.

At 9:54 p.m. Council voted to continue the Council meeting past 10:00 p.m.

N. REPORTS

1. City Manager Department

SUBJECT: County of Ventura: Channel Islands Harbor Cooperation Agreement; First Amendment to Lease Agreement (Channel Islands Harbor Fire Station); Resolution regarding Property Tax Sharing. (0/15/15)

RECOMMENDATION: That the City Council:

1. Approve a Cooperation Agreement (A-8338) with the County of Ventura (County) as it relates to the Channel Islands Harbor (Harbor), inclusive of Fire Station No. 6, and a city-wide tax sharing agreement.
2. Approve the First Amendment to Lease Agreement (Channel Islands Harbor Fire Station) {A-7294}.
3. Adopt **Resolution No. 15,441** for tax sharing related to annexations entitled:
"JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
AND THE BOARD OF SUPERVISORS OF THE COUNTY OF VENTURA
AGREEING TO THE NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES
FOR TRANSFERS OF SERVICE RESPONSIBILITIES AND BOUNDARY
CHANGES BETWEEN THE CITY AND THE COUNTY".

Ashley Golden, Assistant City Manager, answered questions. Public comments were received from Lauraine Effress, Rene Aiu, Debbie Mitchell, and Mark Sandoval. Written comments were received from Steven Kinney, Dave Kinnoin, Jackie Pinson, Audrey Martinez-Keller, Jeffrey Wiese, Terri Odom, Glenn Noreen, Tom McNally, Tim and Leslie Wawrzeniak, Mary Kincaid, Allison Gabel, Mark D. Temkin, Mickey Shaevitz, Chris Provencher, Ellen Kramer, Ashley and Lynne Howden, Horst E. Hagner, Kathryn Grimes, Mal Gamble, Alessandro Fossaghi, Maureen Fletcher, Karla Dean, Lori Bates, Sandra Hayden McLaughlin, Julie Pena, and Rene Aiu on behalf of the Harbor & Beach Community Alliance.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, Madrigal, MacDonald, Teran, Lopez, Perello and Zaragoza voted in favor; the motion carried 7-0.

2. Public Works Department

SUBJECT: Water Supply Outlook and Drought Condition Update. (0/10/10)

RECOMMENDATION: That the City Council receive and file the Water Supply Outlook and Drought Condition Update.

Omar Castro, Water Division Manager, was available to answer questions. Public comments were received from Lawrence Stein and Ray Blattel. Written comments were received from Lawrence Stein. Discussion ensued among the Council and staff. No formal action was required.

3. Community Development Department

SUBJECT: Exception to CalPERS 180 Day Wait Period for Appointment of a Retired Annuitant to Perform Limited Term Specialized Project Work. (0/5/5)

RECOMMENDATION: That City Council adopt **Resolution No. 15,442** appointing Earnel Bihis as Interim Assistant Traffic Engineer and certifying an exception to the CalPERS 180 day wait period for employment following retirement. This item did not originate in Committee as it is a routine operational item.

Jeff Pengilley, Community Development Assistant Director, answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Zaragoza, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Lopez, Basua, Teran, Zaragoza, MacDonald, Perello, and Madrigal voted in favor; the motion carried 7-0.

4. Public Works Department

SUBJECT: Pavement Management Update. (0/10/10)

RECOMMENDATION: That the City Council receive a report on the Pavement Management Plan, provide input and direct staff to either:

1. Fund ongoing street pavement conditions at an average Pavement Condition Index (PCI) level of 65. This can be achieved within the current budget, no additional funding required; or
- 2. Identify funding to support improving pavement conditions to an average PCI level of 70. It is anticipated this will cost an additional \$43.7M over the next three years (\$14.6M annually); or**
3. Identify funding to support improving pavement conditions to an average PCI level of 75. It is anticipated this will cost an additional \$116.1M over the next five years (\$23.2M annually). (Public Works and Transportation Committee approved 3-0.)

Tatiana Arnaout, Senior Civil Engineer was available to answer questions. Public comments were received from Douglas D. Partello, Lawrence Stein, and Alicia Percell. Discussion ensued among the Council and staff.

Council made a motion to approve **Option No. 2** to support improving pavement conditions to an average PCI level of 70.

It was moved by Councilmember Basua, seconded by Councilmember Perello, to approve the recommended action, Option No. 2, as presented. VOTE: MacDonald, Zaragoza, Perello, Madrigal, Basua, Teran, and Lopez voted in favor; the motion carried 7-0.

5. Public Works Department

SUBJECT: Five Year Capital Improvement Program for Fiscal Years 2021-2026. (0/10/10)

RECOMMENDATION: That the City Council:

1. Approve and authorize the Fiscal Year 2021-22 projects to be selected from the Proposed 2021-2026 City of Oxnard Five Year Capital Improvement Program; and
 2. Adopt the 2021-2026 City of Oxnard Five Year Capital Improvement Program.
- (Public Works and Transportation Committee approved 3-0.)

Tatiana Arnaout, Senior Civil Engineer, answered questions. Public comments were received from Ray Blattel and Lawrence Stein. Written comments were received from Raymond Blattel. Discussion ensued among the Council and staff.

It was moved by Councilmember Basua, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: Teran, Basua, Zaragoza, Lopez, MacDonald, Madrigal, and Perello voted in favor; the motion carried 7-0.

6. Human Resources Department

SUBJECT: Agreement No. A-8319 with George Hills Company, Inc. for Liability Claims Administration and Adjustment Services (0/10/10)

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement No. A-8319 with George Hills Company, Inc. in an amount not to exceed \$1,084,182 for liability claims administration and adjustment services over a five-year term. (Finance and Governance Committee approved 3-0.)

Mike More, Human Resources Risk Manager, was available to answer questions. No public comments were received.

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Perello, MacDonald, Madrigal, Basua, Zaragoza, Lopez, and Teran voted in favor; the motion carried 7-0.

7. Public Works Department

SUBJECT: Parks and Landscape Maintenance Update. (0/10/10)

RECOMMENDATION: That the City Council receive a report on the Parks and Landscape Maintenance plan, provide input and direct staff to:

1. Identify funding to support improving parks and landscape maintenance at a **Base Level of Service**, which includes weekly mowing of parks, monthly mowing and trimming of parkways and medians within the arterial streets, and annual grid pruning of trees within the parkways and medians of the arterial streets. It is anticipated this will cost an additional **\$2.98 million annually**; or
2. Identify funding to support improving parks and landscape maintenance at an **Enhanced Level of Service** (includes Base Level of Service), which includes weekly mowing of parks, monthly mowing and trimming of parkways and medians within the arterial streets, annual grid pruning of trees within the parkways and medians of the arterial streets, annual grid pruning of the park trees, daily trash removal in the parks and daily janitorial services for the park restrooms. It is anticipated this will cost an additional **\$3.8 million annually**; and
3. Identify funding to repair playgrounds for **\$485,000**; and
4. Identify funding to renovate sports fields and amenities for **\$549,000**; and
5. Identify funding to increase water budget as well as funding for turf reduction projects for **\$592,000**; and
6. Identify funding to renovate gateway monuments for **\$140,000**.

Steve Howlett, Assistant Public Works Director, was available to answer questions. Public comments were received from Ray Blattel, Roger Poirier, Christopher Hernandez, and Douglas Partello. Discussion ensued among the Council and staff.

Council made a motion to approve Options Nos. 2, 3, 4, 5, and 6 of staff's recommendation to support the Parks and Landscape Maintenance Plan.

It was moved by Mayor Zaragoza, seconded by Councilmember Perello, to approve the recommended action, Options Nos. 2 - 6, as presented. VOTE: Madrigal, Lopez, Teran, MacDonald, Basua, Perello, Zaragoza voted in favor; the motion carried 7-0.

O. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 10:35 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
June 1, 2021

A. ROLL CALL, POSTING OF AGENDA

At 4:30 p.m., Mayor Pro Tem McDonald called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority), in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, and Gabriel (Gabe) Teran were present via videoconference. Mayor Pro Tem Bryan A. MacDonald was present in person. Mayor John C. Zaragoza was absent.

Housing Authority Commissioner Jose Andrade joined the meeting at 6:00 p.m. via videoconference.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Ken Rozell, Chief Assistant City Attorney; Jason Benites, Police Chief; Denise Shadinger, Assistance Police Chief; Scott Aaron, Sergeant; Alexander Hamilton, Fire Chief; Jaime Villa , EMS Coordinator; Craig Beck, Interim Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Tatiana Arnaout, City Engineer; Omar Castro, Water Division Manager; Todd Vasquez-Housley, Environmental Resources Division Manager; Tim Bochum, City Traffic Engineer; Emilio Ramirez, Housing Director; Elsa Brown, Affordable Housing Manager; Vyto Adomaitis, Community Development Director; Scott Kolwitz, Planning & Environmental Services Manager; Joe Pearson II, AICP Senior Planner; Jay Duncan, Call Center Manager; and Gary Krumian, IT Analyst participated via videoconference.

Alex Russell, Many Mansions Executive VP Real Estate Division; Derrick Wada, Many Mansions Associate Director of Real Estate; Doug Menges, Many Mansions Vice President of Real Estate; Luis Hernandez, Many Mansions Project Manager; Amanda Welker, Analyst at NBS Local Government Consultants also participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and the Oxnard Housing Authority.

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code section

54957.6)

Agency designated representatives: Steve Naveau, Director of Human Resources; Mike More, Human Resources Manager/Risk Manager, and Jennie Kelly, Assistant City Attorney.

Employee organizations: Oxnard Public Safety Managers Association (OPSMA), and Oxnard Peace Officers Association (OPOA).

Legislative Body: City Council

Public comments were received from Annamarie S. Roseby. At 4:30 p.m., the City Council recessed to a closed session. At 5:10 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. APPOINTMENT ITEMS (5:15 PM)

1. City Manager Department

SUBJECT: Preview of the Upcoming Fiscal Year 2021-22 Budget (0/20/20)

RECOMMENDATION: That the City Council receive a preview of the upcoming Fiscal Year 2021-22 Budget and provide feedback.

(This item did not originate in Committee.)

Public comments were received from Douglas D. Partello, Lorin Fife, and Ray Blattel. Written comments were received from Loin Fife, Carol Chase, John Doyle, Tina Nichols Coury, Dennis and Laurie Johnson. Kevin Riper, Chief Financial Officer, gave a report. No formal action was required.

E. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

F. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Month of June 2021 as "Elder Abuse Awareness Month."

Mayor Zaragoza read the proclamation and presented it to the Oxnard Police Department and was accepted by Sergeant Scott Aaron; County of Ventura Human Services Agency: Adult Protective Services (APS); and Alice Sweetland, Oxnard Senior Services Commission who made some remarks.

2. SUBJECT: Presentation of a Proclamation Designating the Month of June, 2021 as "Pride Month" in the City of Oxnard.

Mayor Zaragoza read the proclamation and presented it to Genevieve Flores-Haro, MPA – Associate Director for the Mixteco Indigena Community Organizing Project (MICOP), a nonprofit serving the indigenous migrant community in California's Central Coast, who made

some remarks.

3. SUBJECT: Presentation of a Proclamation Designating June 19, 2021 as the 30th Annual Juneteenth Celebration."

Mayor Zaragoza read the proclamation and presented it to Angela M. Landers, Co-Chair of Juneteenth Celebration of Ventura County, Inc., who made some remarks. Juneteenth is the oldest known celebration of the ending of slavery. It recognizes the freedom of more than 250,000 slaves in Texas at the close of the Civil War.

G. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Douglas Partello (Robert's Rules of Order and leadership conduct), Jim Carr (City's image /lack of maintenance to the medians, landscape, overgrown plants, palm trees, and weeds), Lorin Fife (beach access maintenance, sand dunes) and Peter Ackerman (beach landscape areas maintenance, beach accessibility/access for the disabled). Written comments were received from Carol Dyck (short term rentals) and Irene Rauschenberger (using greenways to combat climate change).

H. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

Legislative Body: City Council

The City Manager gave a report on the City's COVID-19 response. No formal action was required.

I. COUNCIL REPORTS

Councilmember Basua thanked the Oxnard Police Department for their efforts in raising funds for mental health awareness in the month of May. Congratulated the Saint Bonaventure Girls Soccer Team Division 6, her daughter is on the team. CIF Champions for soccer and moving on to the semi-finals.

Councilmember Teran acknowledged the proclamation declaring June 2021 as Pride Month. The City will be flying the Progress Pride Flag to demonstrate support and inclusion of the LGBT+ community. Congratulated the new Executive Board for the River Park Community. Attended the Freemont North Community meeting. Met with Paul Lemos of the Little League Eastwood Memorial Park to address issues at the park. Also, reported that the Airport Master Plan has been placed on hold.

Councilmember Perello Channel Islands Neighborhood Council meeting. Thanked Councilmember Teran and the City Manager for assisting Mr. Lemos to address the issues at the Little League Eastwood Memorial Park issues. Also, attended the Memorial Day Celebration at Plaza Park organized by the Vietnam Veterans of Ventura County.

Mayor Pro Tem MacDonald attended the Gold Coast Transit and the Ventura County Transportation Commission meetings. Metrolink added weekend hours, service from Moorpark to Los Angeles. Oxnard residents currently drive to Moorpark and take the Metrolink to Los Angeles. Optimistic that Metrolink will consider adding services from Oxnard to Los Angeles in the future.

1. City Manager Department

SUBJECT: Gratitude Program for Grocery Store Workers (0/10/10)

RECOMMENDATION: That the City Council:

1. Receive a report on “Hero Pay” for Grocery Workers;
2. Adopt **Resolution No. 15,443** establishing a Gratitude Program for Grocery Store Workers (“Program”); and
3. Authorize the City Manager to utilize up to \$2 million in America Rescue Plan Act funds to implement the Program.

Public comments were received from Jo Ann Van Reenan, Richard Sanchez, Colyn Messecar, Joyce Roberson, Debbie Reeves, Ray Blattel, Angela M. Landers, Jeremy Goldberg, Lucy Gilbertson, Becky Ayala, and Maria Navarro.

It was moved by Councilmember Lopez, seconded by Councilmember Basua, to approve the recommended action with a report back from the City Manager to include part-time workers and increasing the amount to \$2.5 million dollars in America Rescue Plan Act funds to implement the program. VOTE: MacDonald, Perello, Basua, Madrigal, Teran, and Lopez voted in favor; the motion carried 6-0. Mayor Zaragoza was absent.

J. REVIEW OF INFORMATION/CONSENT AGENDA

Items L-1 through L-11 was discussed among the Council and staff.

K. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Ray Blattel (Consent Item L.6).

L. INFORMATION/CONSENT AGENDA

1. Public Works Department

SUBJECT: Agreement A-8315 with Brightview Landscape Services, Inc. for Landscape Maintenance Service for Waterways Assessment Districts Zone 1 Mandalay Bay and Zone 2 Harbour Island.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8315 with Brightview Landscape Services, Inc. in the amount of \$195,176 for a three-year term ending on June 30, 2024 for landscape maintenance services within Waterways Assessment Districts Zone 1 Mandalay Bay and Zone 2 Harbour Island. (Public Works and Transportation Committee approved 3-0.)

2. Public Works Department

SUBJECT: Agreement A-8322 with Brightview Landscape Services, Inc. for Landscape Maintenance Service for Seabridge Community Facilities District 4.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8322 with Brightview Landscape Services, Inc. in the amount of \$912,444 for a three-year term ending on June 30, 2024 for landscape maintenance services within Seabridge Community Facilities District 4. (Public Works and Transportation Committee approved 3-0.)

3. Public Works Department

SUBJECT: Agreement No. A-8331 to AquaTech Services, Inc., for On-Call Backflow Assemblies Testing, Maintenance, Repair and Replacement Services PW 21-70.

RECOMMENDATION: That the City Council award and authorize the Mayor to execute Agreement A-8331 with AquaTech Services, Inc. in the not to exceed amount of \$240,000 for a three-year term ending June 1, 2024, for on-call backflow assemblies testing, maintenance, repair and replacement services (PW 21-70). (Public Works and Transportation Committee approved 3-0.)

4. Public Works Department

SUBJECT: Fiscal Year 2021-22 Special Tax Levy for Community Facility Districts No. 1, 2, 3, 4, 5 and 2000-3.

RECOMMENDATION: That the City Council acting as the legislative body for Community Facilities Districts (CFD) No. 1, 2, 3, 4, 5 and 2000-3:

1. Adopt **Resolution No. 15,444** setting a special tax rate within CFD No. 1 (Westport at Mandalay Bay) for Fiscal Year 2021-22;
2. Adopt **Resolution No. 15,445** setting a special tax rate within CFD No. 2 (Westport at Mandalay Bay) for Fiscal Year 2021-22;
3. Adopt **Resolution No. 15,446** setting a special tax rate within CFD No. 3 (Seabridge at Mandalay Bay) for Fiscal Year 2021-22;
4. Adopt **Resolution No. 15,447** setting a special tax rate within CFD No. 4 (Seabridge at Mandalay Bay) for Fiscal Year 2021-22;
5. Adopt **Resolution No. 15,448** setting a special tax rate within CFD No. 5 (Riverpark) for Fiscal Year 2021-22;
6. Adopt **Resolution No. 15,449** setting a special tax rate within CFD No. 2000-3 (Oxnard Boulevard/Highway 101 Interchange) for Fiscal Year 2021-22; and
7. Authorize the Special Districts Manager, or designee, to execute an agreement for Billing of Direct Assessments with the Ventura County Auditor-Controller to provide the service of placement of direct assessments on the Ventura County Secured Tax Roll.

5. Housing Department

SUBJECT: Housing Authority Investment Policy.

RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard adopt **Housing Authority Resolution No. 1323** adopting an investment policy for the Housing Authority of the City of Oxnard for FY 2021-2022. (This item did not originate in Committee.)

6. Finance Department

SUBJECT: Public Safety Property Tax Assessment FY 2021-22.

RECOMMENDATION: That the City Council adopt **Resolution No. 15,450** establishing the FY 2021-22 tax rates on property in the City of Oxnard for the payment of voter-approved obligations related to public safety personnel pension expenses. (Item did not originate in Committee.)

7. Information Technology Department

SUBJECT: Purchase of Computer Equipment from Compuwave.

RECOMMENDATION: That the City Council:

1. Approve and authorize the Mayor to execute a blanket purchase order in an amount not to exceed \$1,100,000 with Compuwave for the sourcing of computer hardware and software in Year 1 and for Council Chambers equipment; and
2. Approve and authorize the City Manager to execute a blanket purchase order in an amount not to exceed \$500,000 with Compuwave for the sourcing of computer hardware and software in Year 2. (Finance & Governance Committee approved this item 3-0, except for the Council Chambers equipment portion that arose after Committee consideration.)

8. Public Works Department

SUBJECT: Ratification of Purchase Orders with Gametime for New Playground Equipment at Community Center Park East and Wilson Park.

RECOMMENDATION: That the City Council approve and authorize the Mayor to approve the ratification of Purchase Order No. 8111 in the amount of \$162,622.03 and Purchase Order No. 8112 in the amount of \$227,420.79 with Gametime for the supply and delivery of new Playground Equipment at Community Center Park East and Wilson Park. (This item did not originate in Committee as these are capital improvement projects specifically listed in the City's Capital Improvement Program.)

9. Information Technology Department

SUBJECT: Renewal of Google Enterprise License Agreement.

RECOMMENDATION: That the City Council approve the Second Amendment of Software License Agreement A-7916 with Dito LLC for the purpose of renewing the City's Google Enterprise Licenses for another five years in the amount of \$780,600 plus another \$250,000 for additional user licenses as needed. (Finance & Governance Committee approved 3-0.)

10. Public Works Department

SUBJECT: Utility Rates Assistance Program (Project Assist) Update.

RECOMMENDATION: That the City Council:

1. Adopt **Resolution No. 15,451** for the Utility Ratepayers Assistance Program (Project Assist) for Fiscal Year 2021-22 to assist eligible Oxnard residents and authorize staff to grant financial relief equal to a monthly \$15.00 maximum credit per utility bill charged to customers who meet the eligibility requirements discussed in this staff report; and
2. Authorize staff to direct up to \$145,000 from penalty fees charged to City utility customers who pay their bills late to fund the Utility Ratepayers Assistance Program (Project Assist) in Fiscal Year 2021-22.
(Finance and Governance Committee approved 3-0.)

11. City Manager Department

SUBJECT: Whistleblower Hotline Services Agreement Extension.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Third Amendment to Agreement No. A-7986 with Price Paige and Company to add three years and amend the rates to its whistleblower hotline services.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the May 25, 2021 Finance and Governance Committee.)

Consent Agenda Items: L.1 - L.4 and L.6 - L.11:

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve the Information/Consent items L.1 – L.4 and L.6 – L.11, as presented. VOTE: MacDonald, Perello, Lopez, Madrigal, Basua, and Teran voted in favor; motion passed 6-0. Mayor Zaragoza was absent.

Consent Agenda Item: L.5:

It was moved by Commissioner Lopez, seconded by Commissioner Teran, to approve the Information/Consent item L.5, as presented. VOTE: MacDonald, Perello, Lopez, Madrigal, Basua, Teran, and Housing Authority Commissioner Andrade voted in favor, motion passed 7-0. Mayor Zaragoza was absent.

M. PUBLIC HEARINGS

1. Fire Department

SUBJECT: Establishment of Ambulance Transportation Fees. (0/10/10)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing to consider the establishment of ambulance transportation fees; and
2. Following the public hearing, adopt **Resolution No. 15,452** establishing

ambulance transportation fees.

(Finance and Governance Committee approved 3-0.)

The City Clerk announced the affidavit of publication and stated that written communications were received from Lawrence Paul Stein.

Alexander Hamilton, Fire Chief, gave a report and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Douglas D. Partello.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: MacDonald, Perello, Lopez, Madrigal, Teran, and Basua voted in favor, the motion carried 6-0. Mayor Zaragoza was absent.

N. REPORTS

1. Finance Department

SUBJECT: Adoption of City Council Policy for Internal Control Integrated Framework - Information and Communication. (0/10/5)

RECOMMENDATION: That the City Council adopt **Resolution No. 15,453** adopting the Policy for Information and Communication of Internal Controls to define the City Council's internal control activities as they relate to information and communication of internal controls. (Finance and Governance Committee approved 3-0.)

Kevin Riper, Chief Financial Officer, was available to answer questions. No public comments were received.

It was moved by Councilmember Teran, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Basua, Madrigal, MacDonald, Teran, Lopez, and Perello voted in favor; the motion carried 6-0. Mayor Zaragoza was absent.

2. Housing Department

SUBJECT: Central Terrace Apartments - In-Lieu Loan Agreement and Affordable Housing and Sustainable Communities Program (AHSC) Implementation Agreement. (0/10/5)

RECOMMENDATION: That the City Council:

1. Authorize the Mayor to execute an Affordable Housing In-Lieu Loan Agreement and Regulatory Agreement with Many Mansions, a non-profit affordable housing provider, providing gap financing in the amount of \$1,250,000 for the construction

of eighty-six (86) affordable rental units and one (1) unrestricted manager's unit commonly known as the Central Terrace Apartments located at 217- 235 East 6th Street, Oxnard, CA 93030;

2. Approve a budget appropriation of \$1,250,000 from the Oxnard Housing In-Lieu Fees Fund;

3. Authorize the City Manager or designee to make necessary corrections or modifications to the In-Lieu Loan Agreement, Regulatory Agreement, Deed of Trust, or Promissory Note in order to make them consistent with each other; and

4. Authorize the Mayor to execute an Implementation Agreement with Many Mansions to receive pass-through grant funding associated with Central Terrace Apartments' Affordable Housing and Sustainable Communities Program application. (This item did not originate in the Committee due to a pending Appeal, which has since been withdrawn, at the time this agenda item was scheduled to be published for the May 11, 2021 Community Services, Public Safety, Housing and Development Committee meeting.)

Emilio Ramirez, Housing Director, gave a report and introduced staff from Many Mansions Luis Hernandez, Project Manager and Derrick Wada, Associate Director of Real Estate which answered questions. Scott Kolwitz, Planning & Environmental Services Manager and Joe Pearson II, AICP, Senior Planner also answered questions about the project.

Public comments were received from Alex Perez, Jonathan Duran, Jackson Piper, Armando Delgado (Carpenters Union Local 805), Anthony Ventura (Carpenters Union Local 805), and Chris Hernandez (Member of the Laborers' International Union Local 585 and the Parks & Recreation Commission). Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Lopez, Basua, Teran, MacDonald, Perello, and Madrigal voted in favor; the motion carried 6-0. Mayor Zaragoza was absent.

3. Public Works Department

SUBJECT: Fiscal Year 2021-22 Landscape Maintenance Districts Initiation of Proceedings, Declaration of Intention to Levy and Collect Assessments, and Scheduling of Public Hearing. (0/5/5)

RECOMMENDATION: That the City Council acting as the legislative body of the City of Oxnard Landscape Maintenance Districts (LMDs):

1. Adopt **Resolution No. 15,454** initiating proceedings for the annual levy and collection of assessments for Fiscal Year 2021-22 within the City's LMDs; and
2. Adopt **Resolution No. 15,455** declaring intention to levy and collect assessments for Fiscal Year 2021-22 within the City's LMDs pursuant to the Landscaping and Lighting Act of 1972.

Steve Howlett, Assistant Public Works Director, answered questions and introduced Amanda

Welker, Analyst at NBS Local Government Consultants, was also available to answer questions. Public comments were received from Douglas D. Partello, Ray Blattel, and Aaron Starr. Discussion ensued among the Council and staff.

It was moved by Councilmember Teran, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: Perello, MacDonald, Madrigal, Basua, Lopez, and Teran voted in favor; the motion carried 6-0. Mayor Zaragoza was absent.

O. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Pro Tem MacDonald adjourned the meeting at 9:23 p.m.

ROSE CHAPARRO
City Clerk

BRYAN A. MACDONALD
Mayor Pro Tem, District 4

MINUTES
OXNARD CITY COUNCIL
Council Chambers, 305 West Third Street
SPECIAL COUNCIL MEETING
CLOSED SESSION
June 7, 2021

A. ROLL CALL, POSTING OF AGENDA

At 6:01 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council, in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Mayor Pro Tem Bryan A. MacDonald and Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, and Gabriel (Gabe) Teran were present via videoconference. Mayor John C. Zaragoza participated in person.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Jennie Kelly, Assistant City Attorney; and Rose Chaparro, City Clerk.

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Steve Naveau, Human Resources Director; Paul Early, Assistant City Attorney; participated via videoconference.

FLAG SALUTE

The flag salute was followed by a moment of silence.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION

1. City Attorney Department

SUBJECT: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code section 54956.9(d)(2))

Based on existing facts and circumstances, there is significant exposure to litigation against the City in one potential case.

Legislative Body: City Council

2. City Attorney Department

SUBJECT: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
(Government Code section 54956.9(d)(4))

Based on existing facts and circumstances, the City Council shall decide whether to initiate litigation in one potential case.

Legislative Body: City Council

3. City Attorney Department

SUBJECT: CONFERENCE WITH LABOR NEGOTIATORS (Government Code section 54957.6)
Agency designated representatives: Alex Nguyen, City Manager, Steve Naveau, Director of Human Resources; and Jennie Kelly, Assistant City Attorney.

Employee organization: Service Employees International Union CTW, CLC, Local 721 (SEIU Local 721); International Union of Operating Engineers AFL-CIO, Local No. 501 (IUOE Local

501); International Association of Firefighters, AFL-CIO (IAFF), Local No. 1684; Oxnard Public Safety Managers Association (OPSMA); Oxnard Peace Officers Association (OPOA); Oxnard Mid-Managers' Association; (OMMA); and unrepresented employees: City Manager; City Attorney; Assistant City Manager; Chief Financial Officer; Deputy City Manager; Community Development Director; Fire Chief; Housing Director; Human Resources Director; I.T. Director; Cultural and Community Services Director; Police Chief; Public Works Director (Department Directors); Chief Assistant City Attorney; Assistant City Attorney; Deputy City Attorney; Accountant II (C80); Accounting Technician (C67); Administrative Assistant (C70); Administrative Legal Assistant (C70); Administrative Legal Secretary I (C25); Administrative Legal Secretary II (C35); Administrative Legal Secretary III (C50); Administrative Secretary I (C15); Administrative Secretary II (C30); Administrative Secretary III (C40); Administrative Services Assistant (C70); Administrative Technician (C60); Employee Relations Coordinator (C67); Executive Assistant I (C80); Executive Assistant II (C85); Human Resources Technician (C70); Office Assistant I (C10); Office Assistant II (C20); Paralegal (C75); Senior Administrative Secretary (C55); Senior Human Resources Coordinator (C75); Law Office Manager (M29); Assistant Human Resources Director (M67); Human Resources Analyst I (M14); Human Resources Analyst II (M22); Senior Human Resources Analyst (M29); (Confidential Employees).
Legislative Body: City Council

At 8:05 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 8:06 p.m.

ROSE CHAPARRO

City Clerk

JOHN C. ZARAGOZA

Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
June 15, 2021

A. ROLL CALL, POSTING OF AGENDA

At 6:00 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority), in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Mayor Pro Tem Bryan A. MacDonald and Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, Gabriel (Gabe) Teran were present via videoconference. Mayor Zaragoza was present in person.

Housing Authority Commissioner Jose Andrade joined the meeting at 6:00 p.m. via videoconference.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Ken Rozell, Chief Assistant City Attorney; Paul Early, Assistant City Attorney; Jason Benites, Police Chief; Denise Shadinger, Assistance Police Chief; Eric Sonstegard, Assistant Chief of Police; Alex Arnett, Police Commander; Alexander Hamilton, Fire Chief; Jaime Villa , EMS Coordinator; Craig Beck, Interim Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Tatiana Arnaout, Senior Civil Engineer; Todd Vasquez-Housley, Environmental Resources Division Manager; Emilio Ramirez, Housing Director; Vyto Adomaitis, Community Development Director; Scott Kolwitz, Planning & Environmental Services Manager; Roger Brooks, CDD Code Compliance Manager; Steve Naveau, Human Resources Director; Eden Alomeri, Billing & Licensing Director; Amanda Welker, Financial Analyst with NBS Local Government Consultants, participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and the Housing Authority Board.

B. OPENING CEREMONIES (6:00 PM)

The flag salute was followed by a moment of silence.

C. CEREMONIAL ITEMS

1. SUBJECT: Presentation of a Proclamation Designating the Month of June 2021 as "Alzheimer's and Brain Awareness Month."

Mayor Zaragoza read the proclamation and presented it to Gabriela Rodriguez and Anthony Mireles, who made some remarks.

D. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Douglas D. Partello, Rocco Belmonte, Carl Jones, Westport Dock Association President; Cynthia L. Gonzalez, Felix Bobritsky, Ray Blattel, Aaron Starr, and Manuel Herrera. Written comments were received from Carl E. Jones (Scarlet Belle), Rocco (Rick) Belmonte (Scarlet Belle), Monica West (Scarlet Belle), Ruth Campbell (Scarlet Belle), Ruth Campbell (Scarlet Belle), Michelle Volaski (Scarlet Belle), and Isabel Olachea (City of Oxnard Litter and Neglect).

E. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update from Director of Emergency Services. (10/5/5)

RECOMMENDATION: That the City Council receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

The City Manager gave a report on the City's COVID-19 response. No formal action was required.

2. City Manager Department

SUBJECT: Mandalay Beach Maintenance District (MAD 4). (10/5/5)

RECOMMENDATION: That the City Council receive and file an oral report from the City Manager regarding proposed modifications to the territory included within Mandalay Beach Maintenance District (MAD 4).

The City Manager gave a report. Written comments were received from Loren Fife. No formal action was required.

3. City Manager Department

SUBJECT: Community Facilities District (CFD) No. 5 (RiverPark) (10/5/5)

RECOMMENDATION: That the City Council receive and file an oral report from the City Manager regarding proposed modifications to the total annual levy for CFD No. 5 (RiverPark) for fiscal year 2021/2022.

The City Manager gave a report. Public comments were received from Tai Hartley, Kyle Schlender, and Armando Delgado. No formal action was required.

F. COUNCIL REPORTS

Mayor Pro Tem MacDonald recognized the Latino Peace Officers in Ventura County, for their contributions to the community, which provided scholarships to deserving students.

Councilmember Teran acknowledged the City of Oxnard for raising the Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ+) Community Pride Flag at city hall.

Councilmember Perello attended an event for the Latino Peach Officers. He also talked about the sea wall concerns.

Councilmember Lopez thanked Police Chief Benites and his staff for all their efforts and participation in community events. Congratulated all the graduates in the community. She mentioned that she has received noise complaints recently about the Oxnard Airport flights and loud fireworks.

Councilmember Madrigal attended a virtual Juneteenth Ceremony. He also attended a ribbon cutting ceremony at Clinicas del Camino Real on Gonzales Road. Congratulated all the graduates in the community and talked about the importance of education.

Mayor Zaragoza presented a commendation to Dotty Mesa a former teacher at Santa Clara Elementary School and Our Lady of Guadalupe School.

G. REVIEW OF INFORMATION/CONSENT AGENDA

Items I-1 through I-5 was discussed among the Council and staff.

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Public comments were received from Ray Blattel (Consent Item L.6).

I. INFORMATION/CONSENT AGENDA

1. Police Department

SUBJECT: California Highway Patrol (CHP) Cannabis Grant.

RECOMMENDATION: That the City Council adopt **Resolution No. 15,456** authorizing:

1. The City Manager to apply for \$91,170.00 in grant funds from the California Highway Patrol (CHP) to be used for the FY 21-22 CHP Cannabis Grant.
2. The City Manager or designee to execute grant agreements and appropriate funds upon confirmation of grant award.
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the use of CHP Cannabis Grant funds.
4. The Chief of Police or designee to submit all program-related progress or status reports. (This item did not originate in Committee.)

2. Police Department

SUBJECT: ABC Grant - Alcohol Policing Partnership Program.

RECOMMENDATION: That the City Council adopt **Resolution No. 15,457** authorizing:

1. The City Manager to apply for \$32,779.00 in grant funds from the Department of Alcoholic Beverage Control to be used for overtime to conduct four (4) Minor Decoy Operations, four (4) Shoulder Tap Operations, and two (2) IMPACT Inspections.
2. The City Manager or designee to execute grant agreements.
3. The Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the ABC Grant funds.
4. The Chief of Police or designee to submit all program-related progress or status reports. (This item did not originate in Committee.)

3. Public Works Department

SUBJECT: Agreement A-8332 with Separation Processes, Inc. for Groundwater Desalter Improvement Project PW 21-44.

RECOMMENDATION: That the City Council approve and authorize the Mayor to:

1. Execute Agreement A-8332 with Separation Processes, Inc. in the amount not to exceed \$799,954 for engineering design services for the Groundwater Desalter Improvement Project (216508);
2. Approve \$39,998 for engineering, inspection, survey and project management for the Groundwater Desalter Improvement Project (216508); and
3. Approve a budget appropriation in the amount of \$109,952 from the available fund balance in the Water Operating Fund (601).

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program.)

4. Public Works Department

SUBJECT: Award Agreement A-8316 to The Groundskeeper, Inc. for Landscape Maintenance Services for Various Locations.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Trade Services Agreement No. A-8316 with The Groundskeeper, Inc. for a total value of \$550,000 for a three-year term ending June 30, 2024 to provide landscape maintenance services at various locations throughout the City.

(Public Works and Transportation Committee approved 3-0.)

5. Public Works Department

SUBJECT: First Amendment to Agreement A-8221 with Big Truck Rental, LLC for Rental of Refuse Collection Trucks for the Environmental Resources Division.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a First Amendment to Rental Agreement A-8221 with Big Truck Rental,

LLC, in the amount of \$621,600 for a new total not to exceed \$1,243,200, and to extend the term to June 30, 2022, for the rental of refuse collection trucks. (Public Works and Transportation Committee approved 3-0.)

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Basua, to approve the Information/Consent items as presented. VOTE: MacDonald, Perello, Basua, Madrigal, Zaragoza, Teran, and Lopez voted in favor; motion passed 7-0.

J. PUBLIC HEARINGS

1. Housing Department

SUBJECT: 2021 Annual Action Plan Community Development Block Grant, HOME Investment Partnerships, and Hearth Emergency Solutions Grant Funding Recommendations. (10/10/10)

RECOMMENDATION: That the City Council:

1. Conduct a public hearing to receive comments regarding the Plan Year 2021 Annual Action Plan draft document with funding recommendations for the second year of the 2020-2024 Ventura County Regional Consolidated Plan;
2. Approve the 2021 Annual Action Plan with final recommended use of funds for selected activities that conform with City of Oxnard consolidated plan goals as defined in the Ventura County Regional Consolidated Plan for the three entitlement grants, Community Development Block Grant, Home Investments Partnership grant and the Emergency Solutions Grant to be submitted to the United States Department of Housing and Urban Development, as prescribed;
3. Authorize the City Manager to incorporate any recommended changes to the Annual Action Plan as directed by the City Council, including amending any budget appropriations approved by the City Council;
4. Authorize the City Manager to execute the required applications, certifications, and other pertinent documents for the submission of the Annual Action Plan to the United States Department of Housing and Urban Development, Office of Community Planning and Development; and
5. Authorize the City Manager to execute HUD agreements and sign all agreements for the implementation of the Annual Action Plan including sub-recipients, interdepartmental, and intradepartmental agreements.

(Community Services, Public Safety, Housing & Development Committee approved 2-0 on May 25, 2021.)

The City Clerk announced the affidavit of publication and stated that written communications were received from Barbara Macri-Ortiz.

Emilio Ramirez, Housing Director, gave a report and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were heard.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Councilmember Basua, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Madrigal, Basua and Teran voted in favor, the motion carried 7-0.

2. City Manager Department

SUBJECT: Public Hearing on the Fiscal Year 2021-22 Operating Budget. (0/30/30)

RECOMMENDATION: That the City Council and Housing Authority Board conduct a public hearing on the Fiscal Year (FY) 2021-22 proposed budget for the City of Oxnard and Oxnard Housing Authority and provide staff direction regarding any adjustments to the proposed budget, in preparation for final budget adoption on June 29, 2021. (This item did not originate in Committee.)

The City Clerk announced the affidavit of publication and stated that written communications were received from Alicia Percell.

Kevin Riper, Chief Financial Officer; Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; and Craig Beck, Interim Public Works Director; answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Douglas D. Partello, Thomas Cady, Ray Blattel, Angela M. Whitecomb, and Manuel Herrera.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

The City Manager recommended to Council one change to the budget, to authorize a transfer of \$7 million dollars from street maintenance funds to pay back the utilities fund.

It was moved by Councilmember Basua, seconded by Councilmember Perello, to approve the recommended action with an amendment to reduce the streets maintenance fund by \$7 million dollars to pay back the utilities fund. VOTE: MacDonald, Perello, Lopez, Zaragoza, Madrigal, Teran, Basua, and Housing Authority Commissioner Andrade voted in favor, the motion carried 8-0.

3. Public Works Department

SUBJECT: Adoption of **Resolution No. 15,458** Approving Engineer's Report and Ordering the Levy and Collection of Assessments for Fiscal Year 2021-22 within the

City's Landscape Maintenance Districts. (0/5/5)

RECOMMENDATION: That the City Council, acting as the legislative body for the City of Oxnard's (City) Landscape Maintenance Districts (LMDs), approve and authorize:

1. Holding of a public hearing to receive public testimony regarding the proposed Fiscal Year 2021-22 assessments in the City's LMDs; and
2. Adopting **Resolution No. 15,458** approving the Fiscal Year 2021-22 Consolidated Engineer's Report and ordering the levy and collection of assessments for Fiscal Year 2021-22 within the City's LMDs pursuant to the Landscaping and Lighting Act of 1972. (Finance and Governance Committee approved 3-0.)

The City Clerk announced the affidavit of publication and stated that written communications were received from Alicia Percell.

Steve Howlett, Assistant Public Works Director; Craig Beck, Interim Public Works Director; Paul Early, Assistant City Attorney; and Amanda Welker, Analyst at NBS Local Government Consultants gave a report and answered questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Douglas D. Partello, Ray Blattell, Aaron Starr, and Alicia Percell.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Basua, Madrigal, MacDonald, Lopez, Perello, and Zaragoza voted in favor, Teran voted against; the motion carried 6-1. Mayor Zaragoza abstained from discussion and vote as it relates to LMD #3, due to propertyownership conflict. Councilmember Perello abstained from discussion and vote as it relates to LMD #13, due to propertyownership conflict.

4. Public Works Department

SUBJECT: Fiscal Year 2021-22 **Resolution No. 15,459** to Levy Assessments in Mandalay Beach Maintenance District (MAD 4). (0/5/5)

RECOMMENDATION: That the City Council, acting as the legislative body for the Mandalay Beach Maintenance District (MAD 4):

1. Hold a public hearing to receive public testimony regarding the proposed Fiscal Year 2021-22 assessments for the Mandalay Beach Maintenance District; and
2. Adopt **Resolution No. 15,459** fixing the special assessments in the Mandalay Beach Maintenance District for Fiscal Year 2021-22.

(This item did not originate in Committee).

The City Clerk announced the affidavit of publication and stated that written comments were received from Loren Fife.

Steve Howlett, Assistant Public Works Director, gave a report and answered questions. Mayor Zaragoza opened the public testimony portion of the public hearing. Public comments were received from Douglas D. Partello and Lorin Fife.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Lopez, Basua, Teran, Zaragoza, MacDonald, Perello, and Madrigal voted in favor, the motion carried 7-0.

5. Public Works Department

SUBJECT: Fiscal Year 2021-22 **Resolution No. 15,460** to Levy Assessments in Waterways Maintenance District. (0/5/5)

RECOMMENDATION: That the City Council, acting as the legislative body for the Waterways Maintenance Assessment District:

1. Hold a public hearing regarding proposed assessments for the Waterways Maintenance District for Fiscal Year 2021-22, and
2. Adopt **Resolution No. 15, 460** fixing the special assessments in the Waterways Maintenance District for Fiscal Year 2021-22. (This item did not originate in Committee).

The City Clerk announced the affidavit of publication and stated that no written communications were received.

Steve Howlett, Assistant Public Works Director and Craig Beck, Interim Public Works Director, were available to answer questions.

Mayor Zaragoza opened the public testimony portion of the public hearing. No public comments were received.

Without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Madrigal, to approve the recommended action as presented. VOTE: Perello, MacDonald, Madrigal, Basua, Zaragoza, Lopez, and Teran voted in favor, the motion carried 7-0.

K. REPORTS

1. Public Works Department

SUBJECT: Grant Application for FEMA's Hazard Mitigation Grant Program. (0/5/5)

RECOMMENDATION: That the City Council adopt resolutions:

1. Authorizing the City Manager to submit an application for \$3,750,000 in grant funds to the California Governor's Office of Emergency Services (Cal OES) to be used for the Mandalay Bay Seawalls Structural Retrofit Project (the grant will pay for \$3,750,000, or 75% of the total project cost, and has a match requirement of \$1,250,000 or 25%, of the total project cost);
2. Authorizing the City Manager or the Public Works Director to execute grant agreements and provide the assurances and agreements required by Cal OES pertaining to open and future disaster assistance grants for a period of three (3) years; authorizing the Finance Director or designee to submit financial reports and grant claims and approve special budget appropriations for the use of grant funds; and authorizing the Director of Public Works or designee to submit non-financial reports. (This item did not originate in Committee. The grant timeline did not allow enough time to go to both Committee and Council.)

Craig Beck, Interim Public Works Director, answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Mayor Pro Tem MacDonald, to approve the recommended action as presented. VOTE: MacDonald, Zaragoza, Perello, Madrigal, Basua, Teran, and Lopez voted in favor; the motion carried 7-0.

2. Housing Department

SUBJECT: Housing Authority: Low Rent Public Housing and Housing Choice Voucher Program Budgets for Fiscal Year 21-22 (0/10/10)

RECOMMENDATION: That the Board of Commissioners of the Housing Authority of the City of Oxnard ("Authority")

1. Adopt **Resolution No. 15,462** approving the recommended \$7,175,311 operating budget for the Low Rent Public Housing Program for Fiscal Year 21-22, as presented for each project area, and approve and authorize the use of \$703,336 of unrestricted cash to fund the projected deficit; and
2. Adopt **Resolution No. 15,463** approving the recommended \$25,128,842 operating budget for the Housing Choice Voucher Program for Fiscal Year 21-22 and approve and authorize the use of \$551,267 of unrestricted cash to fund the projected deficit. (The Community Services, Public Safety, Housing & Development Committee approved 2-0.)

Emilio Ramirez, Housing Director, gave a report and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Commissioner Perello, seconded by Commissioner Andrade, to approve the recommended action as presented. VOTE: Teran, Basua, Zaragoza, Lopez, MacDonald, Madrigal, Perello, and Housing Authority Commissioner Andrade voted in favor; the motion carried 8-0.

3. Public Works Department

SUBJECT: Grant Application for the Ocean Protection Council Proposition 1 Grant Program. (0/5/5)

RECOMMENDATION: That the City Council adopt Resolution No. 15,462 and Resolution No. 15,463:

1. **Resolution No. 15,462:** Authorizing the City Manager to submit an application for \$1,074,100 in grant funds to the Ocean Protection Council Proposition 1 Grant Program to be used for the Channel Islands Harbor Water Quality Remediation Study (the grant will cover \$1,074,100, or 82%, of the total project cost and the City will match \$230,000, or 18%, of the total project cost); and

2. **Resolution No. 15,463:** Authorizing the City Manager or the Public Works Director to execute grant agreements; authorizing the Finance Director or designee to submit financial reports and grant claims and approve special budget appropriations for the use of grant funds; and authorizing the Director of Public Works or designee to submit non-financial reports.

(This item did not originate in Committee. The grant timeline did not allow enough time to go to both Committee and Council.)

Craig Beck, Interim Public Works Director, answered questions. Public comments were received from Audrey Keller. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Madrigal, Lopez, Teran, MacDonald, Basua, Perello, and Zaragoza voted in favor; the motion carried 7-0.

L. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 9:52 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
June 29, 2021

A. ROLL CALL, POSTING OF AGENDA

At 4:30 p.m., Mayor John C. Zaragoza called to order the regular meeting of the Oxnard City Council (concurrently with the Oxnard Housing Authority), in the City Hall Council Chambers at 305 W. Third Street, Oxnard, California. The City Clerk called the roll and announced the posting of the agenda. Mayor Pro Tem Bryan A. MacDonald and Councilmembers Gabriela Basua, Vianey Lopez, Oscar Madrigal, Bert E. Perello, and Gabriel (Gabe) Teran were present via videoconference. Mayor Zaragoza was present in person.

Housing Authority Commissioners Jose Andrade and Francisco Vega joined the meeting at 6:00 p.m. via videoconference.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; and Rose Chaparro, City Clerk.

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Paul Early, Assistant City Attorney; Jason Benites, Police Chief; Eric Sonstegard, Assistant Chief of Police; Marc Amon, Police Commander; Alexander Hamilton, Fire Chief; Craig Beck, Interim Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Emilio Ramirez, Housing Director; Vyto Adomaitis, Community Development Director; Kevin Riper, Chief Financial Officer; Beth Vo, Budget Manager; Steve Naveau, Human Resources Director; Mike More, Human Resources Risk Manager; Eden Alomeri, Billing & Licensing Director; Raja Bamrungpong, Interim IT Director; participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council and Housing Authority

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS (None received.)

C. CLOSED SESSION (4:30 – 6:15 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION
(Government Code Section 54956.9(d)(1))

Name of case: John Curtis Newman, III v. City of Oxnard; et al.

United States District Court, Central District, Case No. 2:20-cv-03173-ODW-JC

Legislative Body: City Council

2. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION
(Government Code Section 54956.9(d)(1))
Name of case: Oscar Vazquez; et al. v. City of Oxnard; et al.
Ventura County Superior Court, Case No. 56-2020-00547164-CU-PO-VTA
Legislative Body: City Council
3. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Government Code Section 54956.9(d)(1))
Name of case: Michael Marostica v. City of Oxnard
Workers' Compensation Case No. ADJ12896677
Legislative Body: City Council
4. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Government Code Section 54956.9(d)(1))
Name of case: Pedro Rodriguez v. City of Oxnard
Workers' Compensation Case Nos.: ADJ11048212; ADJ11048195
Legislative Body: City Council

At 4:30 p.m., the City Council recessed to a closed session. At 6:15 p.m., the City Council reconvened in open session in the Council Chambers. The City Attorney announced that there were no reportable actions out of closed session.

D. OPENING CEREMONIES (6:19 PM)

The flag salute was followed by a moment of silence.

E. CEREMONIAL ITEMS (None.)

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Douglas Partello (Measure M & Ballot Initiatives), Walter J. Snyder (Police Incident and Complaint/Body Camera), Gary Wright (Fireworks), Larry Pollock (Landlord Rules during Pandemic), Chris Hernandez (5 Points Neighborhood Council, Thank you to the City of Oxnard for all the work being done at the 5 Point Gateway), Alicia Percell (Measure M & N, Ballot Initiatives).

G. REPORT OF CITY MANAGER

1. City Manager Department

SUBJECT: COVID-19 Update, Ratification of Director of Emergency Services Order. (10/5/5)

RECOMMENDATION: That the City Council:

1. Receive and file an update from the Director of Emergency Services on the COVID-19 Local Emergency.

2. Adopt **Resolution No. 15,464** ratifying an order issued by the Director in response to the COVID-19 Local Emergency rescinding subsections E through G of prior Director Order 20-02, which suspended penalties for late renewals and applications for business tax certificates, termination of utility services for non-payment, penalties for late utility services payments, and the requirement that a contractor holds a valid City business tax certificate as a prerequisite for issuance of a building permit.

Alexander Nguyen, City Manager, gave a report on the City's COVID-19 response. The City Manager and the City Attorney answered questions. No public comments were received.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: MacDonald, Perello, Basua, Madrigal, Zaragoza, Teran, and Lopez voted in favor, the motion carried 7-0.

2. Police Department

SUBJECT: Adopt **Resolution No. 15,465** in support of SB 277 (Archuleta) to address illegal fireworks in California.

RECOMMENDATION: That City Council adopt **Resolution No. 15,465** supporting California Senate Bill 277 that seeks to present added ways to help get illegal fireworks off the streets of California.

Eric Sonstegard, Assistant Chief of Police, presented and answered questions. Public comments were received from Susan Hartzler. Discussion ensued among the Council and staff.

It was moved by Mayor Zaragoza, seconded by Councilmember Perello, to approve the recommended action as presented. VOTE: Zaragoza, MacDonald, Perello, Lopez, Madrigal, Basua, and Teran voted in favor; the motion carried 7-0.

H. CITY COUNCIL REPORTS

Councilmember Lopez commented on the fireworks issues being experienced in the community and thanked the City's Police and Fire Departments for their efforts. She provided an update on the State budget progress and reported that State Senator Monique Limon advocated including \$5 million dollars in the budget for an aquatic center in the City of Oxnard.

Councilmember Teran thanked State Senator Monique Limon for her support of the aquatic center. He recognized the residents of the River Park Neighborhood Council for attending and participating in their neighborhood meetings and for being involved in their community. He also thanked Steve Howlett, Assistant Public Works Director, for his presentation during this meeting. He also thanked the artist of the new mural in Downtown Oxnard.

Councilmember Madrigal also thanked Senator Monique Limon for her support of the

aquatic center in South Oxnard. He thanked Terrel Harrison, Cultural & Community Services Director, for his assistance in coordinating logistics to prepare the parks for little league sports. He also expressed that he is excited now that funding is available, he is looking forward to being able to address some items that had been placed on hold due to lack of funding. He is looking forward to being able to address the lighting issues at the local parks.

Mayor Pro Tem MacDonald will be attending the Ventura County Transportation Commission and the Gold Coast Transportation meetings this week. He is starting to see an increase in ridership and said that people are starting to travel again. Metrolink started providing services from Moorpark to Los Angeles and most of the riders are from Oxnard. He will be recommending that they also start Metrolink service from Oxnard to Los Angeles. He thanked the Police, Fire, Public Works, and Code Compliance departments for their incredible work and efforts to assist with the fireworks situation in the community.

Councilmember Basua also thanked State Senator Monique Limon and Councilmember Lopez for their outreach and support of the City of Oxnard and South Oxnard Aquatic Center. She also thanked the Council for their support as well. She thanked the coaches for their time and volunteering to coach soccer and softball to the youth in the community. She asked that coaches be patient and work with each other to find public space to practice these sports.

Councilmember Perello also thanked State Senator Monique Limon. He attended the mural unveiling in Downtown Oxnard and thanked everyone that attended this event including the artist. He thanked Brian Yanez, Assistant Public Works Director, for his efforts to clean-up the sand at Oxnard Shores and also thanked City staff for the clean-up efforts being done at the local parks.

Mayor Zaragoza thanked Mr. Manuel Gonzales, Mr. Jess Ramirez, the Vietnam Veterans Association, the Knights of Columbus, and numerous other agencies that helped to provide 40-wheelchairs to disabled veterans at the Port of Hueneme event. Also, thanked the Ventura County Food Share for providing and handing out food to the residents of Oxnard. He attended a ribbon cutting for a mega electric power plant in El Rio, located off of Vineyard Avenue, and announced that they will be able to help residents and provide power, if needed.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Items K-1 through K-13 were discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Douglas Partello (paying back utility funds), Walter J. Snyder (incubator program), Pat Brown (K.5 and K.6), and Armando Delgado (K.5 and K.6).

K. INFORMATION/CONSENT AGENDA**1. City Clerk Department**

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approves the minutes of the December 15, 2020 regular meeting as presented.

Mayor Pro Tem MacDonald requested a revision to the name of the Mayor to John C. Zaragoza and remove former Mayor Flynn's name on the December 15, 2020 Regular Council Meeting minutes.

2. Police Department

SUBJECT: Fourth Amendment to Axon International Contract.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Fourth Amendment to Agreement for Body Worn Cameras with Axon International, Inc. (A-7858) to extend and add to the scope of services regarding evidence management, bringing the total value of the Agreement to \$2,451,318.01. (Due to time constraints, this went to print before the Committee outcome was announced.)

3. Finance Department

SUBJECT: Annual Delegation of Investment Authority and Investment Policy.

RECOMMENDATION: That the City Council adopt **Resolution No. 15,466:**

1. Delegating investment authority to the City Treasurer; and
 2. Adopting the FY 2021-22 investment policy for the City.
- (This item did not originate in Committee.)

4. Human Resources Department

SUBJECT: Purchase of Liability and Property Insurance Policies for FY 2021-2022.

RECOMMENDATION: That the City Council:

1. Approve and authorize the City Manager to execute the Memorandum of Understanding - Excess Liability Program with the PRISM Joint Powers Authority for excess liability insurance coverage.
 2. Approve and authorize the Mayor to execute a Purchase Order in the amount of \$898,522 with Alliant Insurance Services, Inc. for property insurance coverage during Fiscal Year 2021-22.
 3. Approve and authorize the City Manager to execute the Memorandum of Understanding - Property Program with the PRISM Joint Powers Authority for prospective property insurance coverage beginning in FY 2022-23.
- (This item did not originate in Committee.)

5. Housing Department

SUBJECT: Third Amendment to Agreement A-8194 (Mercy House) for Shelter and Navigation Center Operations.

RECOMMENDATION: That the City Council:

1. Approve the Third Amendment to Agreement A-8194 with Mercy House for the provision of shelter and navigation center operations in Fiscal Year 2021-2022, in the amount not-to-exceed \$2,696,600, bringing the total cost for the Amended Agreement to a not-to-exceed amount of \$5,027,349.00 for the 30-month period, plus an additional COVID-19 Emergency Contingency Cost Increment for FY 2021-22 in an amount not to exceed \$700,020; and
2. Authorize the Chief Financial Officer to implement an administrative budget adjustment for utilization of \$939,782 of Permanent Local Housing Allocation grant funds for FY 2021-22 upon receipt thereof; and approve the use of \$1,200,000 of Coronavirus Aid, Relief and Economic Security Act (CARES) funds for FY 2021-22 shelter operations. (This item did not originate in Committee.)

6. Housing Department

SUBJECT: **Resolution No. 15,467** Approving Levy and Collection of Assessments for Fiscal Year 2021-22 within the Downtown Oxnard Property Business Improvement District (Oxnard Downtown Management District).

RECOMMENDATION: That the City Council adopt **Resolution No. 15,467** ordering the levy and collection of assessments within the Oxnard Downtown Management District Plan (the "District") for Fiscal Year (FY) 2021-22. (This item did not originate in Committee.)

7. Police Department

SUBJECT: Purchase of Portable Handheld Emergency Radios from Day Wireless Systems.

RECOMMENDATION: That the City Council authorize the Mayor to execute a purchase order with Day Wireless Systems in the amount of \$375,000 for the purchase of approximately eighty-four (84) Motorola APX-8000 portable radios. (This item did not originate in Committee.)

8. Cultural & Community Services Department

SUBJECT: Agreement with the Hueneme School District for the operations of the After School Education and Safety (ASES) program in FY 2021-22, FY 2022-23 and FY 2023-24.

RECOMMENDATION: That the Council approve and authorize the Mayor to execute the Partnership Agreement (A-8336) and Memorandum of Understanding (A-8337) with the Hueneme Elementary School District (HESD) for the City of Oxnard to receive the total amount of \$3,159,896 to provide services under the California After School Education and Safety (ASES) program at ten (10) HESD

schools during FY 21-22, FY 22-23 and FY 23-24.

9. Public Works Department

SUBJECT: Agreements A-8324, A-8325, and A-8326 with Garcia's Tree Maintenance Services, Inc. for Arterial Tree Pruning Services for Citywide Arterial Streets.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute agreements with Garcia's Tree Maintenance Services, Inc. for tree grid pruning maintenance services within citywide arterial streets for a total amount of \$566,100 for a one-year term ending June 30, 2022:

1. Agreement A-8324 with Garcia's Tree Maintenance Services, Inc. for a total amount of \$182,665 in Region 1;
2. Agreement A-8325 with Garcia's Tree Maintenance Services, Inc. for a total amount of \$182,410 in Region 2; and
3. Agreement A-8326 with Garcia's Tree Maintenance Services, Inc. for a total amount of \$201,025 in Region 3. (Public Works and Transportation Committee approved 3-0.)

10. Public Works Department

SUBJECT: Agreements A-8339, A-8340, A-8341, and A-8342 with Mariposa Landscapes, Inc. for Weekly Park Mowing Services for Citywide General Fund Parks.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute agreements with Mariposa Landscapes, Inc. for weekly mowing of the citywide General Fund parks for a total amount of \$2,405,000 for a three-year term ending June 30, 2024:

1. Agreement A-8339 with Mariposa Landscapes, Inc. for a total amount of \$475,000 in Region 1;
2. Agreement A-8340 with Mariposa Landscapes, Inc. for a total amount of \$430,000 in Region 2;
3. Agreement A-8341 with Mariposa Landscapes, Inc. for a total amount of \$950,000 in Region 3; and
4. Agreement A-8342 with Mariposa Landscapes, Inc. for a total amount of \$550,000 in Region 4. (Public Works and Transportation Committee approved 3-0.)

11. Fire Department

SUBJECT: Stryker Flex Financial Purchase Order for \$196,639.26 to purchase 10 (ten) LUCAS chest compression systems.

RECOMMENDATION: That the City Council authorize the Mayor to execute a Purchase Order with Stryker Flex Financial in the amount of \$196,639.26 for the purchase of ten (10) LUCAS chest compression systems.
(This item did not originate in Committee.)

12. Human Resources Department

SUBJECT: Delegation of Retirement Plan Functions.

RECOMMENDATION: That the City Council adopt **Resolution No. 15,468**:

1. Appointing the Administrator for the City's 457(b) and 401(a) plans; and
2. Delegating amendment authority over the City's 457(b) and 401(a) plans.
(Finance & Governance Committee approved 3-0.)

13. Finance Department

SUBJECT: Initial Repayment of Infrastructure Use Fee Monies.

RECOMMENDATION: That the City Council approve a budget appropriation request for the current fiscal year, FY 2020-21, to transfer \$5,000,000 from the General Fund to the utility enterprise funds as an initial repayment of Infrastructure Use Fee monies. (Item did not originate in Committee.)

City Manager Nguyen asked for an amendment to Consent item K.4. Mike More, Human Resources Risk Manager, reported and answered questions. This item was discussed among the Council and staff. Council approved to amend the purchase order amount from \$1.7 million dollars to \$1.935 million dollars (due to a rate increase of \$235,000), with Alliant Insurance Services Inc. for property insurance coverage during Fiscal Year 2021-22.

It was moved by Councilmember Lopez, seconded by Councilmember Perello, to approve the Information/Consent items as amended. VOTE: MacDonald, Perello, Lopez, Zaragoza, Madrigal, Teran, and Basua voted in favor; motion passed 7-0.

L. PUBLIC HEARINGS (None.)M. REPORTS1. Public Works Department

SUBJECT: Special Tax Levy for Community Facility District No. 5 for Fiscal Year 2021/22.

RECOMMENDATION: That the City Council acting as the legislative body for Community Facilities Districts (CFD) No. 5, approve the special tax rate of \$2,987,495.10 within CFD No. 5 (Riverpark) for Fiscal Year 2021/22 and to amend the FY 2021/22 Proposed Budget to:

1. Decrease the Proposed Revenues (Maximum Special Tax) for CFD No. 5 in Fund 174 by \$2,062,638 from \$5,050,134 to \$2,987,496;
2. Decrease the Proposed Expenditures for CFD No. 5 in Fund 174 by \$2,012,552 from \$5,732,468 to \$3,719,916; and
3. Decrease the General Fund Transfer-In Revenue by \$1,607,520 for the Fire Protection Services.

Craig Beck, Interim Public Works Director, was available to answer questions. Public

comments were received from Douglas Partello and Tai M. Hartley. Discussion ensued among the Council and staff.

Council requested that a resolution be drafted and be brought back for Council approval to take this decision out of the City Manager's and require a vote of the City Council going forward. This item will be agendaized for a next City Council meeting.

It was moved by Mayor Zaragoza, seconded by Councilmember Basua, to approve the recommended action as presented. VOTE: Basua, Madrigal, MacDonald, Teran, Lopez, Perello, and Zaragoza voted in favor; the motion carried 7-0.

2. City Manager Department

SUBJECT: Adoption of Fiscal Year 2021-22 Operating and Capital Improvement Budget. (0/20/20)

RECOMMENDATION:

1. That the City Council adopt the following resolutions:

a. **Resolution No. 15-469** of the City Council of the City of Oxnard Approving the City Operating and Capital Improvement Budget for Fiscal Year 2021-22;

b. **Resolution No. 15-470** of the City Council of the City of Oxnard Authorizing Full-Time Equivalent Positions in the City Service Effective July 1, 2021 in accordance with the Operating Budget for the Fiscal Year 2021-22;

c. **Resolution No. 15-471** of the City Council of the City of Oxnard Authorizing Classification and Salary Schedules and Approving the Attached Classification and Salary Schedule;

d. **Resolution No. 15-472** of the City Council of the City of Oxnard Establishing Financial Management Policies;

e. **Resolution No. 15-473** of the City Council of the City of Oxnard Establishing an Appropriation Limit for the Fiscal Year 2021-22; and

2. That the Housing Board of Commissioners adopt **Housing Authority Resolution No. 1326** Approving the Housing Authority's Operating Budget for the Fiscal Year 2021-22.

(This item did not originate in Committee.)

City Manager Nguyen answered questions. Public comments were received from Walter J. Snyder and Douglas Partello. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Mayor Zaragoza, to approve the recommended action as presented. VOTE: Lopez, Basua, Teran, Zaragoza, MacDonald, Perello, Madrigal, Housing Commissioner Vega, and Housing Commissioner Andrade voted in favor. The Council actions were approved 7-0 and the Housing Authority actions were approved 9-0.

3. Public Works Department

SUBJECT: Agreements A-8344 and A-8346 with Garcia's Landscaping Maintenance, Inc. and Agreement A-8345 Mariposa Landscapes, Inc. for Monthly

Median Landscape Services. (0/5/5)

RECOMMENDATION: That City Council approve and authorize the Mayor to execute agreements with Garcia's Landscaping Maintenance, Inc. and Mariposa Landscapes, Inc. for a total amount of \$6,025,000 for a three-year term ending June 30, 2024:

1. Agreement A-8344 with Garcia's Landscaping Maintenance, Inc. for a total amount of \$1,900,000 in Region 1;
2. Agreement A-8345 with Mariposa Landscapes, Inc. for a total amount of \$2,125,000 in Region 2; and
3. Agreement A-8346 with Garcia's Landscaping Maintenance, Inc. for a total amount of \$2,000,000 in Region 3. (This item did not originate in Committee.)

Steve Howlett, Assistant Public Works Director, answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Mayor Pro Tem MacDonald, seconded by Councilmember Teran, to approve the recommended action as presented. VOTE: Perello, MacDonald, Madrigal, Basua, Zaragoza, Lopez, and Teran voted in favor; the motion carried 7-0.

N. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 9:10 p.m.

ROSE CHAPARRO
City Clerk

JOHN C. ZARAGOZA
Mayor



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.2

DATE: September 21, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: CalRecycle Rubberized Pavement Grant Program Application.

RECOMMENDATION

That City Council adopt a resolution authorizing:

1. The City Manager or Public Works Director, or his/her designee to execute in the name of the City of Oxnard all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project for an amount not to exceed \$250,000 in California Department of Recycling and Recovery (CalRecycle) Rubberized Pavement Grant Program funds, to be used for the resurfacing of several streets identified in the FY 2021-26 Capital Improvement Plan (CIP);
(This item did not originate in Committee.)

BACKGROUND

The Rubberized Pavement Grant Program provides funds to agencies that use recycled tires when resurfacing roads. There are many advantages to using rubberized asphalt versus conventional asphalt. Rubberized Asphalt Concrete (RAC) incorporates ground tire (crumb) rubber into the hot mix. Crumb rubber is ground or granulated rubber particles, which are derived from auto, light truck or other sources that use a high content of natural rubber. The wet process is typically used in rubberized asphalt within the State of California.

California produces more than 40 million waste tires annually; therefore, there is a significant environmental benefit to using asphalt rubber since a two-inch Rubberized Hot Mix Asphalt (RHMA) overlay consumes about 2,000 scrap tires per lane mile. Over the years, engineers and researchers have found that RHMA is a durable, safe, and quiet paving material, compared with conventional Hot Mix Asphalt. Additionally, it is worth noting that 1 inch of RHMA is equal to 2 inches of conventional hot mix asphalt, which means that this is the preferred material when vertical constraints such as curb and gutter restrict the thickness of the overlay, which we find in many cases throughout the City.

Additional advantages of Rubberized Asphalt Concrete are as follows:

- Rubberized asphalt concrete is highly skid-resistant, quieter and resists shoving and rutting if a gap-graded mix is used.
- Rubberized asphalt concrete provides excellent long-lasting color contrast for striping and marking.
- Rubberized asphalt concrete provides a long-lasting, durable pavement that resists reflective cracking and provides for a smoother ride.

CIP Reference:

Arterial Street Resurfacing - CIP 2021-2026 - Adopted May 18, 2021 – Page 97.

DISCUSSION

The City is eligible to receive a reimbursement of \$7 per ton in grant funds for the projects proposed under this funding cycle. With numerous streets that need resurfacing, these grant funds will be used to supplement the costs of resurfacing several streets that are identified in the FY 2021-26 CIP. These streets include sections of the following projects:

- Oxnard Boulevard
- Del Norte Boulevard
- North Ventura Road

There is no requirement for matching funds and the maximum grant award is \$250,000. The grant term ends on April 1, 2024, and all eligible program costs must be incurred by this date. If awarded, the grant award is anticipated in December 2021.

For large resurfacing projects, the cost of RAC is about equal to that of traditional asphalt, and there would be cost savings with this reimbursement. However, for smaller projects, the cost is roughly \$10 more per ton of rubberized material, but again, this would be offset with this reimbursement.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The construction cost for the respective streets CIP projects is estimated at approximately \$8,872,500 for the total cost of the selected sections of the resurfacing projects. These streets have already been identified for resurfacing under the street maintenance program and are in the CIP, and a mix of General Fund Measure E and RMRA Gas Tax funds have been planned to be appropriated. If the City were to receive a grant award, the grant funds would reduce the amount of General Fund Measure E and RMRA Gas Tax funds that are needed to complete these projects. The grant program only funds a reimbursement of \$7 per ton; therefore, the City will be responsible for the remaining cost of \$8,622,500 after the \$250,000 grant award. Upon grant award, staff will recognize and appropriate the grant award to the eligible resurfacing project(s).

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Eric Humel, Grants Specialist, Tatiana Arnaout, City Engineer

ATTACHMENTS

1. Resolution - Grantor

CITY COUNCIL OF THE CITY OF OXNARD
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
AUTHORIZING SUBMITTAL OF AN APPLICATION FOR CALRECYCLE GRANT FUNDS

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Oxnard authorizes the submittal of an application to CalRecycle for the Rubberized Pavement Grant Program; and

BE IT FURTHER RESOLVED that the City Manager or Public Works Director, or his/her designee is hereby authorized and empowered to execute in the name of the City of Oxnard all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project; and

BE IT FURTHER RESOLVED that these authorizations are effective for five (5) years from the date of adoption of this resolution.

PASSED AND ADOPTED THIS ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

John C. Zaragoza, Mayor

ATTEST:

APPROVED AS TO FORM:

Rose Chaparro, City Clerk

Stephen M. Fischer, City Attorney



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.3

DATE: September 21, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: Execute Purchase Order to Commodity Trucking Acquisition, LLC dba Tri-County Transportation for Backfill and Resurfacing Material Sales, Delivery and Haul Away Services PW 21-82.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute a Purchase Order with Tri-County Transportation for Backfill and Resurfacing Material Sales, Delivery and Haul Away Services in the amount not to exceed \$270,000 for a three-year term from January 1, 2022 to December 31, 2024.
(Public Works and Transportation Committee approved 3-0)

BACKGROUND

The City of Oxnard's Water Division is responsible for the transmission and distribution of potable water to City customers. Over 20 million gallons per day of safe and reliable potable water is delivered to customers. The City's water system includes: 10 water wells, five (5) connections from the United Water Conservation District's Oxnard-Hueneme Pipeline system, one (1) connection from the Calleguas Municipal Water District's water system, one (1) desalter facility, six (6) blending stations, and over 500 miles of transmission and distribution pipelines.

The City's 500 miles of transmission and distribution pipelines periodically require emergency infrastructure repairs for water main breaks and maintenance services. The ability to order backfill and resurfacing materials and haul-away services is critical in restoring the road surfaces after water infrastructure back to its original state.

The current purchase order for delivery and haul-away services for backfill and resurfacing materials with Tri-County Transportation will expire on December 31, 2021. Tri-County Transportation has been providing these services since August of 2020.

DISCUSSION

On April 19, 2021, the Purchasing Department on behalf of the Water Division published Request for Bid PW 21-82 for Backfill and Resurfacing Material Sales, Delivery and Haul Away Services. Several potential vendors were directly notified of the RFB as well as being published at www.PublicPurchase.com and the City's Purchasing website. Bid submissions were due by May 13, 2021 with only (1) submission was received from Tri-County Transportation.

Tri-County Transportation meets all required City contractual provisions including possession of a City business tax certificate, insurance certificates and corporate filing with the California Secretary of State.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The total cost for this three-year purchase order with Tri-County Transportation shall not exceed \$270,000. The estimated spending plan in FY 2021-22 is \$45,000 and will be funded from available appropriations in the Water Operating Fund 601 (account 601-6010-843-8104). The cost in subsequent fiscal years for this purchase order will be requested during the annual budget process from the Water Operating Fund.

Tri-County Transportation Spending Plan				
FY 2021-22 Jan - Jun	FY 2022-23 Jul - Jun	FY 2023-24 Jul - Jun	FY 2024-25 July - Dec	TOTAL
\$45,000	\$90,000	\$90,000	45,000	\$270,000

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on July 29, 2021 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Omar Castro, Water Division Manager, Abraham Maldonado, Management Analyst

ATTACHMENTS

1. PO_8226_Tri-County_Transporation



PURCHASE ORDER
CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

**PURCHASE
ORDER NO.
008226**

DATE: 7/20/2021

VENDOR PHONE: (805)432-2092

VENDOR FAX: () -

VENDOR #: 23157

VENDOR ADDRESS: TRI-COUNTY TRANSPORTATION
555 SANDY CIRCLE
OXNARD, CA 93036

SHIP TO: WATER DIVISION
251 S. HAYES AVENUE
OXNARD, CA 93030

Our P.O. # MUST Appear on ALL Invoices, Packages and Correspondence

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
12/31/2024		0000005573	07/12/2021	MIKE MARIETTA	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		60160108438104		EDWIN RAMOS	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

1	DELIVERY OF BACK FILL MATERIAL		
45,000.00 /		1.0000	45,000.00
DL			

RFB 21-82
One responsive Bidder
NTE \$270,000
Expire 12/31/24
PWTC 7/27/27 ITEM 2021-1414
22 00105385 EXP 9/30/21*AM
PWTC 7.27.21

TOTAL PURCHASE AMOUNT

\$45,000.00

In order to receive payment, email all invoices to:
invoices@oxnard.org

In the subject line, reference the Purchase
Order number above.

AUTHORIZED SIGNATURE.

DocuSigned by:

Daniel Willhite

D934F95516344B8...

See to the attached terms and conditions of the City of Oxnard

PURCHASE ORDER

CITY OF OXNARD
300 WEST 3RD STREET
OXNARD, CA 93030

**PURCHASE
ORDER NO.
008226**

DATE: 7/20/2021

VENDOR PHONE: (805)432-2092

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FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		60160108438104		EDWIN RAMOS	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

By acceptance of this purchase order, you agree to the attached terms and conditions of the City of Oxnard

PURCHASE ORDERS
TERMS AND CONDITIONS

The City Purchasing Officer and the Vendor agree as follows:

1. Vendor shall furnish to City the labor, materials, equipment, supplies and/or services described in the Purchase Order preceding this page.
2. City shall pay to Vendor the price, or prices, specified in the Purchase Order upon delivery of the labor, materials, equipment, supplies and/or services, and acceptance thereof by the City Purchasing Officer, or upon the completion of the services to be performed and acceptance thereof.
3. If the Purchase Order is continuing in nature, City shall pay to Vendor the amount due Vendor for labor, materials, equipment or supplies furnished, or services completed and accepted.
4. Vendor shall deliver the labor, materials, equipment or supplies, or cause the services to be performed, within the time and in the manner specified in the Purchase Order. Vendor shall be excused in performance for delays resulting from causes beyond the control of Vendor.
5. If services are performed or labor furnished to City under the Purchase Order, Vendor agrees to indemnify, hold harmless and defend City, its City Council, and each member thereof, and every officer, employee, representative or agent of City, from any and all liability claims, demands, actions, damages (whether in contract or tort, including personal injury, death at any time, or property damage), costs and financial loss, including all costs and expenses and fees of litigation or arbitration, that arise directly or indirectly from any acts or omissions related to this Agreement performed by Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor's behalf. This agreement to indemnify, hold harmless and defend shall apply whether such acts or omissions are the product of active negligence, passive negligence, willfulness or acts for which Vendor or its agents, employees, subcontractors, consultants and other persons acting on Vendor's behalf would be held strictly liable. Vendor's obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability or damages as to which Vendor is obligated to indemnify and hold harmless.
6. Insurance
 - a) Vendor shall obtain and maintain during the performance of any services under this Agreement the following insurance coverage issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverage.
 - i. Commercial general liability insurance, including a contractual liability endorsement, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability coverage (Occurrence Form CG0001ED, November 1988);
 - ii. Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Auto Liability Insurance Services Office coverage (Occurrence Form CA000TED, June 1992) covering Code No. 1, "any auto";
 - iii. Workers' compensation insurance in compliance with the laws of the State of California, including employer's liability insurance in an amount not less than \$1,000,000 per claimant.
7. Vendor, in the performance of any services or the furnishing of any labor under this Purchase Order, shall be considered an independent contractor, and Vendor and Vendor's agents and employees shall not be considered officers or employees of the City.
8. Vendor, without the written consent of the City Purchasing Officer, shall not:
 - a) Assign the Purchase Order, or any interest therein, or any money due thereunder; or
 - b) Make any changes, alterations or variations in the terms of the Purchase Order.
9. The cost of inspection on deliveries, or offers to make deliveries that do not meet specifications, will be paid by Vendor or deducted by City from amounts due Vendor.
10. Vendor shall indemnify and hold harmless City, its officers and employees, from liability, claims, loss or expense of any kind or nature on account of any copyrighted or uncopyrighted composition, patented or unpatented process or invention, article or appliance furnished or used under this Purchase Order.
11. Vendor shall comply with all applicable federal, state and local ordinance, laws and regulations and shall obtain and pay for all required licenses and permits, including a City of Oxnard business license.
12. Return or exchange of materials, equipment or supplies will not be permitted without written approval by the City Purchasing Officer.
13. All materials, supplies and equipment furnished under the Purchase Order shall, where applicable, be in full compliance with the Safety Orders and Regulations of the Division of Industrial Safety of the State of California and the Williams-Steiger Federal Occupational Health and Safety Act of 1970.
14. City may terminate this Purchase Order at any time by giving written notice of termination to Vendor. If termination is for cause, termination shall become effective on the date of the notice or at a later date, specified in the notice. If termination is without cause, termination shall become effective five days after the date of the notice or at a later date specified in the notice.
15. Vendor shall comply with all applicable equal employment opportunity requirements of the California Department of Fair Employment and Housing in performing or contracting for any services under this Purchase Order.
16. For public projects, Vendor shall pay prevailing wages in accordance with Labor Code Sections 1720 et seq.

ADDITIONAL REQUIREMENTS FOR GRANT-FUNDED PROJECTS

17. The following requirements apply to any Purchase Order funded in whole or in part by federal grant funds.
 - a) Upon expiration of the time specified on the reverse side, this Purchase Order shall terminate unless City and Vendor have mutually agreed in writing to an extension of time.
 - b) If legal action is brought by either party because the other has failed to comply with terms or conditions of this Purchase Order, the prevailing party shall be awarded its attorney's fees and costs in addition to its damages and/or equitable relief.
 - c) Vendor shall comply with all applicable requirements of Executive Order 11246 as amended by Executive Order 11375 and the regulations adopted pursuant thereto (41 CFR Chapter 60), which provide that no person shall be discriminated against on the basis of race, color, religion, sex or national origin.
 - d) Vendor shall insure that the grantee (City), the Federal Grantor Agency, the Comptroller General of the United States, or any duly authorized representative, shall have access to any books, records, documents and papers, specifically relating to this Purchase Order, for the purpose of making audit, examination, excerpts and transcriptions for not less than three years after completion of the project and/or until the completion of the final project audit as required by the Federal Grants Agency.



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.4

DATE: September 21, 2021

TO: City Council

FROM: Emilio Ramirez, Housing Director, (805) 385-8094, emilio.ramirez@oxnard.org

SUBJECT: First Amendment with Major Event Trailers for Rental of Mobile Restrooms, Showers, and Laundry Facilities for the K Street Temporary Emergency Shelter.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute a First Amendment with Major Event Trailers (A-8277) to provide the rental of mobile restrooms, showers, and laundry facilities for the Temporary Emergency Shelter at 351 South K Street for an increased amount of \$98,043.59 for a total contract amount \$383,043.59.

BACKGROUND

Since January of 2019, the Housing Department has overseen the establishment and operation of a 110-bed homeless shelter located at 351 South K Street, in the former National Guard Armory. Originally operated by Housing Department staff, the shelter is now operated by Mercy House under an agreement with the City. That agreement runs through June 30, 2022.

The building in which the shelter is located was constructed over sixty years ago and was originally configured and designed for National Guard operations, which at the time were restricted to males only. The restroom and shower facilities in the building are minimal and do not meet current requirements regarding accessibility, and are insufficient in number to serve a client population of over one hundred residents. In addition, the building has no on-site laundry area or facilities.

In order to provide sufficient restrooms and shower facilities for the shelter population, and to establish an on-site facility to meet the operation's laundry needs, the City contracted with Major Event Trailers (MET), which brought in trailer units designed specifically for those purposes. In March of 2020, the City entered into Agreement No. A-8277 with MET, in the amount of \$285,000. Pursuant to that Agreement, MET brought in a 12-station shower trailer, a single-stall ADA-accessible shower trailer, an 8-stall ADA-accessible restroom trailer, and a laundry and dryer trailer.

The impact of the COVID-19 pandemic required dispersal of some of the 110 shelter beds to a second location a block away from the former Armory building, to the Police Activities League (PAL) gymnasium. This required relocation of some clients and staff to the PAL facility, along with increased security. As a result of the move, portable trailer units were needed at the second location, which increased the cost for the set-up and maintenance of the units and the wastewater generated by their usage.

The increased costs through June 30, 2021 amount to \$98,043.59. The First Amendment to Agreement A-8277 has been negotiated to reflect these increased costs. Approval of this amendment will finalize the contractual obligations of the City and MET with respect to the K Street shelter sites. As of July 1, 2021, Mercy House began directly contracting for the provision of portable restrooms and shower facilities.

The amount outstanding includes costs incurred during the prior fiscal year and the intent of this amendment to satisfy

those outstanding invoices. The Agreement will be terminated upon payment. Mercy House has assumed this obligation as of July 1, 2021.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The costs for Agreement No. A-8277 have been borne by Community Development Block Grant (CDBG) funds, from Account No. 285-5347-826.86-05, project 205101 (for regular operations) and from CDBG-CARES Act Account No. 285-5387-804.82-09, project 775567 (for expenses directly attributable to COVID-19). There is sufficient CARES Act budget available (account 285-5367-804.82-09, project 775567) to fund the amendment amount of \$98,043.59.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

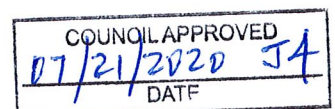
1. A-8227 Major Event Trailers
2. ATTACHMENT 2 - FIRST AMENDMENT TO AGREEMENT NO A-8277

**AGREEMENT FOR TRADE SERVICES
COVER PAGE**

- (1) Agreement Start Date: March 1, 2020
- (2) Vendor: Major Event Trailers
- (3) Services: Vendor to provide mobile restrooms, showers and mobile laundry rental for the Temporary Emergency Shelter on K Street.
- (4) Schedule of Services:
- Vendor to service mobile facilities as per the attached Schedule of Services Exhibit attached
- (5) Agreement Ending Date: 12/31/21
- (6) Total Agreement Amount: \$285,000
- (7) City's Project Manager: Roel Briones
- (8) Vendor's Project Manager: Michael Caputo, CEO
- (9) Insurance Coverage: INS-C
- (10) What wages are required for this Project?
- ☒ Living wage but not prevailing wages, in which case: Section 20(a) through (d) and the Living Wage Policy Exhibit are incorporated and are required; but Section 20(e) and the Prevailing Wage Exhibit are not incorporated and are not required.
- ☐ Prevailing wages but not living wage, in which case: Section 20(e) and the Prevailing Wages Exhibit are incorporated and are required; but Section 20(a) through (d) and the Living Wage Policy Exhibit are not incorporated and are not required.
- ☐ Both living wage and prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are incorporated and required.
- ☐ Neither living wage nor prevailing wages, in which case Section 20, the Living Wage Policy Exhibit, and the Prevailing Wages Exhibit are not incorporated and are not required.
- (11) Addresses for Notice:
- | | |
|--|--|
| <p><i>FOR VENDOR:</i></p> <p>P.O. Box 7114
Ventura, CA 93006
Attn: Michael Caputo, CEO</p> | <p><i>FOR CITY:</i></p> <p>435 S. D Street
Oxnard, CA 93030
Attn: Roel Briones, Grants Manager</p> |
|--|--|
- (12) Contact Emails:
- | | |
|---|---|
| <p><i>VENDOR'S PROJECT MANAGER:</i></p> <p>Majoreventtrailers@gmail.com</p> | <p><i>CITY'S PROJECT MANAGER:</i></p> <p>Roel.briones@oxnard.org</p> |
|---|---|

The Agreement for Trade Services is attached hereto and incorporated herein by this reference. The following exhibits are also attached hereto and incorporated herein by this reference into the Agreement:

- | | |
|---|---|
| <p>☒ Scope of Services Exhibit</p> <p>☒ Rates and Costs Exhibit</p> <p>☒ Schedule of Services Exhibit</p> | <p>☒ Living Wage Policy Exhibit</p> <p>☐ Insurance Exhibit (INS-C)</p> |
|---|---|



AGREEMENT FOR TRADE SERVICES

THIS AGREEMENT FOR TRADE SERVICES ("Agreement") is entered into in Ventura County, California, on the date that is written as "(1) Agreement Start Date" on the Cover Page, which is attached hereto and incorporated herein by this reference. This Agreement is entered by and between the City of Oxnard ("City") and the person or entity listed as "(2) Vendor" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Vendor shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Vendor shall provide the Services during the term of this Agreement, as set forth below, according to the schedule written as "(4) Schedule of Services" on the Cover Page, and as further explained in the Scope of Services Exhibit, which is attached hereto and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and any incorporated document(s), the terms of this Agreement shall control.

2. Term. This Agreement shall begin on the date that is written as "(1) Agreement Start Date" on the Cover Page and shall end on the date that is written as "(5) Agreement Ending Date" on the Cover Page. Time is of the essence in this Agreement.

3. Compensation. For the Services performed during the term of this Agreement, City shall pay Vendor an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in the Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in the Rates and Costs Exhibit shall be in effect through the end of this Agreement unless otherwise stated therein.

4. Invoices. Vendor shall submit a payment request to City by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Each invoice must also list the current balance on the Agreement, including that invoice, as well as the months remaining on the term of the Agreement.

5. Most Favored Nation. Throughout the term of the Agreement, in the event Vendor provides the Services having terms more favorable than this Agreement to any person or entity other than City, Vendor shall notify City within 10 calendar days of signing the other contract, or if there is no other contract, of finalizing that deal or providing any services, whichever occurs first in time. In that notice, Vendor shall offer City to amend this Agreement to reflect such more favorable terms into this Agreement without any contingency to amend any other provision of this Agreement.

6. Acceptance of Payment. Vendor's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Vendor for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Vendor for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Vendor and its employees, agents and subcontractors. Vendor shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Vendor or materials or products provided to City by Vendor, Vendor shall pay the sales tax. City shall not reimburse Vendor for sales taxes paid by Vendor.

7. Non-binding Terms. Any terms and conditions that are typed, printed, or otherwise included in any Vendor invoice rendered pursuant to this Agreement shall be deemed to be solely for the convenience of the parties. No such term or condition shall be binding upon City, and no action by City (including, without limitation, the payment of any such invoice in whole or in part) shall be construed as binding City with respect to any such term or condition, unless the specific term or condition has been previously agreed to by Vendor and City in this Agreement or in a binding amendment thereto.

8. Non-Appropriation of Funds. Payments to be made to Vendor by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the

conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

9. Coordination of Services. The Services shall be coordinated with the person in the position listed in "(7) City's Project Manager" on the Cover Page, subject to the direction of the City Manager or Department Director. Vendor hereby designates the person in the position listed in "(8) Vendor's Project Manager" on the Cover Page as the person responsible for the Services who shall coordinate with City's Project Manager in making binding decisions in line with this Agreement on behalf of Vendor.

10. Personnel. Vendor represents that it has or shall secure at its own expense all personnel required to perform the Services. Vendor shall make reasonable efforts to maintain the continuity of Vendor's staff who are assigned to perform the Services. Vendor may associate with or employ associates or subcontractors in the performance of the Services, but at all times shall Vendor be responsible for its associates and subcontractors' labor, advice or materials provided in furtherance of providing the Services. Should any of Vendor's employees, assigns or subcontractors not conduct him- or herself appropriately, as determined by the City's Project Manager, in the process of providing the Services or any portion thereof, the City's Project Manager may notify the Vendor's Project Manager, who shall immediately handle the problem, as determined appropriate by him or her, such that the problem does not persist.

11. Additional Work. City may request additional specified work under this Agreement. The City's Project Manager must authorize all such work in writing before commencement. Vendor shall perform such work, and City shall pay for such additional work, in accordance with the Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Vendor shall submit a quote for all additional work, which the City's Project Manager must approve in writing by before any such work may commence. The City shall compensate Vendor for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Vendor did not obtain the City's Project Manager's written approval before work commenced, as determined by the City's Project Manager in his or her sole discretion.

12. Advertising and Publicity. Vendor shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

13. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials: used by Vendor in preparing its billings to City as a condition precedent to any payment to Vendor; or for other purposes relating to the Agreement. Vendor will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of \$10,000, the State Auditor may examine and audit Vendor for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Vendor shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Vendor shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Vendor shall include a copy of this Section in all contracts with its subcontractors, and Vendor shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

14. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 15 calendar days from the date of the notice. Vendor may terminate this Agreement at any time, with or without cause and without penalty, upon 30 calendar days' prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 30 calendar days from the date of notice and only if all assignments accepted by Vendor have been completed before the date of termination. In the event of termination of this Agreement by either party due to no fault or failure of performance by Vendor, City shall pay Vendor compensation for all Services satisfactorily completed in accordance with all of the terms and provisions of this Agreement, as determined by the City, before the effective date of termination; provided, in no event shall the Vendor receive an amount exceeding that which would have been paid to Vendor for

the full performance of the Services. If City pays for any materials, City shall be entitled to the title and possession of such.

15. Hold Harmless, Defense and Indemnity.

To the fullest extent permitted by law, Vendor shall immediately defend, indemnify, and hold harmless City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (the "Indemnitees") from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Vendor's performance of this Agreement or Vendor's failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Vendor's obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section 15 are the result of the sole active negligence or sole willful misconduct of any of the Indemnitees.

a. The duty to defend is a separate and distinct obligation from Vendor's duty to indemnify. Vendor shall be obligated to defend in all legal, equitable, administrative, or special proceedings with counsel approved by the City Attorney immediately upon tender to Vendor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by any of the Indemnitees shall not relieve Vendor from its separate and distinct obligation to defend the Indemnitees. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if Vendor asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnitees. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of any of the Indemnitees, Vendor may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

b. The review, acceptance or approval of Vendor's work or work product by any of the Indemnitees shall not affect, relieve or reduce Vendor's indemnification or defense obligations. This Section 15 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 15 shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

16. Insurance. Vendor shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within the insurance document stated in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit, which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Vendor obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Vendor shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit. Maintenance of insurance coverages by Vendor is a material element of this Agreement. Vendor's failure to maintain or renew insurance coverages or to provide renewal evidence may be considered a material breach of this Agreement.

17. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Vendor pursuant to this Agreement ("Documents and Materials") shall be the property without restriction or limitation upon its use, duplication or dissemination by the City. All Documents and Materials shall be considered "works made for hire," and all Documents and Materials and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of the City without restriction or limitation upon their use, duplication or dissemination by the City. Vendor shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Vendor hereby assigns to the City all ownership and any and all intellectual property rights to the Documents and Materials that are not otherwise vested in the City pursuant to this Section 17.

b. Vendor shall deliver all Documents and Materials to City's Project Manager upon completion of the

Services or termination of this Agreement without additional cost or expense to the City. Additionally, anytime at City's request, City shall be entitled to possession of, and Vendor shall furnish to City's Project Manager within 10 calendar days, any or all of the Documents and Materials without additional cost or expense to the City. In both situations, if Vendor prepares Documents and Materials on a computer, Vendor shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Vendor may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

c. Any substantive modification of the Documents and Materials by City staff or any use of the completed Documents and Materials for other City projects, or any use of uncompleted Documents and Materials, without the written consent of Vendor, shall be at City's sole risk and without liability or legal exposure to Vendor.

d. Vendor warrants and represents that it has secured all necessary licenses, consents or approvals to use any instrumentality, thing or component as to which any intellectual property right exists, including computer software, used in the rendering of the Services and the production of all Documents and Materials, and that the City has full legal title to and the right to use, duplicate or disseminate the Documents and Materials. Vendor shall defend, indemnify and hold Indemnitees harmless from any loss, claim or liability in any way related to a claim that City's use of any of the Documents and Materials is violating federal, state or local laws, any contractual provisions, or any laws relating to trade names, licenses, franchises, copyrights, patents or other means of protecting intellectual property rights and/or interests in products or inventions. Vendor shall bear all costs arising from the use of patented, copyrighted, trade secret or trademarked documents, materials, equipment, devices or processes in connection with its provision of the services and Documents and Materials. In the event the use of any of the Documents and Materials by the City is held to constitute an infringement and the use of any of the same is enjoined, Vendor, at its own expense, shall: secure for City the right to continue using the Documents and Materials by suspension of any injunction, or by procuring a license or licenses for City; or modify the Documents and Materials so that they become non-infringing while remaining in compliance with the requirements of this Agreement.

e. This Section 17 shall survive the termination of this Agreement.

18. Confidentiality of Information.

a. For the purposes of this Agreement, "Confidential Information" means all information, in whatever form transmitted, relating to the past, present or future business affairs of the City, including without limitation, (i) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, models, inventions, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulas; or (ii) non-technical information, including without limitation finances, financial and accounting data and information, suppliers, customers, customer lists, purchasing data and any other information belonging to the City or to a third party whose information is in the City's possession or control under obligations of confidentiality, and which is disclosed to Vendor or is developed by Vendor in whole or in part at the City's expense.

b. All Documents and Materials shall be considered Confidential Information and shall not be reproduced, transmitted, disclosed or used by the Vendor without the written consent of the City, except as may be necessary for Vendor to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Vendor at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Vendor, (ii) is communicated to a third party with the express written consent of City and is not subject to restrictions on further use or disclosure, (iii) is independently developed by Vendor and has no relation to this Agreement, or (iv) is required by law, court order, court-issued subpoena or other legal process to be disclosed; provided, however, that before making such disclosure, Vendor shall immediately provide City with written notice and a reasonable opportunity for City to object to the disclosure or to take action to maintain the confidentiality of the information, unless such prior disclosure is legally impermissible.

d. Vendor shall use reasonable care to protect the Confidential Information. In the event of a breach or threatened breach of this Agreement, City shall be entitled to obtain an injunction prohibiting any such breach, the costs of which shall be paid by Vendor. Any relief granted shall be in addition to and not in lieu of any other legal or equitable relief, including money damages. The parties acknowledge that Confidential Information is valuable and unique and that disclosure of the Confidential Information in breach of this Agreement may result in irreparable injury to the City.

e. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Vendor in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 18 shall survive the termination of this Agreement.

19. Independent Contractor. Vendor is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Vendor or any of its employees, except as stated in this Agreement. Vendor has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Vendor, and it is free to dispose of all portions of its time which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as Vendor wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Vendor from rendering any services for Vendor's own account or to any other person or entity as Vendor in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Vendor shall perform for the City. Except as City's Project Manager specifies in writing, Vendor and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Vendor and its employees are not employees of City. Vendor and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Vendor shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Vendor agrees to pay all required taxes on amounts paid to Vendor under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Vendor shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Vendor's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to Vendor under this Agreement any amount due to City from Vendor as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

20. Wages. If the first option is selected in response to (10) on the Cover Page and, thus, the payment of living wage is required, only this paragraph and subsections (a) through (d) of this Section 20 shall apply. If the second option is selected in response to (10) on the Cover Page and, thus, the payment of prevailing wages (and related Labor Code provisions) is required, only this paragraph and subsection (e) of this Section 20 shall apply. If the third option is selected in response to (10) on the Cover Page and, thus, both the payment of living wage and prevailing wages (and related Labor Code provisions) is required, this paragraph and subsections (a) through (e) shall apply, meaning Vendor shall compensate all of its employees providing services to City in accordance with both the City's Living Wage Policy and State-required prevailing wages. In the event of a conflict between the City's Living Wage Policy and State-required prevailing wages, the higher of the two shall prevail. If the fourth option is selected in response to (10) on the Cover Page and, thus, neither the payment of living wage nor prevailing wages (and related Labor Code provisions) is required, no part of this Section 20 shall apply.

If either the first or third option is selected in response to (10) on the Cover Page, Vendor shall compensate any employee of Vendor who provides Services to the City under this Agreement in accordance with the Living Wage Policy Exhibit, which is attached hereto and incorporated herein by this reference. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.19 per hour for each hour that such

employee provides services under this Agreement. This hourly rate shall be adjusted on July 1, 2020, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002, and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. If either the second or third option is selected in response to (10) on the Cover Page, in accordance with Labor Code Section 1770 *et seq.*, the Project is a "public work." The Vendor shall pay wages in accordance with the determination of the Director of the Department of Industrial Relations ("DIR") regarding the prevailing rate of per diem wages. Copies of those rates are on file with the Public Works Director and are available to any interested party upon request. The Vendor shall post a copy of the DIR's determination of the prevailing rate of per diem wages at the job site. The Vendor shall comply with all provisions of the Prevailing Wage Exhibit, which is attached hereto and incorporated herein by this reference.

21. Nondiscriminatory Employment. Vendor shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Vendor understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Vendor shall be responsible for such subcontractor's compliance with this Section.

22. Vendor's Representations. Vendor represents, covenants and guarantees that: a) Vendor is licensed, qualified, and capable of furnishing the labor, materials, and expertise necessary to perform the Services in accordance with the terms and conditions set forth in this Agreement; b) there are no obligations, commitments, or impediments of any kind that will limit or prevent Vendor's full performance under this Agreement; c) to the extent required by the standard of practice, Vendor has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

23. Compliance with Laws. In performing the Services under this Agreement, Vendor shall comply with all applicable laws, ordinances and regulations. Before performing the Services under this Agreement, Vendor shall obtain all required licenses and permits, including a City business tax certificate.

24. Conflict of Interest. If, in performing the Services set forth in this Agreement, Vendor makes, or participates in, a "governmental decision" as described in Title 2, Section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Vendor shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Vendor's personnel providing the Services set forth in this Agreement. Furthermore, Vendor shall not to accept any employment or representation during the term of this Agreement or within 12 months after completion of the Services which is or may likely make Vendor "financially

interested,” as provided in California Government Code Sections 1090 and 87100, in any decisions made by City on any matter in connection with which Vendor has been retained pursuant to this Agreement.

25. Fictitious Name. If Vendor has a fictitious name, Vendor shall submit to City a new Fictitious Business Name Statement approved by any California county before Vendor’s prior Fictitious Business Name Statement expires if such expiration may occur during the term of this Agreement, including any term amendment.

26. Non-Assignability. Vendor shall not assign or transfer any interest in this Agreement or any part thereof, whether by assignment or novation, without City’s prior written consent, which may be withheld for any reason or for no reason at all. Any purported assignment without written consent shall be null, void, and of no effect, and Vendor shall hold harmless, defend and indemnify Indemnitees regarding all Claims arising from or relating to any unauthorized assignment.

27. Protection of Services. Vendor shall continuously maintain adequate protection of all of Vendor’s work from damage and shall protect the City’s property from any and all injury or loss arising in connection with this Agreement. Vendor shall take all necessary precaution for the safety of employees on the job and shall comply with all applicable provisions of federal, State and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to any premises where the Services are being performed.

28. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Vendor.

29. Applicable Law; Venue. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California’s choice of law rules. Venue for any such action relating to the Agreement shall be in the Ventura County Superior Court.

30. Titles. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

31. Force Majeure. Neither City nor Vendor shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not be limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters.

32. Authority. Any person executing this Agreement on behalf of Vendor warrants and represents that s/he has the authority to execute this Agreement on behalf of Vendor and to bind it to the performance of these obligations.

33. Binding Agreement. The parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.

34. Cumulative Remedies. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

35. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Vendor regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

36. Construction. In the event of any asserted ambiguity in or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of construction providing for interpretation against the party who causes the uncertainty to exist or who drafted the Agreement in whole or in part.

37. No Waiver. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the

making by City of any payment to Vendor constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of Vendor, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

38. Attorneys' Fees. The prevailing party shall be entitled to recover reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees and expert witness fees, in addition to any other relieve to which that party may be entitled, in any legal action or other proceeding, including an action for declaratory relief, for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement.

39. Notice. Except as otherwise required by law, a notice or communication authorized or required by this Agreement shall be in writing and shall be deemed received—on (a) the day of delivery if delivered by hand or overnight courier service during City's regular business hours or (b) on the third business day following deposit in the United States mail, postage prepaid—to the addresses listed as "(11) Addresses for Notice" on the Cover Page or to such other address as one party may notify the other in writing.

40. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email to either of City or Vendor's Project Managers' emails listed in "(12) Contact Emails" on the Cover Page or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

41. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date that is written as "(1) Agreement Start Date" on the Cover Page.

CITY OF OXNARD

MAJOR EVENT TRAILERS

Tim Flynn 7/28/20

- ☒ Tim Flynn, Mayor
☐ Alexander Nguyen, City Manager
☐ Daniel Wilhitte, Purchasing Manager
☐ Patricia Garcia, Buyer

Michael Caputo, CEO

Date

ATTEST:

Michelle Ascencion 7/28/20

Michelle Ascencion, City
Clerk (only if Mayor signs)

APPROVED AS TO FORM:

Stephen M. Fischer 6/29/20

Stephen M. Fischer, City
Attorney (always required)

1 The City Council must authorize and the Mayor must sign any agreement over \$200,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign any agreement up to \$100,000 annually. A Buyer may authorize and sign any agreement up to \$25,000 annually.

1 The City Council must authorize and the Mayor must sign any agreement over \$200,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign any agreement up to \$100,000 annually. A Buyer may authorize and sign any agreement up to \$25,000 annually.

RATES AND COSTS EXHIBIT

Rental fees for the Oxnard Homeless Shelter located at 351 South K Street, Oxnard

Oxnard Homeless Camp (Armory Shelter)	No. of units serviced per week	Monthly Rate
Shower Trailer 12-station	1	\$ 5,100.00
Shower Trailer ADA Single Stall	1	\$ 3,400.00
ADA 8-Stall Restroom Trailer	1	\$ 3,800.00
Laundry Trailer (8) washer (8) dryer	1	\$ 4,000.00
Fencing (annual billing) coverage for 10/11/19 – 10/10/20 *next billing cycle starts 10/11/20 – 10/10/21	1	\$ 1,963.00

Total cost for services provided is not to exceed **\$285,000** for the term of this agreement.

Warranty maintenance is covered by Major Event Trailers. Outside of the expenses listed above we will only bill additional charges for damages made to trailers.

INSURANCE EXHIBIT

**INSURANCE REQUIREMENTS FOR SMALL/MEDIUM CONSTRUCTION AND SERVICES CONTRACTS
(WITH BUILDER'S RISK REQUIREMENT)**

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001) If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors having less than \$500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.

e. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-C. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. _____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-C or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY

LETTER A

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY

LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG. \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance				Minimum coverage \$1,000,000 Each consultant/ & listed sub-consultant \$500,000 Course of Construction Completed Value of Project

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD**Attn: Insurance Compliance****Reference No. _____****P.O. Box 100085 – OX****Duluth, GA 30096****Via Email: cityofoxnard@ebix.com****Via Fax: 678-259-1007**

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

LIVING WAGE POLICY EXHIBIT

The Living Wage Policy of the City of Oxnard is hereby adopted by the City Council on July 9, 2002 to be effective October 1, 2002.

1. Pursuant to this Living Wage Policy, Vendor shall pay those employees who provide services to the City under contract:
 - (a) Effective October 1, 2002, at least \$9.00 an hour for the time during which the employee is providing services to the City;
 - (b) Effective July 1, 2003, at least \$9.25 an hour for the time during which the employee is providing services to the City and 32 hours of paid leave per every calendar year in which an employee provides services to the City;
 - (c) Effective July 1, 2004, at least \$10.59 an hour for the time during which the employee is providing services to the City and 64 hours of paid leave per every calendar year in which an employee provides services to the City; and
 - (d) Effective July 1, 2005, at least \$12.22 an hour for the time during which the employee is providing services to the City and 96 hours of paid leave per every calendar year in which an employee provides services to the City.
2. The hourly rates established in Section 1 shall be adjusted July 1, 2006 and, each July 1 thereafter, according to the percentage change since July 1, 2005 in the Consumer Price Index prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers.
3. A service contractor executing a service contract with the City for which the City will pay the contractor \$25,000 or more during the contract term shall be subject to the Living Wage Policy.
4. A service contractor executing more than one service contract with the City, and the combined monetary total of the payments by the City pursuant to such contracts is \$25,000 or more for the combined contract terms shall be subject to the Living Wage Policy.
5. This Living Wage Policy shall not govern the following types of contracts for: (a) the purchase, rental or lease of goods, products, equipment, supplies or other personal property; (b) public works projects as defined in State or local law; and (c) professional services.
6. This Living Wage Policy shall not govern the following service contractors: (a) nonprofit entities organized under IRS Code section 501(c)(3); (b) public entities such as cities, counties, special districts, states and the federal government; and (c) businesses employing fewer than five persons.
7. The City Attorney is directed to include in all standard trade services contracts and all contracts involving unique trade services, the language set forth in **Exhibit 1** attached hereto and incorporated herein by this reference.
8. If Vendor fails to comply with this Living Wage Policy, the City Manager is directed to terminate the subject service contract immediately and to impose appropriate fines and penalties as set forth in the service contract.
9. The City Manager and the City Attorney are responsible for the administration and enforcement, respectively, of the Living Wage Policy. If an employee of a service contractor governed by the Living Wage Policy concludes that he/she has been retaliated against for the exercise of rights under the Living Wage Policy, the employee should contact the City Manager at 385-7430.
10. The City Manager shall reasonably cooperate with representatives of the Ventura County Living Wage Coalition to ensure the effective administration and enforcement of the Living Wage Policy.
11. This Living Wage Policy may be changed only by City Council and only after a duly noticed public hearing.
12. The City Manager is directed to ensure that the City Council will review the Living Wage Policy as part of the FY 2003-2004/05 budget process.

Exhibit 1

Living Wage Policy

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard trade services contracts and all unique trade services contracts governed by the Living Wage Policy.

- A. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Vendor shall pay such employee no less than \$16.19 per hour for each hour that such employee provides services under this Agreement. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.
- B. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.
- C. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.
- D. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

**CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2019**

42. Vendor shall compensate any employee of Vendor who provides services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit 1. While this Agreement is in effect, Vendor shall pay such employee no less than **\$16.19 per hour** for each hour that such employee provides services under this Agreement. **This hourly rate shall be adjusted on July 1, 2020, and each July 1 thereafter, according to the percentage change in the Consumer Price Index**, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Vendor shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Vendor agrees to post, at a location readily accessible to those employees providing services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Vendor fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Vendor, effective immediately.

c. In addition, if Vendor fails to comply with the Living Wage Policy in any manner, Vendor shall pay to City a fine of \$500 and shall pay to any employee providing services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Vendor shall pay such fine and penalty within 15 days after the City Manager or designee provides written notice to Vendor of the amount owed.

d. The foregoing requirements are restated on page 5 of the Agreement for Trade Services.

PREVAILING WAGES EXHIBIT

1. Vendor acknowledges that the Project defined in the Agreement between Vendor and City is a “public work” as defined in Division 2, Part 7, Chapter 1 of the California Labor Code (“Chapter 1”), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations (“DIR”) implementing such statutes. Vendor shall perform the Project as a public work. Vendor shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR’s rules and regulations as though set forth in full herein.
2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Vendor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Vendor shall post such rates at each job site covered by this Agreement.
3. Vendor is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).
4. Vendor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Vendor shall, as a penalty to City, forfeit not more than \$200 for each calendar day or portion thereof for each worker paid less than the DIR’s determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Vendor or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.
5. Vendor shall comply with Labor Code Section 1776, which requires Vendor and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.
6. Vendor shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Vendor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Vendor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.
7. Vendor may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Vendor must immediately notify City.
8. Vendor is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Vendor shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of \$25,000 or less or to maintenance work of \$15,000 or less.
9. Vendor acknowledges that 8 hours labor constitutes a legal day’s work. Vendor shall comply with and be bound by Labor Code Section 1810.
10. Vendor shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Vendor shall, as a penalty to City, forfeit \$25 for each worker employed in the performance of this Agreement by Vendor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Vendor’s employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.
11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.
12. Vendor shall be responsible for each and every one of its subcontractors’ compliance with Chapter 1, the DIR’s rules and regulations, and Labor Code Sections 1860 and 3700. Vendor shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Vendor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors’ compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Vendor shall diligently take corrective action to halt or rectify any failure.
13. To the maximum extent, Vendor shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Vendor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys’ fees and other related costs. All duties of Vendor under this Section shall survive Agreement termination.

FIRST AMENDMENT TO AGREEMENT FOR TRADE SERVICES

This First Amendment ("Amendment") to the Agreement for Trade Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 8th day of July, 2021, by and between the City of Oxnard, a municipal corporation ("City"), and Major Event Trailers ("Vendor"). This First Amendment amends the Agreement entered into on March 1, 2020, by City and Vendor.

City and Vendor agree as follows:

1. The "Total Agreement Amount" in Section 6 of the Cover Page of the Agreement is hereby amended to now read "Not to exceed \$383,043.59".
2. The "Rates and Costs Exhibit" is hereby amended as follows: The complete sentence under the table shall now read "Total cost for services provided is not to exceed \$383,043.59 for the term of this agreement."

As so amended, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

MAJOR EVENT TRAILERS

John C. Zaragoza, Mayor Date

Michael Caputo, Chief Executive Officer Date

ATTEST:

Rose Chaparro, City Clerk Date

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney Date



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.5

DATE: September 21, 2021

TO: City Council

FROM: Brian Yanez, Acting Public Works Director, (805) 200-5412, brian.yanez@oxnard.org

SUBJECT: Additional Budget Appropriation for Civic Annex 3rd Floor Tenant Improvement Project PW 20-21R.

RECOMMENDATION

That the City Council approve and authorize the City Manager to approve a budget re-appropriation in the amount of \$175,000 from General Fund contingency to the General Fund Capital Outlay Fund 301 for the Civic Annex 3rd Floor Tenant Improvement Project PW 20-21R (Project No. 171601).

BACKGROUND

The third floor of 300 West Third Street (the Civic Annex) is currently being renovated to provide a safe and effective working space for the Finance Department's General Accounting, Budget, Purchasing, and Administration divisions. The finished project will establish an open concept floor space that addresses security concerns, heating, ventilation and air-conditioning (HVAC) improvements, and new paint and flooring. In addition, the existing restrooms will be updated to meet current plumbing standards and Americans with Disabilities Act (ADA) code compliance requirements.

This Civic Annex 3rd Floor Tenant Improvement Project (Project) had been designed and bid out on three (3) separate occasions due to project scope modifications and budget constraints. Ultimately, the project was awarded to SBS Corporation on April 6, 2021, in the amount of \$545,964.57. The total cost for this phase of the Project was \$655,156.57 which included the construction agreement, project contingency (10% of the contract costs) as well as engineering services and City staff resources (10% of the contract cost) to perform engineering oversight, inspection, and project management during construction. Construction began on May 17, 2021 and was anticipated to be completed by September 24, 2021.

Capital Improvement Program (CIP) Reference:

Project No. 171601 - Civic Center 3rd Floor Improvement Project - CIP 2021-2026 - Adopted May 18, 2021 - Page 44.

DISCUSSION

During construction, several unforeseen building deficiencies were discovered with the potential of creating an unsafe working environment if left unattended. While some of these issues have been able to be addressed using the existing project contingency, additional funds are required to address the remaining issues and complete the tenant improvement project. The largest item remaining is the replacement of the ceiling system and associated electrical and lighting improvements.

Following demolition of the non-structural interior walls, the City was made aware of the existing inadequate ceiling system. Instead of acting as a separate suspended acoustic ceiling system as required by building code, it was discovered that the ceiling was being supported by the interior walls. This method is not only non-compliant with the current building code, but potentially hazardous during a seismic event. In addition, it was discovered that the existing electrical

wiring system and overhead lights sit directly on the acoustic tile ceiling, which is also non-compliant and creates an unsafe building condition and potential fire hazard.

City staff investigated the possibility of repairing the ceiling system in select areas only. However, large portions of the ceiling were beyond repair or collapsing during construction activities. Therefore, staff recommends a complete removal and replacement of the ceiling and lighting systems and modifications to the electrical system to bring everything up to date with the current building and seismic safety code standards. The difference in cost between repairing the ceiling or removing and replacing is approximately 20%. In order to expedite the construction process, SBS Corporation has agreed to proceed with the extra work at-risk in anticipation of City Council approval of additional funds. Staff recommends City Council allocate additional funds in the amount of \$175,000 to be added to the Project to complete the work.

This staff report includes photographs of the existing workspace, including the existing ceiling system (Attachment 2).

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The total cost for this phase of the Project was \$655,156.57 which includes the construction agreement, Project contingency and Project allocation. A budget re-appropriation in the total amount of \$175,000 is required from General Fund Non-Department contingency for Civic Center 3rd Floor Improvement Project 171601 within the General Fund Capital Outlay Fund 301, which would cover the remaining cost needed to replace the ceiling system and update the lighting and electrical systems. After the budget re-appropriation, the new total cost for this phase of the Project will be \$830,156.57.

COMMITTEE OUTCOME

This item did not originate in Committee, as this is a capital improvement project specifically listed in the City's Capital Improvement Program.

Prepared by: Tatiana Arnaout, City Engineer

ATTACHMENTS

1. Budget Appropriation
2. Project Images
3. A-8314 SBS Corporation

REQUEST FOR BUDGET APPROPRIATION

Department: Public Works/Engineering
Project/Program
Manager: Omar Ortiz

Date: September 21, 2021
Phone: (805)276-7470

Reason for Appropriation:

Re-appropriation in the total amount of \$175,000 from General Fund Non-Department contingency to the Civic Center 3rd Floor Improvement Project 171601 / Capital Outlay Fund 301, which would cover the remaining cost needed to replace the ceiling system and update the lighting and electrical systems.

Accounts and Descriptions

AMOUNT

Fund: GENERAL FUND (101)

Expenditures/Transfers Out

NONDEPARTMENTAL (1001 & 1002)

101-1001-801.88-02	FOR CONTINGENCIES	(175,000)
101-1002-808.87-12	TSFR TO CAPITAL OUTLAY FD	175,000
	Sub-total Expenditures	0

Net Change to Fund Balance 0

Fund: CAPITAL OUTLAY FUND (301)

Revenues/Transfers In

CIVIC ANNEX 3RD FLOOR TI

301-1600-711.79.01	TRANSFERS FR. GENERAL FUND	175,000
	Sub-total Revenues	175,000

Expenditures/Transfers Out

CIVIC ANNEX 3RD FLOOR TI (PROJECT 171601)

301-1600-826.83-01	MTNCE SVC - BLDG & IMPROV	175,000
	Sub-total Expenditures	175,000

Net Change to Fund Balance 0

Net Appropriation Change 175,000

Approvals

Department Director _____

Chief Financial Officer _____

City Manager _____

REQUIRES CITY COUNCIL AUTHORIZATION

BA# (Finance Use Only) _____
BA Doc# (Finance Use Only) _____
Revised : 2/23/2012









CONTRACT

**CITY OF OXNARD CONTRACT FOR
CIVIC ANNEX 3RD FLOOR TENANT IMPROVEMENT PROJECT (REBID)
SPECIFICATION NO. PW 20-21R**

THIS CONTRACT ("Contract") is made and entered this 6th day of April, 2021 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and SBS CORPORATION ("Contractor"). Contractor's license number is 742782.

In consideration of the covenants set forth herein, the parties hereto agree as follows:

1. Incorporation. The Contract consists of all Contract Documents, which shall include the Notice Inviting Bids, Instructions to Bidders, General Provisions, Special Provisions, Plans, Standard Plans, Greenbook, Reference Specifications, Bid (including documentation accompanying the Bid and post-Bid documentation submitted before the notice of award), insurance documentation, Bonds, the City business license, permits from regulatory agencies, Addenda, Change Orders and Supplemental Agreements. These documents are incorporated herein by reference.
2. Scope of Services. Contractor shall perform the Work in a good and workmanlike manner for the project identified as Civic Annex 3rd Floor Tenant Improvement Project Rebid Specification No. PW 20-21R ("Project"), as described in this Contract and in the incorporated Contract Documents.
3. Compensation. In consideration of the services rendered hereunder, City shall pay Contractor a not to exceed amount of five hundred forty five thousand nine hundred sixty four dollars and fifty seven cents (\$545,964.57) in accordance with the prices as submitted in the Bid, attached hereto as Exhibit "A" and incorporated herein by this reference.
4. Antitrust Claims. In entering into this Contract, Contractor assigns to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business and Professions Code Section 16700 *et seq.*) arising from purchases of goods, services, or materials pursuant to the Contract. This assignment shall be made and become effective at the time City tenders final payment to Contractor without further acknowledgment by the parties.
5. Prevailing Wages. City and Contractor acknowledge that the Project is a public work to which prevailing wages apply. Copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Project are on file with the Project Coordinator at City Hall and will be made available to any interested party on request. Contractor and all Subcontractors are not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless registered and qualified to perform public work pursuant to Labor Code Section 1725.5 at the time of Bid submission.
6. Workers' Compensation. Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of Labor Code Section 1861, by signing this Contract, the Contractor certifies as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance

in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract.”

7. Titles. The titles used in this Contract are for convenience only and shall in no way define, limit or describe the scope or intent of this Contract or any part of it.

8. Authority. Any person executing this Contract on behalf of Contractor warrants and represents that he or she has the authority to execute this Contract on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

9. Entire Agreement. This Contract, including all incorporated documents, constitutes the entire agreement between the parties hereto with respect to the Project, and supersedes all previous agreements, promises, proposals, representations, understandings and negotiations, whether written or oral, between the parties regarding the subject matter.

10. Amendment. No Contract modification, amendment or supplement to this Contract other than Change Orders will be binding unless written and signed by the parties’ duly authorized representatives.

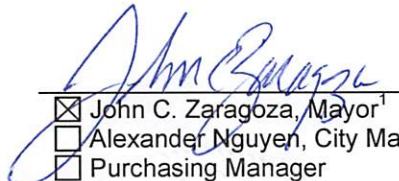
11. Counterparts. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A signed copy of this Contract transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract for all purposes.

[signatures on following page]

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the first written above.

CITY OF OXNARD

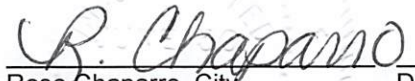
SBS CORPORATION

 4-6-21
☒ John C. Zaragoza, Mayor¹ Date
☐ Alexander Nguyen, City Manager
☒ Purchasing Manager
☐ [name], Buyer

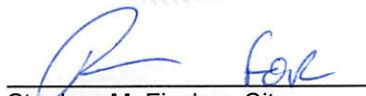
 David Alatorre, President² Date

 Cheryl Alatorre, Secretary Date

ATTEST:

 4/6/21
 Rose Chaparro, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

 8/16/21
 Stephen M. Fischer, City Attorney (always required) Date

¹ The City Council must authorize and the Mayor must sign any agreement over \$200,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign any agreement up to \$100,000 annually. A Buyer may authorize and sign any agreement up to \$25,000 annually.

² The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the first written above.

CITY OF OXNARD

☒ John C. Zaragoza, Mayor¹ _____ Date _____
☐ Alexander Nguyen, City Manager
☐ Purchasing Manager
☐ [name], Buyer

ATTEST:

Rose Chaparro, City Clerk (only if Mayor signs) Date _____

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney (always required) Date _____

SBS CORPORATION

 _____ Date 4/16/21
David Alatorre, President²

 _____ Date 4/16/21
Cheryl Alatorre, Secretary

¹ The City Council must authorize and the Mayor must sign any agreement over \$200,000 annually. The City Manager may authorize and sign any agreement over \$100,000 but up to \$200,000 annually. The Purchasing Manager may authorize and sign any agreement up to \$100,000 annually. A Buyer may authorize and sign any agreement up to \$25,000 annually.

² The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

CALIFORNIA JURAT CERTIFICATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

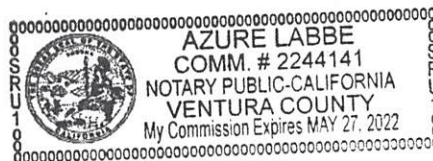
State of California

County of VENTURA

Subscribed and sworn to (or affirmed) before me on this 16TH day of APRIL
20 21, by DAVID ALATORRE AND CHERYL ALATORRE
proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

WITNESS MY HAND AND OFFICIAL SEAL.


Signature of Notary Public



(Notary Seal)

OPTIONAL INFORMATION

The jurat contained within this document is in accordance with California law. Any affidavit subscribed and sworn to before a notary shall use the preceding wording or substantially similar wording pursuant to Civil Code sections 1189 and 8202. A jurat certificate cannot be affixed to a document sent by mail or otherwise delivered to a notary public, including electronic means, whereby the signer did not personally appear before the notary public, even if the signer is known by the notary public. The seal and signature cannot be affixed to a document without the correct notarial wording. As an additional option an affiant can produce an affidavit on the same document as the notarial certificate wording to eliminate the use of additional documentation.

DESCRIPTION OF ATTACHED DOCUMENT

CONTRACT AGREEMENT NO.
A-8314
(Title of document)
Number of Pages _____ (Including jurat)
Document Date 04/16/2021

(Additional Information)

CAPACITY CLAIMED BY SIGNER

Individual

Corporate Officer

Partner

Attorney-In-Fact

Trustee

Other: _____

**Exhibit INS-E
INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS
(WITH BUILDER'S RISK REQUIREMENT)**

1 Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

2.1 Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;

2.2 Business Automobile Liability Insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

2.3 If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than \$1,000,000, with neither Contractor nor listed subcontractors having less than \$500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one-year extended reporting period, or longer upon request.

2.4 Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.

2.5 Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than \$1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2 Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-E. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. A-8314
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

3 Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4 Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-E or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5 The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6 Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7 All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

ACORD CERTIFICATE OF INSURANCE

ISSUE

DATE

(MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE

SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY
LETTER A

SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY
LETTER B**COVERAGES**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS MADE ☒ OCCUR ☒ OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$2,000,000 PRODUCTS COMP/OP AGG. \$2,000,000 PERSONAL & ADV. INJURY \$2,000,000 EACH OCCURRENCE \$2,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant Course of Construction Completed Value of Project

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No A-8314
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

**GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")**

SUBMIT IN DUPLICATE

ENDORSEMENT NO. _____ ISSUE DATE (MM/DD/YY) _____

PRODUCER

POLICY INFORMATION:

Insurance Company: _____
Policy No.: _____ (to)
Policy Period: (from) _____
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

Telephone: _____

NAMED INSURED

☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____
with an Aggregate of \$ _____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

TYPE OF INSURANCE

CITY AGREEMENTS/PERMITS

GENERAL LIABILITY

- ☐ COMMERCIAL GENERAL LIABILITY
☐ COMPREHENSIVE GENERAL LIABILITY
☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made
Retroactive Date _____
☐ Occurrence

OTHER PROVISIONS

COVERAGES

LIABILITY LIMITS IN THOUSANDS \$

EACH
OCCURRENCE

AGGREGATE

- ☐ GENERAL
☐ PRODUCTS/COMPLETED OPERATIONS
☐ PERSONAL & ADVERTISING INJURY
☐ FIRE DAMAGE
☐ _____
☐ _____

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:

Name: _____
Address: _____
Telephone: () _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

- 1. INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- 2. CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- 3. SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- 4. CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- 5. PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- 6. SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No A-8314

P.O. Box 100085 – OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: () _____ Date Signed _____

**AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")****SUBMIT IN DUPLICATE**

ENDORSEMENT NO. _____

ISSUE DATE (MM/DD/YY) _____

PRODUCER

Telephone: _____

NAMED INSURED

POLICY INFORMATION:

Insurance Company: _____

Policy No.: _____

Policy Period: (from) _____ (to) _____

LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits☐ Deductible ☐ Self-Insured Retention (check which) of \$ _____
with an Aggregate of \$ _____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which) _____**APPLICABILITY.** This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS _____

TYPE OF INSURANCE☐ COMMERCIAL AUTO POLICY☐ BUSINESS AUTO POLICY☐ OTHER**OTHER PROVISIONS****LIMIT OF LIABILITY**

\$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____

Address: _____

Telephone: () _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:

a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or

b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD

Attn: Insurance Compliance

Reference No A-8314

P.O. Box 100085 - OX

Duluth, GA 30096

Via Email: cityofoxnard@ebix.com

Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE☐ Broker/Agent ☐ Underwriter ☐ _____

I, _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

(original signature required)

Telephone: () _____ Date Signed _____

Bond No. _____

PAYMENT BOND
(LABOR AND MATERIALS)

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to _____

("Principal")

(Name and address of Contractor)

a contract (the "Contract") for the Work described as CIVIC ANNEX 3RD FLOOR TENANT IMPROVEMENT PROJECT (REBID) SPECIFICATION NO. PW 20-21R.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of _____ Dollars (\$_____), this amount being not less than a hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to

Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to _____

(“Principal”)

(Name and address of Contractor)

a contract (the "Contract") for the Work described as CIVIC ANNEX 3RD FLOOR TENANT IMPROVEMENT PROJECT (REBID) SPECIFICATION NO. PW 20-21R.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____

(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____
 ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are
 held and firmly bound unto the Agency in the penal sum of _____

_____ Dollars (\$_____), this amount being not less than a hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void one (1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the

Specifications. Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

“Principal”

“Surety”

By: _____

By: _____

Its: _____

Its: _____

By: _____

By: _____

Its: _____

Its: _____

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

CITY OF OXNARD

**BID SHEETS FOR CIVIC ANNEX 3RD FLOOR TENANT IMPROVEMENT PROJECT (REBID)
SPECIFICATION NO. PW 20-21R**

Bidder's Name: SBS Corporation

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby agrees to execute the Contract to furnish all labor, materials, equipment and supplies for the Project in accordance with the Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

BASE AMOUNT:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
1.	Mobilization/ Demobilization (5% maximum of Total Bid Price)	1001-3	LS	1	\$ 27,908. ²³	\$ 27,908. ²³
2.	Selective Demolition	1003-1	LS	1	\$ 29,000. ⁰⁰	\$ 29,000. ⁰⁰
3.	Construction	1004-8	LS	1	\$ 205,395. ³⁴	\$ 205,395. ³⁴
4.	Doors and Windows	1005-8	LS	1	\$ 51,300. ⁰⁰	\$ 51,300.
5.	Flooring	1009-4	LS	1	\$ 29,333.	\$ 29,333.
6.	Ceramic Tile	1010-2	LS	1	\$ 10,000.	\$ 10,000.
7.	Mechanical	1011-6	LS	1	\$ 29,000.	\$ 29,000.
8.	Plumbing	1012-5	LS	1	\$ 47,500.	\$ 47,500.
9.	Electrical	1013-3	LS	1	\$ 75,000. ⁰⁰	\$ 75,000. ⁰⁰
BASE AMOUNT TOTAL:						\$ 504,433. ⁵⁷

ADDITIVE BID ITEM 1:

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
10.	Furniture & Office Equipment Relocation	1002-2	LS	1	\$ 14,000. ⁰⁰	\$ 14,000. ⁰⁰
TOTAL ADDITIVE BID ITEM 1:						\$ 14,000. ⁰⁰

ADDITIVE BID ITEM 2:

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
11.	Painting	1008-2	LS	1	\$ 16,813. ⁰⁰ 3,200.	\$ 16,813. ⁰⁰ 3,200.
TOTAL ADDITIVE BID ITEM 2:						\$ 16,813. ⁰⁰ 3,200.

ADDITIVE BID ITEM 3:

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
12.	Refurbish Doors and Frames	1007-3	LS	1	\$ 9,000.⁰⁰ 16,813.	\$ 9,000.⁰⁰ 16,813.
TOTAL ADDITIVE BID ITEM 3:						\$ 9,000.⁰⁰ 16,813.

ADDITIVE BID ITEM 4:

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
13.	Store Front Window System	1006-2	LS	1	\$ 3,200.⁰⁰	\$ 3,200.⁰⁰
TOTAL ADDITIVE BID ITEM 4:						\$ 3,200.⁰⁰

ADDITIVE BID ITEM 5:

ITEM NO.	DESCRIPTION	PAYMENT REF.	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (+/- \$)	EXTENDED AMOUNT
14.	Communication Cabling	1014-2	LS	1	\$ 10,718.	\$ 10,718.
TOTAL ADDITIVE BID ITEM 5:						\$ 10,718.

TOTAL BID PRICE						\$ 558,164.57
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Note: Several items may be adjusted or deleted. Any changes to the quantities for these items shall not classify as a substantial change as stipulated in Greenbook Section 7-3.5.1. Regardless of total actual volume compared to estimated quantities, the unit prices provided above shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right to not use any of the estimated quantities, and if this right is exercised, the Contractor will not be entitled to any additional compensation. The cost of all labor, materials, export of material shall be included in the above unit costs; no additional compensation will be granted for such expenses.

TOTAL BID PRICE = BASE AMOUNT + ADDITIVE BID ITEM 1 + ADDITIVE BID ITEM 2 +
ADDITIVE BID ITEM 3+ ADDITIVE BID ITEM 4 + ADDITIVE BID ITEM 5

TOTAL BID PRICE IN DIGITS: \$ 558,164.57

TOTAL BID PRICE IN WORDS: Five Hundred Fifty Eight Thousand One

*** The lowest Bid shall be the lowest Total Bid Price, including the Base Amount Total and all Additive Bid Items. Hundred Sixty Four + ⁵⁷/₁₀₀

Contractor must complete all Work within one hundred and twenty (120) Working Days of the City's Notice to Proceed.

Bidder acknowledges receipt of all addenda

Addendum: Date Received:
#01 03/08/2021
#02 _____

Addendum: Date Received:
#03 _____
#04 _____

Bidder's Name (Company): SBS Corporation

Signature: 
Print: David Alatorre

Title: President
Date: 03/11/2021

Signature: 
Print: Cheryl Alatorre

Title: Secretary
Date: 03/11/2021

Contract award amount is \$545,964.57 which is the total of Base Amount total \$504,433.57 plus Additive Item 1 \$14,000, plus Additive Item 2 \$16,813 plus Additive Item 5 \$10,718.

Bond No. **CMGP00004250**
Premium: **\$9,189.00**
Executed in Two (2) Originals

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to **SBS Corporation**
2409 Avenida De La Rosa, Camarillo, CA 93012

(Name and address of Contractor) ("Principal")

a contract (the "Contract") for the Work described as CIVIC ANNEX 3RD FLOOR TENANT IMPROVEMENT PROJECT (REBID) SPECIFICATION NO. PW 20-21R.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and **Argonaut Insurance Company**
c/o CMGIA 20335 Ventura Blvd., Ste 426, Woodland Hills, CA 91364

(Name and address of Surety)

a corporation organized and existing under the laws of the State of **Illinois**
("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of **Five Hundred Forty Five Thousand**
Nine Hundred Sixty Four and 57/100 Dollars (\$ **545,964.57**), this amount being not less than a hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void one (1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the

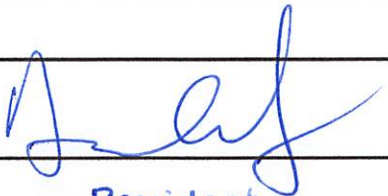
Specifications. Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

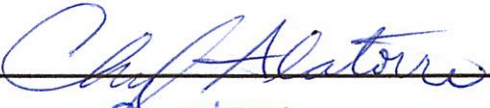
IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: April 9, 2021

"Principal"

SBS Corporation

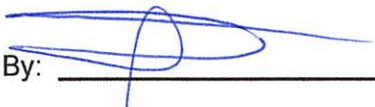
By: 
Its: President

By: 
Its: Secretary

"Surety"

Argonaut Insurance Company

c/o CMGIA 20335 Ventura Blvd., Ste 426,
Woodland Hills, CA 91364

By: 
Its: Stephanie Hope Shear, Attorney-in-fact

By: 
Its: Matthew Dionisio, Underwriter

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

COVID-19 PERFORMANCE BOND NOTICE RIDER

This Rider is executed concurrently with and shall be attached to and form a part of Bond No.: **CMGP00004250**

WHEREAS, on or about the _____, day of _____, _____,
SBS CORPORATION
(hereinafter called the "Principal"), entered into a written agreement with
City of Oxnard
(hereinafter called the "Primary Obligee") for the construction of
the **Civil Annex 3rd Floor Tenant Improvement Project (REBID), Specification No. PW 20-21R**
(hereinafter called the "Contract"); and

WHEREAS, Principal and Argonaut Insurance Company (hereinafter referred to as "Surety") have agreed to execute and deliver this Rider in conjunction Bond No.: **CMGP00004250**

WHEREAS, the BOND has been required and/or requested by the OBLIGEE during a national epidemic or pandemic. In response, the federal, state, and local governments have issued stay-at-home and/or emergency orders in order to protect public health.

WHEREAS, this RIDER is created, effective, and issued contemporaneously with the term of the BOND, and the SURETY and PRINCIPAL rely upon the effectiveness of this RIDER and the incorporation of its interpretation of the terms and obligations of the BOND at the beginning of its term as an inducement to its agreement of the terms and obligations of the BOND.

WHEREAS, quarantine procedures have been issued by the appropriate governmental authorities in the interest of public health to reduce or prevent the epidemic or pandemic.

WHEREAS, as the orders and actions of the government are ever-changing, no party can adequately predict how the Bonded Project may be affected. Accordingly, any delays, costs increases, labor shortages, availability of materials, or any other event hindering the performance of any party's contractual duties caused by or related to the epidemic or pandemic are unforeseen at the time of formation of the contract.

The SURETY's bonded obligations under the BOND are clarified by this RIDER, or to the extent necessary, modified as follows:

1. In the event of any delays, cost increases, labor shortages, availability of materials, or any other event hindering the performance of any party's contractual duties caused by or related to any epidemic or pandemic, the SURETY agrees to cooperate with the PRINCIPAL and the OBLIGEE to assist with the completion of the contract

COVID-19 PERFORMANCE BOND NOTICE RIDER

and comply with any and all directives from federal, state, and local authorities to maintain to the public health.

2. The BOND has been issued during an epidemic or pandemic, but the specific impacts, delays, defaults, or damages relating to the pandemic on the performance of the contract are unknown to the SURETY, OBLIGEE, and PRINCIPAL and are unforeseen at the time of formation of the BOND.
3. The SURETY agrees to assist all parties to mitigate any potential damages on the Project. The parties' duty to mitigate has not been abridged. The SURETY will comply with all federal, state, or local governmental guidance regarding the performance of the contract and the protection of public health and that of their employees.
4. If performance of the OBLIGEE's and/or the PRINCIPAL's obligations under the contract becomes impracticable as caused by or related to the effects of any epidemic or pandemic and/or related governmental orders, the SURETY's obligations hereunder are likewise deemed impracticable. Impracticability is defined as the existence of a fact or circumstance which makes the performance of the duty to be unfeasibly difficult or expensive. The standard for unfeasibility is whether performance is commercially unreasonable.
5. If the contracts, agreements, or other documents require notice from the PRINCIPAL and/or the SURETY regarding epidemic or pandemic related impacts on the Bonded Project, the OBLIGEE is deemed to have sufficient notice upon receipt of this RIDER.

Except as herein modified, the Bond shall be and remains in full force and effect.

SIGNED AND DATED THIS 9th day of April, 2021.

Argonaut Insurance Company (SURETY)

By: 

Name: Stephanie Hope Shear

Title: Attorney-in-Fact

COVID-19 PERFORMANCE BOND NOTICE RIDER

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
SAN FRANCISCO

№ 08330

Amended

Certificate of Authority

THIS IS TO CERTIFY THAT, Pursuant to the Insurance Code of the State of California,

Argonaut Insurance Company

of Illinois, organized under the
laws of Illinois, subject to its Articles of Incorporation or
other fundamental organizational documents, is hereby authorized to transact within the State, subject to
all provisions of this Certificate, the following classes of insurance: Fire, Marine,

Surety, Disability, Plate Glass, Liability, Workers' Compensation,
Common Carrier Liability, Boiler and Machinery, Burglary, Credit,
Sprinkler, Team and Vehicle, Automobile, Aircraft, and Miscellaneous
as such classes are now or may hereafter be defined in the Insurance Laws of the State of California.

THIS CERTIFICATE is expressly conditioned upon the holder hereof now and hereafter being in
full compliance with all, and not in violation of any, of the applicable laws and lawful requirements made
under authority of the laws of the State of California as long as such laws or requirements are in effect
and applicable, and as such laws and requirements now are, or may hereafter be changed or amended.

IN WITNESS WHEREOF, effective as of the 31st
day of December, 2006, I have hereunto
set my hand and caused my official seal to be affixed this
13th day of December, 2006.

John Garamendi
Insurance Commissioner

By



Patricia K. Staggs
for Richard D. Baum Deputy
Chief Deputy

NOTICE:

Qualification with the Secretary of State must be accomplished as required by the California Corporations Code promptly
after issuance of this Certificate of Authority. Failure to do so will be a violation of Insurance Code Section 701 and will be
grounds for revoking this Certificate of Authority pursuant to the covenants made in the application therefor and the
conditions contained herein.

Bond No.: CMGP00004250

Argonaut Insurance Company

Premium: \$9,189.00

Deliveries Only: 225 W. Washington, 24th Floor
Chicago, IL 60606

United States Postal Service: P.O. Box 469011, San Antonio, TX 78246

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

Gabriella Grady, Shilo Lee Losino, Stephanie Hope Shear, Elizabeth Santos, Stacey Garcia, Matthew Dionisio

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$15,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.

Argonaut Insurance Company



by: _____

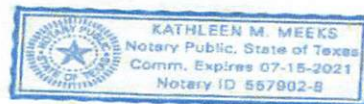
Joshua C. Betz, Senior Vice President

STATE OF TEXAS

COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



Kathleen M. Meeks

(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 9th day of April, 2021.



James Bluzard

James Bluzard, Vice President-Surety

IF YOU HAVE QUESTIONS ON AUTHENTICITY OF THIS DOCUMENT CALL (833) 820 - 9137.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of LOS ANGELES)On APR 09 2021 before me, SHILO LEE LOSINO, NOTARY PUBLIC

Date

Here Insert Name and Title of the Officer

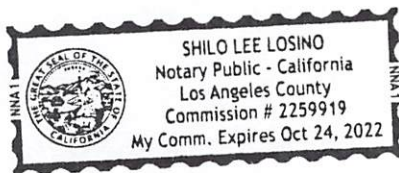
personally appeared STEPHANIE HOPE SHEAR

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature _____

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Bond No. **CMGP00004250**
Premium: Included in Performance Bond
Executed in Two (2) Originals

**PAYMENT BOND
(LABOR AND MATERIALS)**

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to _____

SBS Corporation

2409 Avenida De La Rosa, Camarillo, CA 93012

("Principal")

(Name and address of Contractor)

a contract (the "Contract") for the Work described as CIVIC ANNEX 3RD FLOOR TENANT IMPROVEMENT PROJECT (REBID) SPECIFICATION NO. PW 20-21R.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and **Argonaut Insurance Company**

c/o CMGIA 20335 Ventura Blvd., Ste 426, Woodland Hills, CA 91364

(Name and address of Surety)

a corporation organized and existing under the laws of the State of Illinois ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of **Five Hundred Forty Five Thousand Nine Hundred Sixty Four and 57/100** Dollars (\$ 545,964.57), this amount being not less than a hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to

Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

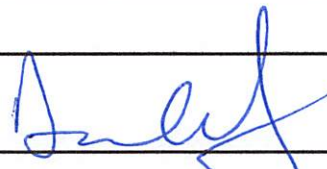
The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: April 9, 2021

"Principal"

SBS Corporation

By: 

Its: President

By: 

Its: Secretary

"Surety"

Argonaut Insurance Company

c/o CMGIA 20335 Ventura Blvd., Ste 426,
Woodland Hills, CA 91364

By: 

Its: Stephanie Hope Shear, Attorney-in-fact

By: 

Its: Matthew Dionisio, Underwriter

(Seal)

(Seal)

Notes: This Bond must be executed in duplicate and dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
SAN FRANCISCO

NO 08330

Amended

Certificate of Authority

THIS IS TO CERTIFY THAT, Pursuant to the Insurance Code of the State of California,

Argonaut Insurance Company

of Illinois, organized under the
laws of Illinois, subject to its Articles of Incorporation or
other fundamental organizational documents, is hereby authorized to transact within the State, subject to
all provisions of this Certificate, the following classes of insurance: Fire, Marine,

Surety, Disability, Plate Glass, Liability, Workers' Compensation,
Common Carrier Liability, Boiler and Machinery, Burglary, Credit,
Sprinkler, Team and Vehicle, Automobile, Aircraft, and Miscellaneous
as such classes are now or may hereafter be defined in the Insurance Laws of the State of California.

THIS CERTIFICATE is expressly conditioned upon the holder hereof now and hereafter being in
full compliance with all, and not in violation of any, of the applicable laws and lawful requirements made
under authority of the laws of the State of California as long as such laws or requirements are in effect
and applicable, and as such laws and requirements now are, or may hereafter be changed or amended.

IN WITNESS WHEREOF, effective as of the 31st
day of December, 2006, I have hereunto
set my hand and caused my official seal to be affixed this
13th day of December, 2006.

John Garamendi
Insurance Commissioner

By



Patricia K. Staggs
for Richard D. Baum ~~xxxxxx~~
Chief Deputy

NOTICE:

Qualification with the Secretary of State must be accomplished as required by the California Corporations Code promptly
after issuance of this Certificate of Authority. Failure to do so will be a violation of Insurance Code Section 701 and will be
grounds for revoking this Certificate of Authority pursuant to the covenants made in the application therefor and the
conditions contained herein.

Bond No.: CMGP00004250

Argonaut Insurance Company

Premium: \$9,189.00

Deliveries Only: 225 W. Washington, 24th Floor
Chicago, IL 60606

United States Postal Service: P.O. Box 469011, San Antonio, TX 78246

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

Gabriella Grady, Shilo Lee Losino, Stephanie Hope Shear, Elizabeth Santos, Stacey Garcia, Matthew Dionisio

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

\$15,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 8th day of May, 2017.

Argonaut Insurance Company



by: _____

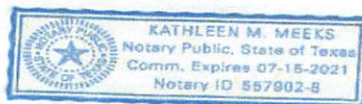
Joshua C. Betz, Senior Vice President

STATE OF TEXAS

COUNTY OF HARRIS SS:

On this 8th day of May, 2017 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.



Kathleen M. Meeks

(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 9th day of April, 2021.



James Bluzard

James Bluzard, Vice President-Surety

IF YOU HAVE QUESTIONS ON AUTHENTICITY OF THIS DOCUMENT CALL (833) 820 - 9137.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of LOS ANGELES)On APR 09 2021 before me, SHILO LEE LOSINO, NOTARY PUBLIC

Date

Here Insert Name and Title of the Officer

personally appeared STEPHANIE HOPE SHEAR

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____

Signer's Name: _____

☐ Corporate Officer — Title(s): _____☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer Is Representing: _____



CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS AGENDA ITEM NO. M.1

DATE: September 21, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Planning & Zoning (PZ) Permit No. 20-580-05 (Zone Text Amendment) – An Amendment to the Oxnard City Code, Chapter 16 (Zoning Code) adding Medical Clinics and Hospitals as sensitive uses requiring separation from Firearm Ranges and Businesses Engaged in the Sale of Firearms and Ammunition. The proposed regulations would apply Citywide (Inland Zone) and pertain to the General Commercial (C-2) and Limited Manufacturing (M-L) zoning districts. (0/10/10)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing;
2. Determine the Zone Text Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3); and
3. Introduce an Ordinance for first reading (by title only, waiving further reading) adding Medical Clinics and Hospitals as sensitive uses requiring separation from establishing regulations to address Firearm Ranges and the Sales of Firearms and Ammunition.

(Planning Commission recommend approval 6-0).

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/3Adg5t3L_mc

BACKGROUND

On July 2, 2019, the City Council unanimously voted to approve for first reading Ordinance 2961, a Zone Text Amendment (ZTA) to amend Chapters 11 and 16 of the OCC to include: (1) modifications to OCC Chapter 11 (Permits), Article VIII (Permits to Sell Concealable Firearms); (2) modifications to OCC Section 16-10 (Definitions) to establish definitions for ammunition, firearm range, firearm, and firearm & ammunition sales; (3) amendments to establish and/or modify land uses related to these activities within the General Commercial (C-2), Limited Manufacturing (M-L) and Community Reserve (C-R) zoning districts; and (4) regulations establishing siting criteria, operational considerations, and the process for review of Special Use Permit (SUP) applications related to these uses.

During the City Council meeting on July 2, 2019, public testimony was received which urged the City Council to consider clinics and hospitals as sensitive uses. The testimony argued that a patient's safety and security should be protected equally as the following sensitive uses which were being considered under the proposed ordinance: residentially zoned properties, day care centers (child or adult), parks, churches, schools (private or public), Oxnard Transportation Center and Oxnard Airport. The proposed Ordinance required a 600-foot separation between properties which contained these sensitive uses and firearm uses. After deliberation, the City Council voted to introduce Ordinance 2961 as presented, and the City Council directed staff to research the possibility of amending Chapter 16 to include hospitals and/or clinics as sensitive uses. On July 16, 2019, the City Council approved the second reading and adopted

Ordinance No. 2961 pertaining to the permitting and development of firearm ranges and businesses engaged in the sale of firearms and ammunition.

On April 13, 2021, the Community Services, Public Safety, Housing & Development Committee unanimously determined staff should pursue a ZTA to amend Chapter 16 of the OCC to include medical clinics and hospitals as a sensitive use requiring a minimum separation from firearm and ammunition sales and firearm ranges uses within Chapter 16, Article V, Divisions 19 and 20. Staff was not given direction to amend any of the standards and requirements currently in place that regulate firearm/ammunition sales and firearm range uses. Nor was direction given to alter the regulations or the operations of any of the four existing firearm and ammunition retailers within the City.

A Community Workshop meeting was held on May 17, 2021. A notice of this meeting was distributed Citywide to neighborhood chairs. Staff also mailed notice of this meeting directly to all four existing firearms and ammunition retailers within the City, but they declined to participate in the public meeting.

On July 15, 2021, the Planning Commission conducted a public hearing to review the proposed ZTA. Staff mailed notices of this public hearing directly to all four existing firearms and ammunition retailers within the City, but they did not participate in the public hearing. The Planning Commission Staff Report (Attachment 1) included maps which identified the existing firearm uses within the City, and maps with and without the proposed buffer. Mr. Keith Lauterback addressed the Planning Commission and provided a brief overview of a firearms business that he is considering establishing in the City that is currently not within the required 600-foot separation between a firearms use and a sensitive use but would be located within the required 600-foot separation if medical clinics are included as sensitive uses as part of the proposed ZTA. Mr. Lauterback submitted a letter addressed to the City Council outlining his opposition to the proposed ZTA which is included within the Planning Commission Staff report included in this staff report as Attachment 1. During deliberations, a motion was made for the Planning Commission to consider reducing the required 600-foot separation between firearms uses and a sensitive use to 400 feet for medical clinics as part of the proposed ZTA. Additionally, a second motion was made for the Planning Commission to consider decreasing the required 600-foot separation between firearms uses and sensitive uses to 500 feet. Both motions failed and the Planning Commission voted 6:0:1 to adopt Resolution No. 2021-15 (Attachment 2), recommending that the City Council adopt the proposed ZTA as presented.

ANALYSIS AND DISCUSSION

On July 16, 2019, the City Council adopted Ordinance 2961 to establish health and safety standards and location restrictions (e.g., proximity to parks and schools) for firearm-related businesses. During the City Council deliberations, the Council directed staff to research the possibility of including medical clinics and hospitals as a sensitive use and report the findings to the Planning Commission at a future date. Nothing in California law preempts the proposed addition of medical clinics and hospitals to the types of sensitive uses requiring minimum separation from firearms and ammunition sellers, or from firearm ranges. With four firearms sellers in the City, and three additional nearby retailers in the unincorporated County of Ventura, sellers still provide a meaningful opportunity for residents to obtain firearms for self-defense. The City is not aware that anyone has complained of a lack of access to the legal sale of firearms from a licensed dealer within the City.

During the course of the City Council deliberation on July 2, 2019, Council discussed medical clinics and hospitals generically; however, dental, mental and general medical terms were included in the discussion. The OCC currently does not have a definition for medical clinics or hospitals even though it makes references to both land uses throughout the document. Using best practices, the Community Development Department staff researched definitions for both terms commonly found throughout zoning ordinances from various municipalities and the California Health and Safety Code (Section 1206).

The following are the proposed definitions for medical clinics and hospitals to be included in Chapter 16, Section 16-10 (Definitions):

‘Medical clinic’ means “An organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients.”

‘Hospital’ means “A health facility having a duly constituted governing body with overall administrative and professional responsibility and having an organized medical staff which provides twenty-four-hour inpatient care including one (1) or more of the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary services, or psychiatric care and treatment.”

The intent of the ‘Medical clinic’ definition is to allow an organization of doctors providing outpatient physical medical services, mental health services or surgical services to the sick or injured but does not include inpatient or overnight accommodations. The definition is not intended to include land uses such as, but not limited to, which are found in the OCC:

Medical insurance and medical services,

1. Retail medical equipment and supplies,
2. Pharmacies (unless ancillary to a medical clinic or hospital),
3. Medical research and laboratories (unless ancillary to a medical clinic or hospital),
4. Medical devices, equipment, and hospital supplies manufacturers,
5. Ambulance Services,
6. Veterinarian services, and
7. Spa and wellness centers.

Locational Criteria

Ordinance 2961 amended Chapter 16 to include Article V (Specific Use Requirements) establishing two new Divisions, 19 (Firearm and Ammunition Sales) and 20 (Firearm Ranges) that require separations between firearm/ammunition sales and firearm range uses and nearby sensitive uses. These buffers are recommended for the safety and security of the public. Police response to incidents at facilities that handle firearms and ammunition are inherently high-risk and demand a number of additional resources versus conventional calls for service. In these cases, potential suspects would likely have access to weapons and ammunition. Police responses to these facilities are likely to evolve into evacuations of properties within several hundred feet.

Currently, a separation of 600 feet is required between firearm and ammunition sales businesses, as well as firearm ranges and the following sensitive uses: residentially zoned properties, day care centers (child or adult), parks, churches, schools (private or public), Oxnard Transportation Center and Oxnard Airport. A 200-foot separation is required between individual firearm-related uses. This separation is measured from the closest exterior wall of the firearm range/firearms and ammunition retail business and the nearest property line of the identified sensitive use.

The proposed ZTA amends OCC Chapter 16, Article V (Specific Use Requirements), Division 19 (Firearm and Ammunition Sales) Section 16-540.1(B) & Division 20 (Firearm Ranges) Section 16-504.2(B) to add medical clinics and hospitals as sensitive uses and establish a separation of 600 feet between medical clinics and hospitals and firearm and ammunition sales businesses, as well as firearm ranges, respectively. Below is a table summarizing existing sensitive uses with the addition of medical clinics and hospitals.

Sensitive Use	Required Separation
Non-Residential Day Care (Child or Adult)	600 feet
Park	600 feet
Church	600 feet
School (private or public)	600 feet
Any Residentially Zoned Property	600 feet
Oxnard Transportation Center	600 feet
Oxnard Airport	600 feet

Hospital*	600 feet
Medical Clinic*	600 feet
Another legally-authorized firearm and ammunition sales business or firearm range	200 feet

* Proposed under ZTA 20-580-05

Based on the proposed definitions for medical clinics and hospitals, staff plotted known medical clinics and hospitals on the previously approved buffer map prepared under Ordinance 2961 and using data compiled from the City's Business License rolls. Over 290 medical establishments were plotted on the updated buffer map. The Planning Commission staff report Attachment C is a map that identifies the zoning areas (red and orange) throughout the City that allow firearm sales/uses under the current Firearms Ordinance. The green dashed areas identified all of the areas where firearm sales/uses would be allowed if medical clinics and hospitals are included as a sensitive use.

Under the existing Firearm Ordinance, approximately 1.57% of the existing land with a C-2 or M-L zoning designation would allow the operation of firearm sales/uses. If medical clinics and hospitals are included as a sensitive use, the available land area where firearm sales/uses are allowed would be reduced by 0.38% to approximately 1.19%. The Planning Commission staff report Attachment D is a map that identifies all sensitive use buffers including hospitals and clinics.

The City Attorney's office has determined that inclusion of medical clinics and hospitals as a sensitive use would provide for a legally sufficient number of parcels to accommodate firearms uses at this time. This position is bolstered by the existence of three additional existing retailers in unincorporated areas near the City's corporate boundaries.

ENVIRONMENTAL REVIEW

Pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA. The proposed ZTA is a regulatory action. Furthermore, any resulting development following approval of the ZTA is anticipated to be less intense than what is allowed by the existing regulations pertaining to firearm sales, ammunition sales, and firearm ranges within the City. Therefore, staff has determined that there is no possibility that the project will have a significant effect on the environment. A Notice of Exemption (Attachment 3) will be filed upon approval of the ZTA by the City Council.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

No financial impacts to the City are associated with the proposed Zone Text Amendment.

COMMITTEE OUTCOME

As described in the Background section of this report, the proposed Zone Text Amendment (ZTA) was reviewed by the Committee on April 13, 2021. The Committee unanimously determined staff should pursue a ZTA to include medical clinics and hospitals as a sensitive use requiring a minimum separation from firearm and ammunition sales and firearm ranges uses. The Committee did not review any specific ZTA language.

The specific ZTA language was heard by the Planning Commission during a public hearing; therefore, the specific ZTA language did not originate in Committee.

Prepared by: Isidro Figueroa, Principal Planner

ATTACHMENTS

1. Attachment 1 - July 15, 2021 Planning Commission Staff Report (with Attachments A, C, D and E)
2. Attachment 2 - Planning Commission Resolution No. 2021-15
3. Attachment 3 - Notice of Exemption
4. Attachment 4 - City Council Ordinance
5. Draft Presentation - Firearms

**PLANNING COMMISSION
STAFF REPORT**

TO: Planning Commission

FROM: Isidro Figueroa, Principal Planner

DATE July 15, 2021

SUBJECT: **Project Name: Firearms Ordinance Update;** Planning & Zoning (PZ) Permit No. 20-580-05 (Zone Text Amendment) – An Amendment to the Oxnard City Code, Chapter 16 (Zoning Code) adding Medical Clinics and Hospitals as sensitive uses requiring separation from Firearm Ranges and Businesses Engaged in the Sale of Firearms and Ammunition. The proposed regulations would apply Citywide (Inland Zone) and pertain to the General Commercial (C-2) and Limited Manufacturing (M-L) zoning districts.

1) Recommendation: That the Planning Commission (“**Commission**”):

- a) Find the Project to be exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and
- b) Adopt Resolution 2021-XX recommending that the City Council approve Planning & Zoning Permit No. 20-580-05 (Zone Text Amendment) adding Medical Clinics and Hospitals as sensitive uses requiring separation from establishing regulations to address Firearm Ranges and the Sales of Firearms and Ammunition.

2) Project Description and Applicant: The proposed Zone Text Amendment (ZTA) modifies Oxnard City Code (OCC) Chapter 16 (Zoning Code) pertaining to the permitting and development requirements related to firearm ranges and businesses engaged in the sale of firearms and ammunition. Proposed modifications include adding medical clinics and hospitals as sensitive uses requiring a 600-foot separation from businesses engaged in the sale of firearms and ammunition and firearm ranges to OCC Chapter 16, Article II, Section 16-10 (Definitions), and OCC Chapter 16, Article V (Specific Use Requirements), Division 19 (Firearm and Ammunition Sales) Section 16-540.1(B) & Division 20 (Firearm Ranges) Section 16-504.2(B). Filed by the City of Oxnard, Community Development Department, 214 South C Street, Oxnard, California 93030.

3) Background: On July 2, 2019, the City Council unanimously voted to approve for first reading Ordinance 2961, a ZTA to amend Chapters 11 and 16 of the OCC to include: (1) modifications to OCC Chapter 11 (Permits), Article VIII (Permits to Sell Concealable Firearms); (2) modifications to OCC Section 16-10 (Definitions) to establish definitions for ammunition, firearm range, firearm, and firearm & ammunition sales; (3) amendments to establish and/or modify land uses related to these activities within the General Commercial (C-2), Limited Manufacturing (M-L) and Community Reserve (C-R) zoning districts; and (4) regulations establishing siting criteria, operational considerations, and the process for review

of Special Use Permit (SUP) applications related to these uses.

During the City Council meeting on July 2, 2019, public testimony was received which urged the City Council to consider clinics and hospitals as sensitive uses. The testimony argued that a patient's safety and security should be protected equally as the following sensitive uses which were being considered under the proposed ordinance: residentially zoned properties, day care centers (child or adult), parks, churches, schools (private or public), Oxnard Transportation Center and Oxnard Airport. The proposed Ordinance required a 600-foot separation between properties which contained these sensitive uses and firearm uses. After deliberation, the City Council voted to introduce Ordinance 2961 as presented, and the City Council directed staff to research the possibility of amending Chapter 16 to include hospitals and/or clinics as sensitive uses. On July 16, 2019, the City Council approved the second reading and adopted Ordinance No. 2961 pertaining to the permitting and development of firearm ranges and businesses engaged in the sale of firearms and ammunition.

On April 13, 2021, Community Services, Public Safety, Housing & Development Committee unanimously determined staff should pursue a ZTA to amend Chapter 16 of the OCC to include medical clinics and hospitals as a sensitive use requiring a minimum separation from firearm and ammunition sales and firearm ranges uses within Chapter 16, Article V, Divisions 19 and 20. Staff was not given direction to amend any of the standards and requirements currently in place that regulate firearm/ammunition sales and firearm range uses. Nor was direction given to alter the regulations or the operations of any of the four existing firearm and ammunition retailers within the City (Attachment A).

- 4) Environmental Determination:** Pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA. The proposed ZTA is a regulatory action. Furthermore, any resulting development following approval of the ZTA is anticipated to be less intense than what is allowed by the existing regulations pertaining to firearm sales, ammunition sales, and firearm ranges within the City. Therefore, staff has determined that there is no possibility that the project will have a significant effect on the environment. A Notice of Exemption (Attachment B) will be filed upon approval of the ZTA by the City Council.

5) Analysis:

- a) General Discussion:** On July 16, 2019, the City Council adopted Ordinance 2961 to establish health and safety standards and location restrictions (e.g., proximity to parks and schools) for firearm-related businesses, which was previously absent from the OCC. During the City Council deliberations, the Council decided to adopt Ordinance 2961 in order to establish standards and restrictions to firearms related uses and directed staff to research the possibility of including medical clinics and hospitals as a sensitive use and report the findings to the Planning Commission at a future date. Nothing in California law would preempt the proposed addition of medical clinics and hospitals to the types of

sensitive uses requiring minimum separation from firearms and ammunition sellers, or from firearms ranges. With four firearms sellers in the City, and three additional nearby retailers in the unincorporated County of Ventura, sellers still provide a meaningful opportunity for residents to obtain firearms for self-defense. The City is not aware that anyone has complained of a lack of access to the legal sale of firearms from a licensed dealer within the City.

During the course of the City Council deliberation on July 2, 2019, Council discussed medical clinics and hospitals generically; however, dental, mental and general medical terms were included in the discussion. The OCC currently does not have a definition for medical clinics or hospitals even though it makes references to both land uses throughout the document. Using best practices, Community Development Department staff researched definitions for both terms commonly found throughout zoning ordinances from various municipalities the California Health and Safety Code (Section 1206).

The following are the proposed definitions for medical clinics and hospitals to be included in Chapter 16, Section 16-10 (Definitions):

‘Medical clinic’ means “An organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients.”

‘Hospital’ means “A health facility having a duly constituted governing body with overall administrative and professional responsibility and having an organized medical staff which provides twenty-four-hour inpatient care including one (1) or more of the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary services, or psychiatric care and treatment.”

The intent of the ‘Medical clinic’ definition is to allow an organization of doctors providing outpatient physical medical services, mental health services or surgical services to the sick or injured but does not include inpatient or overnight accommodations. The definition is not intended to include land uses such as, but not limited to, which are found in the OCC:

1. Medical insurance and medical services,
2. Retail medical equipment and supplies ,
3. Pharmacies (unless ancillary to a medical clinic or hospital),
4. Medical research and laboratories (unless ancillary to a medical clinic or hospital),
5. Medical devices, equipment, and hospital supplies manufacturers,
6. Ambulance Services,
7. Veterinarian services, and
8. Spa and wellness centers.

Locational Criteria

Ordinance 2961 amended OCC Chapter 16, Article V (Specific Use Requirements) to add Division 19 (Firearm and Ammunition Sales) and Division 20 (Firearm Ranges). Each Division establishes separation requirements from specific sensitive uses, application material required with submission of a Special Use Permit (SUP), specialized findings that the Planning Commission must determine for approval of a SUP, and factors that may be addressed as conditions of approval. Additionally, Ordinance 2961 limited Firearm and Ammunition Sales and Firearm Ranges to the General Commercial (C-2) and Limited Manufacturing (M-L) zones.

Ordinance 2961 also amended Chapter 16 to include Article V (Specific Use Requirements) establishing two new Divisions, 19 (Firearm and Ammunition Sales) and 20 (Firearm Ranges) which require separations between firearm/ammunition sales and firearm range uses and nearby sensitive uses. These buffers are recommended for the safety and security of the public. Police Departments that respond to incidents at facilities that handle firearms and ammunition are inherently high-risk and demand a number of additional resources versus conventional calls for service. In these cases, potential suspects would likely have access to weapons and ammunition. Police responses to these facilities are likely to evolve into evacuations of properties within several hundred feet.

Currently, a separation of 600 feet is required between firearm and ammunition sales businesses, as well as firearm ranges and the following sensitive uses: residentially zoned properties, day care centers (child or adult), parks, churches, schools (private or public), Oxnard Transportation Center and Oxnard Airport. A 200-foot separation is required between individual firearm-related uses. This separation is measured from the closest exterior wall of the firearm range/firearms and ammunition retail business and the nearest property line of the identified sensitive use.

The proposed ZTA amends OCC Chapter 16, Article V (Specific Use Requirements), Division 19 (Firearm and Ammunition Sales) Section 16-540.1(B) & Division 20 (Firearm Ranges) Section 16-504.2(B) to add medical clinics and hospitals as sensitive uses and establish a separation of 600 feet between medical clinics and hospitals and firearm and ammunition sales businesses, as well as firearm ranges, respectively. Below is a table summarizing existing sensitive uses with the addition of medical clinics and hospitals.

Sensitive Use	Required Separation
Non-Residential Day Care (Child or Adult)	600 feet
Park	600 feet
Church	600 feet
School (private or public)	600 feet
Any Residentially Zoned Property	600 feet
Hospital*	600 feet

Medical Clinic*	600 feet
Another legally-authorized firearm and ammunition sales business or firearm range	200 feet

* Proposed under ZTA 20-580-05

Per the existing required separation measurement standards, the required separation distances would be measured between the closest exterior wall of the firearm and ammunition sales business and / or firearm ranges and the nearest property line of the identified sensitive use in a straight line extended between two points, without regard for intervening structures.

Based on the proposed definitions for medical clinics and hospitals, staff plotted known medical clinics and hospitals on the previously approved buffer map prepared under Ordinance 2961 and using data compiled from the City's Business License rolls. Over 290 medical establishments were plotted on the updated buffer map. Attachment C contains a map that identifies the zoning areas (red and orange) throughout the City that allow firearm sales/uses under the current Firearms Ordinance. The green dashed areas identified all of the areas where firearm sales/uses would be allowed if medical clinics and hospitals are included as a sensitive use.

Under the current Firearm Ordinance, approximately 1.57% of land area of the existing land with a C-2 or M-L zoning designation, the areas where firearm sales/uses are allowed, would be able to operate. If medical clinics and hospitals are included as a sensitive use, the available land area where firearm sales/uses are allowed would be reduced by 0.38% to approximately 1.19%. Attachment D contains a map that identifies all sensitive use buffers including hospitals and clinics.

Community Development Department staff consulted with the City's Attorney office and Police Department to determine if the potential inclusion of medical clinics and hospitals as a sensitive use to the current Firearms Ordinance will allow for an appropriate number of parcels where allowed firearms uses could potentially be accommodated. The City Attorney's office has determined that inclusion of medical clinics and hospitals as a sensitive use would provide for a legally sufficient number of parcels to accommodate firearms uses at this time. This position is bolstered by the existence of three additional existing retailers in unincorporated areas near the City's corporate boundaries.

5) General Plan Consistency: The proposed ZTA is consistent with a number of goals and policies included in the 2030 General Plan. Consistency with the 2030 General Plan is defined by the relationship between 2030 General Plan policies and the proposed Project. The three consistency classification levels are:

- I. Direct Applicability to a Proposed Project or Program (full text of the policy and an explanation).
- II. Related or Indirect Applicability to the Proposed Project or Program (policy title and an explanation for each or groups of related or indirectly related policies).

III. No or Distant Applicability to the Proposed Project or Program (all policies not listed as Level I and II are assumed to be consistent).

POLICY	LEVEL	POLICY OR TITLE	EXPLANATION
CD-5.2	I	Compatible Land Use	The proposed ZTA is designed to ensure adequate separation between sensitive land uses to minimize land use incompatibility.
SH-7.4	I	Limiting High Risk Land Uses	The proposed ZTA is designed to mitigate the high risk to health, safety, and welfare of residents, visitors, and workers presented by businesses involving firearms and ammunition.
ICS-19.2	I	Police Review of Development Projects	The proposed ZTA will incorporate Police Department review of proposed SUP applications and conditions.
ICS-19.4	II	Crime Prevention Device Requirements	The proposed ZTA will assist the City in requiring crime prevention devices through the SUP process.
ICS-19.5	II	Incorporating Security Design Principles	The proposed ZTA will assist the City in creating regulations designed to encourage crime prevention and defensible space through design principles such as those employed through the National Crime Prevention Through Environmental Design Program (CPTED), and other methods to enhance public safety.
SH-6.5	II	Land Use Compatibility with Noise	The proposed ZTA will allow for the City to evaluate and mitigate noise associated with firearm ranges through the SUP process.
SH-7.11	II	Hazardous CUPA Materials Inventory	The proposed ZTA will enable project-level evaluation of hazards and hazardous material through the SUP process.
ALL OTHERS	III	All policies not listed above	No or Distant Applicability to the Proposed Project.

- 6) **Community Outreach:** A Community Workshop meeting was held on May 17, 2021. A notice of this meeting was distributed Citywide to neighborhood chairs. Staff also mailed notice of this meeting directly to all four existing firearms and ammunition retailers within the City. Two members of the public participated in the Community Workshop meeting. One member inquired about an existing legal conforming firearm retailer (Big 5) located near the Orchard neighborhood. A second member of the public, Mr. Keith Lauterback, submitted a letter addressed to the City Council outlining his opposition to the proposed ZTA. Mr. Lauterback's letter is provided as Attachment E.
- 7) **Next Steps:** The Planning Commission's action on this matter is advisory to the City Council. The Planning Commission's recommendation will be forwarded to the City Council for consideration.

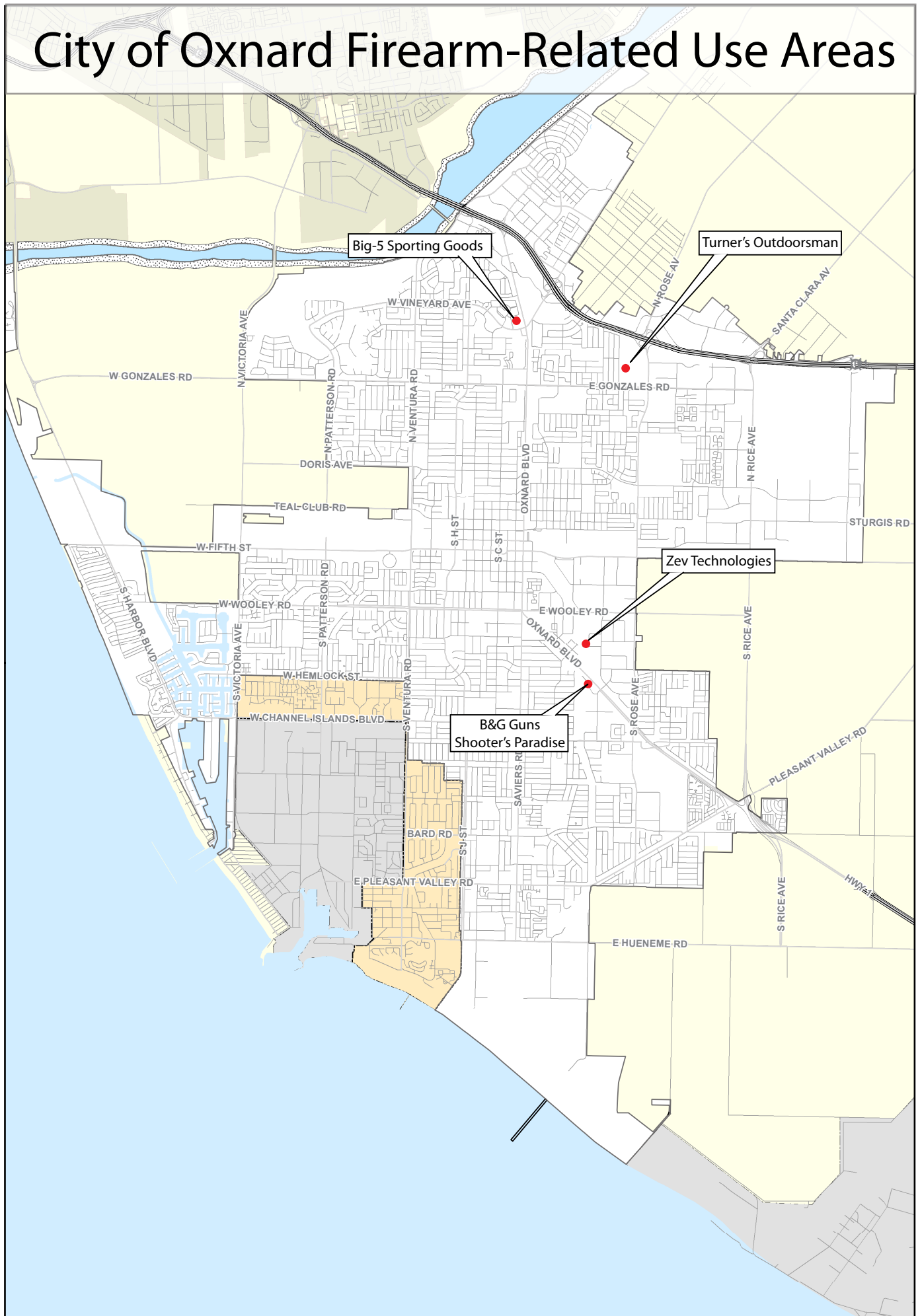
Attachments:

- A. Existing Firearm Uses Within the City
- B. Notice of Exemption
- C. Firearm Related Use Area Map Without Buffer

- D. Firearm Related Use Area Map With Buffer
- E. Keith Lauterback Letter Dated May, 15, 2021
- F. Planning Commission Resolution
 - Exhibit 1 Draft City Council Ordinance
- G. Staff Presentation

A. Existing Firearm Uses Within the City

City of Oxnard Firearm-Related Use Areas



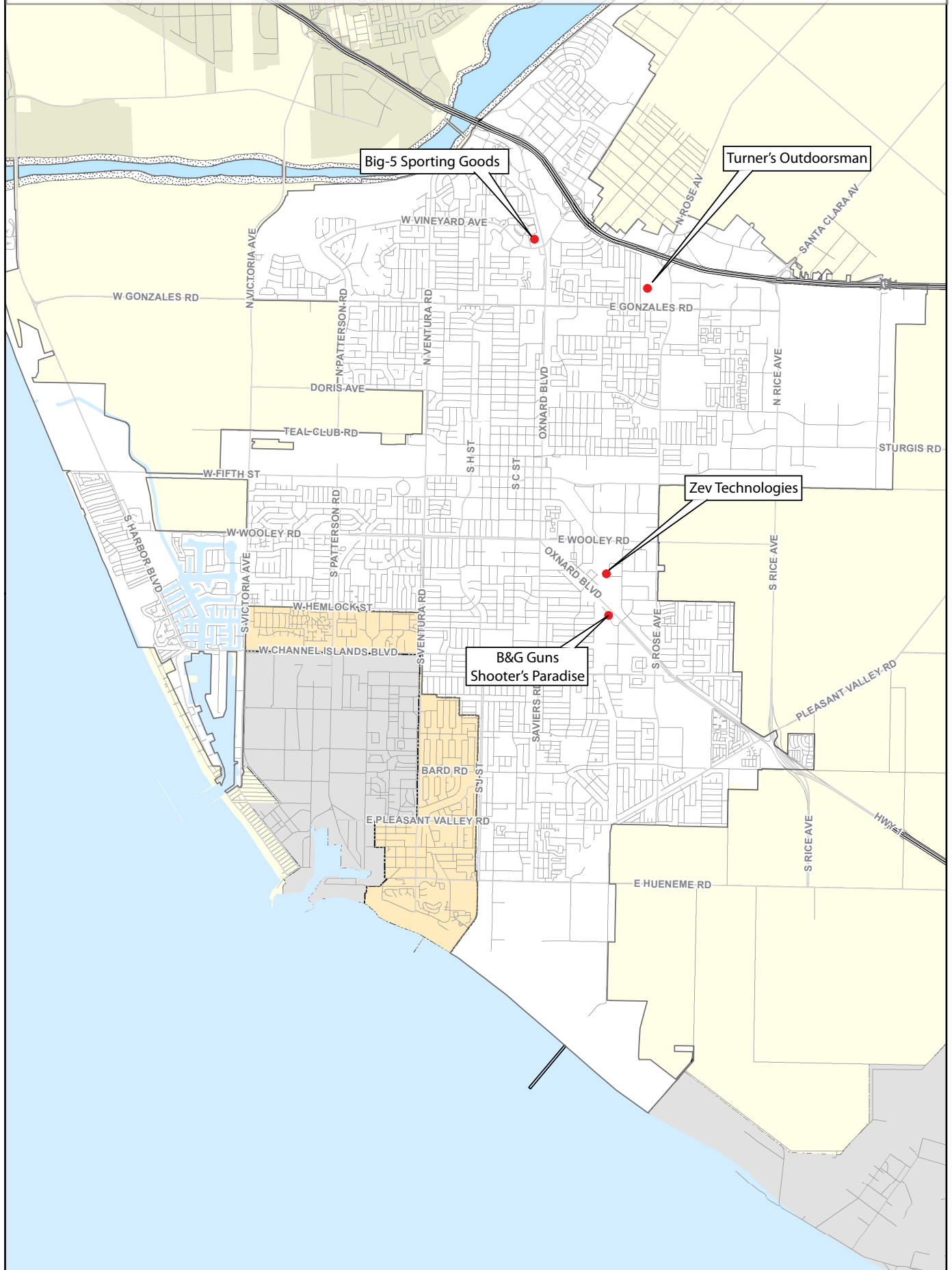
*The required separation is the distance between the closest exterior wall of the firearm range/firearms and ammunition business and the nearest property line of the identified sensitive use.

This map is compiled by the City of Oxnard GIS Division, which is developed and operated solely for the convenience of the City. The City does not make any representations or warranties regarding the use, accuracy, reliability, and/or completeness of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereon.

4,000 0 4,000 8,000 Feet

C. Firearm Related Use Area Map Without Buffer

Legal Non-conforming Firearms Retailers



*The required separation is the distance between the closest exterior wall of the firearm range/firearms and ammunition business and the nearest property line of the identified sensitive use.

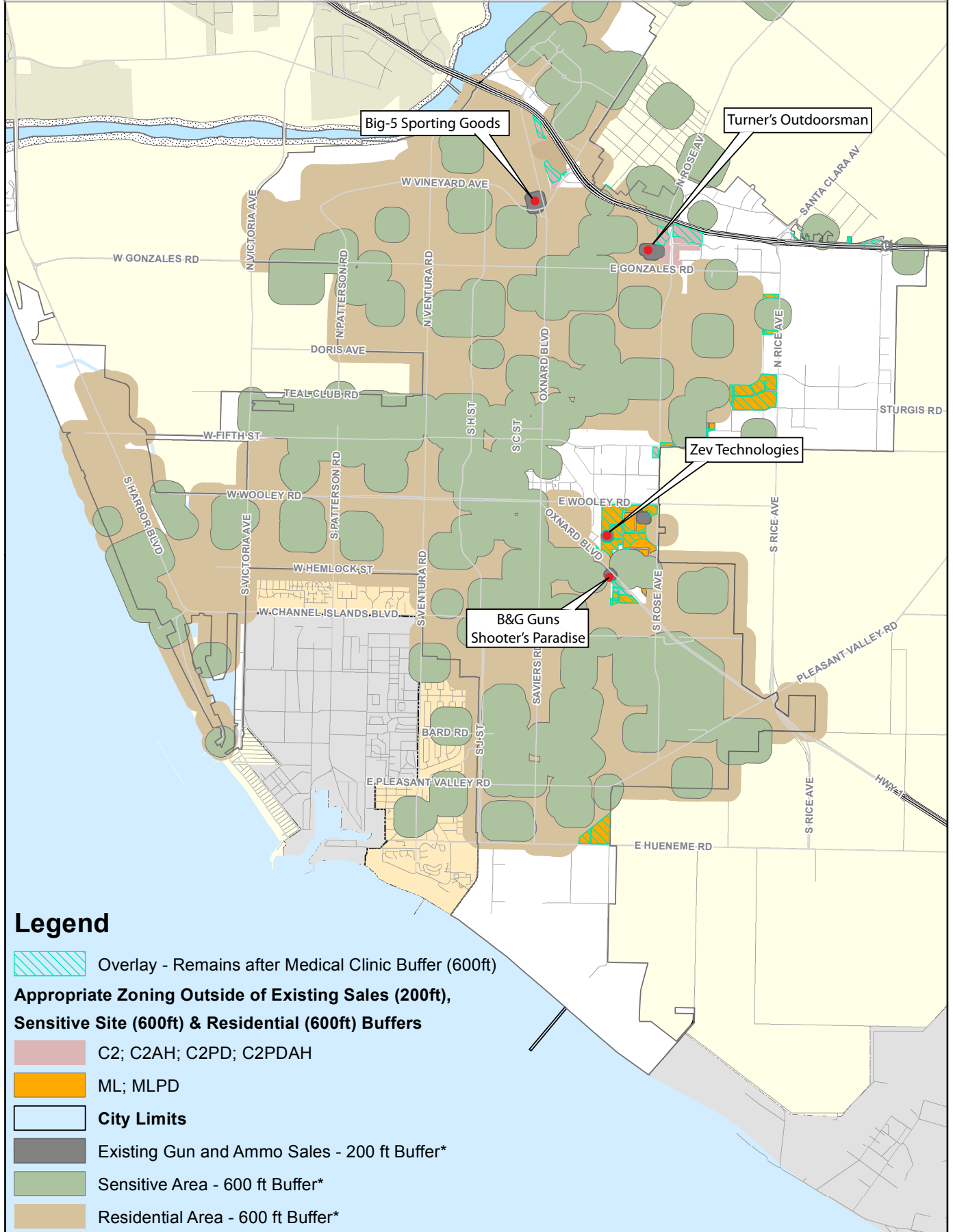
This map is compiled by the City of Oxnard GIS Division, which is developed and operated solely for the convenience of the City. The City does not make any representations or warranties regarding the use, accuracy, reliability, and/or completeness of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereon.

4,000 0 4,000 8,000 Feet

D. Firearm Related Use Area Map With Buffer

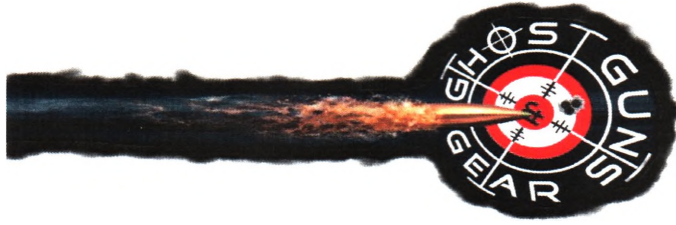
Legal Non-conforming Firearms Retailers

Sensitive Areas



*The required separation is the distance between the closest exterior wall of the firearm range/firearms and ammunition business and the nearest property line of the identified sensitive use.

E. Keith Lauterback Letter Dated May, 15, 2021



Keith Lauterback Owner / CEO / Operator

2390 Las Posas Rd. Suite C #505

Camarillo, CA. 93010

Email: ghostgunsandgear@yahoo.com / info@ghostgunsandgear.com

Web: ghostgunsandgear.com

Good Day Oxnard City Council,

I want to start off by saying thank you for taking the time to read this. It is extremely hard to get a point across to a group of individuals in 3 mins or less, especially when there are so many variables and variations of what is and what can be. I know that the City Council of Oxnard is looking into expanding the "Firearms Ordinance" Permit No. 20-580-05 to include Medical clinics and Hospitals as sensitive use areas. I am not sure what the purpose of adding this additional layer to the "Buffer Zone" and what it would accomplish. I have asked questions of why this is being considered and I have yet to get a response as to why it is felt that this extra layer would need to be added.

I am attempting to open a new business in the City of Oxnard that would be located at the address of 1975 Lockwood. (The old T-shirt warehouse). In its present configuration on the plot of land it is located 374' from the most exterior wall of the building to the closest property line of an area that has a urology clinic. To the back wall of the actual building that has the clinic in it, it is 580' from my most exterior wall to the wall of the actual clinic wall. Currently in the code of the existing zoning area the distance needs to be 600' from any type of schools and gathering areas such as churches and things of that nature. I know 20' is 20' but again I am trying to get a reason as to why this purposed extra layer of buffer is needed. (Keeping in mind that currently this would not make a difference under the current zoning requirements, and if this additional layer is added then I would look at the additional 20'.)

The business that I am trying to open is a gun store, as well as a gun range. A state-of-the-art range and training facility that not only will make a great deal of revenue, but it will give a safe place for people to come to and to use their firearms, all their firearms not just the handguns. I am looking to also have an ammunition production area to be able to feed the range. By doing this I can control much better of what comes in and out of the building and the range, putting an additional safety layer into the process. It will also have a gun smith area that will allow people to bring in the old firearms that are handed down by the generations and allow that to continue as well as all the newer firearms. I will have a CNC production area that will help with the gunsmith area. I am planning on going into negotiations with the local LEO agencies to have them do their certifications and trainings in the range as well as any type of hands-on training as there will be conference rooms as well that they will be able to utilize. This will help the now over used and degrading range that the LEO's are using in the Camarillo area by the airport. I am looking to put 50 people to work at this facility,

helping the local job market start to come back. By adding this additional layer to the zoning this will prevent this from happening. I have been in negotiations with the landowners, and they are extremely excited to have a facility like this and they are willing to go the extra mile. The clint base that I have been building for 2 years now, they are extremely excited to have a place like this. As of now they have two places to go, one is "Shooters Paradise" and the other is "Smoking Barrel" in Simi Valley. Both ranges are constantly busy and not in the best of conditions. (as well as offering very little in the way that I purpose to offer at this new facility.) Shooters Paradise is run down and has a very shallow range, and the customer service is not what it should be. Smoking barrel is a little larger but just as shallow and does not offer any where near what I will with this facility. I am looking to change that and give people a place that they can be safe to go and exercise their 2nd Amendment Rights as well as a place that the community can be proud of to say that it is in their community. Drawing individuals from all over the County of Ventura and Surrounding Counties as it will be a one-of-a-kind place with a 270' deep range, a gun smith area, an ammunition production area, as well as a custom ammunition production process for the out-of-date cartridges and hard to find ammunition. "Home of the Bullet Bar". It will have training classes from the first-time gun owner all the way up to advanced tactics. This Facility will be a one-of-a-kind facility and it will bring in an extreme number of individuals.

By adding this additional buffer to the current zoning, it will halt all of this and make it so that it does not happen. I have been looking for the last 2 years for a building that has the capabilities to make this happen. They have either been too big or too small, or the owners are not firearms friendly, or the surrounding facilities are not firearms friendly and have clauses in their leases not allowing such a facility to be in the same area, and so on. It has not been easy, but I feel very much worth the efforts I have been putting forward to make this facility become a reality.

I have been operating in an exceedingly small area for the last two years and I have outgrown this area and I have done it at an amazingly fast rate. I would like to be able to tell my clients that this new facility will be happening soon. If some one can give me a solid answer as to why they feel that this additional buffer should continue and be looked at, then I might understand why in the first place that it is even being considered. I am looking to expand Oxnard City with this facility as well as bring the community a safe and enjoyable place to use their firearms.

Again, I thank you for the time you took to look at this and I urge you and the rest of the individuals that are making these choices, to not continue with this additional layer to the Zoning requirements and help usher this facility in and all the tremendous benefits that come along with it.

Thank you,



Keith Lauterback

Ghost Guns & Gear

Saving Lives.... ONE Matched Round at a Time.....

RESOLUTION NO. 2021-15

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OXNARD RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF ZONE TEXT AMENDMENT NO. PZ 20-580-05 TO AMEND OXNARD CITY CODE (OCC) CHAPTER 16 (ZONING CODE) PERTAINING TO THE PERMITTING AND DEVELOPMENT REQUIREMENTS RELATED TO FIREARM RANGES AND BUSINESSES ENGAGED IN THE SALE OF FIREARMS AND AMMUNITION. PROPOSED MODIFICATIONS INCLUDE ADDING MEDICAL CLINICS AND HOSPITALS AS SENSITIVE USES REQUIRING A 600-FOOT SEPARATION FROM BUSINESSES ENGAGED IN THE SALE OF FIREARMS AND AMMUNITION AND FIREARM RANGES TO OCC CHAPTER 16, ARTICLE II, SECTION 16-10 (DEFINITIONS), AND OCC CHAPTER 16, ARTICLE V (SPECIFIC USE REQUIREMENTS), DIVISION 19 (FIREARM AND AMMUNITION SALES) SECTION 16-540.1(B) AND DIVISION 20 (FIREARM RANGES) SECTION 16-504.2(B). FILED BY THE CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CALIFORNIA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered Zone Text Amendment (ZTA) PZ No. 20-580-05, filed by the City of Oxnard Community Development Department, to amend Chapter 16 of the Oxnard City Code (OCC) pertaining to the permitting and development requirements related to firearm ranges and businesses engaged in the sale of firearms and ammunition. Proposed modifications include adding medical clinics and hospitals as sensitive uses requiring a 600-foot separation from businesses engaged in the sale of firearms and ammunition and firearm ranges to OCC Chapter 16, Article II, Section 16-10 (Definitions), and OCC Chapter 16, Article V (Specific Use Requirements), Division 19 (Firearm and Ammunition Sales) Section 16-540.1(B) & Division 20 (Firearm Ranges) Section 16-504.2(B); and

WHEREAS, On July 16, 2019, the City Council approved the second reading and adopted Ordinance No. 2961 pertaining to the permitting and development of firearm ranges and businesses engaged in the sale of firearms and ammunition; and

WHEREAS, On April 13, 2021, Community Services, Public Safety, Housing & Development Committee unanimously determined staff should pursue a ZTA to amend Chapter 16 of the OCC to include medical clinics and hospitals as a sensitive use requiring a minimum separation from firearm and ammunition sales and firearm ranges uses within Chapter 16, Article V, Divisions 19 and 20; and

WHEREAS, on May 17, 2021, a public Community Workshop meeting was held for the community and the general public to receive community input on the proposed ZTA; and

WHEREAS, on July 15, 2021, the Planning Commission of the City of Oxnard conducted a duly noticed public hearing to consider Planning and Zoning Permit No. 20-580-05 (Zone Text Amendment) (the "Project") in accordance with the OCC; and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, the Planning Commission finds that the proposed ZTA is in the public interest and reflects the input from residents, stakeholders in the community, and decision-makers. There are no changes recommended under the proposed ZTA that would reduce or compromise existing standards that protect the health, safety or general welfare of the City; and

WHEREAS, the proposed ZTA does not involve any direct physical changes to the environment. There are no changes in landforms or an intensification of land uses as a part of the proposed ZTA, and all public services for existing land uses will remain as-is, with no changes and no diminishment of service or safety; and

WHEREAS, the proposed ZTA to Chapter 16 of the OCC, herein attached as Exhibit 1, would establish specific provisions consistent with the action items and policy directives in the 2030 General Plan; and

WHEREAS, the adoption of ZTA would be a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by establishing regulations related to the siting, permitting, and operation of firearm and ammunition sales businesses and firearm ranges within the City of Oxnard; and

WHEREAS, the Planning Commission determined that this action is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3) as this ZTA is a regulatory action which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA; and

WHEREAS, it is in the public interest, consistent with the 2030 General Plan and will further protect the public health, safety, and general welfare to establish special zoning regulations governing firearm and ammunition sales and firearm ranges.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Oxnard hereby recommends to the City Council adoption of the ordinance attached hereto as Exhibit 1.

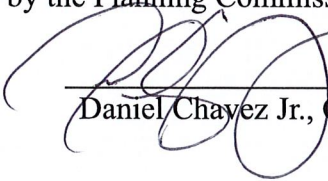
Section 1: The foregoing recitals are true and correct and are hereby incorporated into the operative provisions of this Resolution.

Section 2. Based upon the foregoing recitals, the Planning Commission finds, for the above stated reasons, and the reasons set forth in the staff report, that the proposed ZTA presented as Exhibit 1 herein will not result in any new significant environmental impacts that were not addressed in the 2030 General Plan Program EIR, will not increase the severity of any previously identified impacts, and is exempt from CEQA under Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3).

Section 3. The Planning Commission, based on the findings set forth herein, recommends that the City Council of the City of Oxnard adopt ZTA PZ No. 20-580-05 attached hereto as Exhibit 1 and incorporated herein by this reference to this Resolution.

Section 4. The Secretary shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the Planning Commission of the City of Oxnard on this 15th day of July, 2021.



Daniel Chavez Jr., Chair

I hereby certify that the foregoing is a true copy of a Resolution adopted by the Planning Commission of the City of Oxnard at a meeting held on the 15th day of July, 2021, and carried by the following vote:

AYES: Commissioner(s): Chavez Jr.; Arruejo; Connelly; Meyer; Nash; Sanchez

NOES: Commissioner(s):

ABSENT: Commissioner(s): Lopez

ABSTAIN: Commissioner(s):

RECUSED: Commissioner(s):

ATTEST:



Scott Kolwitz, Secretary

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING CHAPTER 16 (ZONING CODE) OF THE OXNARD CITY CODE (OCC) TO PERTAINING TO THE PERMITTING AND DEVELOPMENT REQUIREMENTS RELATED TO FIREARM RANGES AND BUSINESS ENGAGED IN THE SALE OF FIREARMS AND AMMUNITION. PROPOSED MODIFICATIONS INCLUDE ADDING MEDICAL CLINICS AND HOSPITALS AS SENSITIVE USES REQUIRING A 600-FOOT SEPARATION FROM BUSINESSES ENGAGED IN THE SALE OF FIREARMS AND AMMUNITION AND FIREARM RANGES TO OCC CHAPTER 16, ARTICLE II, SECTION 16-10 (DEFINITIONS), AND OCC CHAPTER 16, ARTICLE V (SPECIFIC USE REQUIREMENTS) DIVISION 19 (FIREARM AND AMMUNITION SALES) SECTION 16-540.1(B) AND DIVISION 20 (FIREARM RANGES) SECTION 16-504.2(B). FILED BY THE CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CALIFORNIA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered Zone Text Amendment (ZTA) PZ No. 20-580-05, filed by the City of Oxnard Community Development Department, to amend Chapter 16 of the Oxnard City Code (OCC) pertaining to the permitting and development requirements related to firearm ranges and businesses engaged in the sale of firearms and ammunition. Proposed modifications include adding medical clinics and hospitals as sensitive uses requiring a 600-foot separation from businesses engaged in the sale of firearms and ammunition and firearm ranges to OCC Chapter 16, Article II, Section 16-10 (Definitions), and OCC Chapter 16, Article V (Specific Use Requirements), Division 19 (Firearm and Ammunition Sales) Section 16-540.1(B) & Division 20 (Firearm Ranges) Section 16-504.2(B); and

WHEREAS, On July 16, 2019, the City Council approved the second reading and adopted Ordinance No. 2961 pertaining to the permitting and development of firearm ranges and businesses engaged in the sale of firearms and ammunition; and

WHEREAS, On April 13, 2021, Community Services, Public Safety, Housing & Development Committee unanimously determined staff should pursue a ZTA to amend Chapter 16 of the OCC to include medical clinics and hospitals as a sensitive use requiring a minimum separation from firearm and ammunition sales and firearm ranges uses within Chapter 16, Article V, Divisions 19 and 20; and

WHEREAS, on May 17, 2021, a public Community Workshop meeting was held for the community and the general public to receive community input on the proposed ZTA; and

WHEREAS, on July 15, 2021, the Planning Commission of the City of Oxnard conducted a duly noticed public hearing to consider Planning and Zoning Permit No. 19-580-02 (Zone Text Amendment) (the “**Project**”) in accordance with the Oxnard City Code and recommended approval to the City Council; and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, the Planning Commission found the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and

WHEREAS, the Planning Commission adopt Resolution 2021-XX recommending that the City Council approve Planning & Zoning Permit No. 20-580-05 (Zone Text Amendment) adding Medical Clinics and Hospitals as sensitive uses requiring separation from establishing regulations to address Firearm Ranges and the Sales of Firearms and Ammunition; and

WHEREAS, on _____, 2021, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 20-580-05 (Zone Text Amendment) in accordance with the OCC, and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, the City Council finds proposed Zoning Text Amendment is in the public interest and reflects the input from residents, stakeholders in the community, and decision-makers. There are no changes recommended under the proposed ZTA that would reduce or compromise existing standards that protect the health, safety or general welfare of the City; and

WHEREAS, the proposed ZTA does not involve any direct physical changes to the environment. There are no changes in landforms or an intensification of land uses as a part of the proposed ZTA and all public services for existing land uses will remain as-is, with no changes and no diminishment of service or safety; and

WHEREAS, the proposed ZTA to Chapter 16 of the OCC would establish specific provisions consistent with the action items and policy directives in the 2030 General Plan; and

WHEREAS, the adoption of ZTA would be a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by establishing regulations related to the siting, permitting and operation of firearm and ammunition sales businesses and firearm ranges within the City of Oxnard; and

WHEREAS, the City Council determined that this action is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3) as this ZTA is a regulatory action which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the

activity in question may have a significant effect on the environment are not subject to CEQA; and

WHEREAS, it is in the public interest, consistent with the 2030 General Plan and will further protect the public health, safety, and general welfare to establish special zoning regulations governing firearm and ammunition sales and firearm ranges.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Section 1. Amend Oxnard City Code Chapter 16, Article II, Section 16-10 “Definitions”. Existing City Code Section 16-10 shall be amended as shown below to add the following definitions and reorganize the existing definitions accordingly:

(X) MEDICAL CLINIC – An organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients.

(X) HOSPITAL – A health facility having a duly constituted governing body with overall administrative and professional responsibility and having an organized medical staff which provides twenty-four-hour inpatient care including one (1) or more of the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary services, or psychiatric care and treatment.

Section 2. Amend Oxnard City Code Chapter 16, Division 19. FIREARM AND AMMUNITION SALES (Only underlined portions are to be added)

SEC. 16-504.1. PURPOSE AND INTENT.

(A) Firearm and ammunition sales may be established, subject to all other provisions of this Chapter and Division, only in the General Commercial (C-2) and Limited Manufacturing (M-L) zoning districts. For the purposes of this Division, the establishment of any business engaged in firearm and ammunition sales shall include the locating and opening of such a business as a new business, the relocation of such business, the conversion of an existing business location to any firearm and ammunition sales use, or the expansion of an existing firearm and ammunition sales use.

(B) Locational Criteria: In the C-2 and M-L zoning districts, no firearm and ammunition sales use may be established within the following proximity to the sensitive uses identified below:

- (1) Within 600 feet of any residentially zoned property;
- (2) Within 600 feet of any day care center. For the purposes of this Division, ‘day care center’ includes any child or adult day care facility other than a family day care home and includes infant center, preschools, extended day care facilities for adults and/or children which involve the supervision of more than 14 persons for a period of less than 24 hours per day;
- (3) Within 600 feet of any park. For the purposes of this Division, ‘park’ includes

any land or easements owned or leased by the City of Oxnard which, by ordinance, resolution, regulation or agreement, is dedicated to or operated by the City for purposes of public recreation, be it active or passive. This term does not apply to trails, bikeways, or similar facilities;

(4) Within 600 feet of any church, as defined by Section 16-10 – A building primarily operated for worship or for promotion of religious activities excluding other buildings or activities maintained by religious organizations such as educational institutions, hospitals, homeless shelters, and day care centers or operations that are commercial in nature;

(5) Within 600 feet of any school. For the purposes of this Division, ‘school’ includes any child day care facility or educational institution for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the state Board of Education. This definition includes nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education for grades K through 12. This definition does not include tutoring centers, a professional or commercial school, or an institution of higher education, including a community or junior college, college, or university; and

(6) Within 600 feet of the boundaries of the Oxnard Transportation Center and Oxnard Airport; and

(7) Within 600 of any medical clinic; and

(8) Within 600 of any hospital; and

(9) Within 200 feet of another legally authorized firearm and ammunition sales business or firearm range.

(C) Measurement: All locational criteria outlined in this Division shall be calculated using the distance between the closest exterior wall of the firearm and ammunition sales business and the nearest property line of the identified sensitive use in a straight line extended between two points, without regard for intervening structures.

(D) Permit Requirements and Conditions: The establishment of a firearm and ammunition sales use is permitted only on approval of a special use permit, as provided in Sections 16-530 through 16-553.

(1) In addition to the application materials described in Section 16-553, the following information shall be provided within an application for a special use permit:

(a) Plans shall indicate the nature of construction of exterior walls, placement, and size of exterior windows and doors, and location of exterior heating, ventilation, air conditioning equipment, and skylights.

(b) A business proposal detailing the proposed operation, what types of firearms and ammunition will be sold and stored on-site, an account of the quantities, types, storage, and handling of any hazardous materials, and any ancillary services performed, including firearm repair and maintenance.

(c) Staff positions and responsibilities.

(2) In addition to the factors described in Section 16-532, conditions of approval involving the following factors may be imposed by the Planning Commission on a special use permit for firearm and ammunition sales:

(a) Safety and security related to the design and operation of the proposed

- use, security and access control systems, etc.;
 - (b) Site and building target hardening;
 - (c) Inspections to ensure compliance with conditions of approval and applicable laws;
 - (d) Weapons and ammunition storage;
 - (e) The maintenance of all required state, federal and local licenses;
 - (f) Copies of a live-scan for all applicants for employment, submitted to the Chief of Police or his/her designee; and
 - (g) Liability and risk management.
- (E) Requirements for Granting: In addition to those findings listed in Section 16-531, the applicant must demonstrate and the Planning Commission must find that the proposed use is in conformance with the following, prior to granting a special use permit for the sale of firearms and ammunition:
- (1) The establishment has incorporated adequate security so as to reduce the likelihood that the use will aggravate policing issues; and
 - (2) The proposed operational procedures are sufficient to mitigate issues related to facility security, staff and customer safety, and first responder events.

Section 3. Amend Oxnard City Code Chapter 16, Division 20. FIREARM RANGES
(Only underlined portions are to be added)

SEC. 16-504.1. PURPOSE AND INTENT.

- (A) Firearm ranges may be established, subject to all other provisions of this Chapter and Division, only in the Limited Manufacturing (M-L) zoning district. For the purposes of this Division, the establishment of any firearm range shall include the locating and opening of such a business as a new business, the relocation of such business, the conversion of an existing business location to a firearm range, or the expansion of an existing firearm range.
- (B) Locational Criteria: In the M-L zoning district, no firearm range may be established within the following proximity to the sensitive uses identified below:
- (1) Within 500 feet of any residentially zoned property;
 - (2) Within 500 feet of any day care center. For the purposes of this Division, 'day care center' includes any child or adult day care facility other than a family day care home and includes infant center, preschools, extended day care facilities for adults and/or children which involve the supervision of more than 14 persons for a period of less than 24 hours per day;
 - (3) Within 500 feet of any park. For the purposes of this Division, 'park' includes any land or easements owned or leased by the City of Oxnard which, by ordinance, resolution, regulation or agreement, is dedicated to or operated by the City for purposes of public recreation, be it active or passive. This term does not apply to trails, bikeways, or similar facilities;
 - (4) Within 500 feet of any church, as defined by Section 16-10 – A building primarily operated for worship or for promotion of religious activities excluding other buildings or activities maintained by religious organizations such as educational institutions, hospitals, homeless shelters, and day care centers or operations that are commercial in nature;

(5) Within 500 feet of any school. For the purposes of this Division, 'school' includes any child day care facility or educational institution for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the state Board of Education. This definition includes nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education for grades K through 12. This definition does not include tutoring centers, a professional or commercial school, or an institution of higher education, including a community or junior college, college, or university; and

(6) Within 600 feet of the boundaries of the Oxnard Transportation Center and Oxnard Airport; and

(7) Within 600 of any medical clinic; and

(8) Within 600 of any hospital; and

(9) Within 200 feet of another legally authorized firearm and ammunition sales business or firearm range.

(C) Measurement: All locational criteria outlined in this Division shall be calculated using the distance between the closest exterior wall of the firearm and ammunition sales business and the nearest property line of the identified sensitive use in a straight line extended between two points, without regard for intervening structures.

(D) Permit Requirements and Conditions: The establishment of a firearm range is permitted only on approval of a special use permit, as provided in Sections 16-530 through 16-553.

(1) In addition to the application materials described in Section 16-553, the following information shall be provided within an application for a special use permit:

(a) Plans shall indicate the nature of construction of exterior walls, placement, and size of exterior windows and doors, and location of exterior heating, ventilation, air conditioning equipment, and skylights.

(b) A business proposal detailing the proposed operation including the number of shooters to be accommodated, whether the range will emphasize training or competitive activities, what types of firearms and ammunition will be used, any special uses proposed (e.g., advanced training, special weapons, or explosives), individual customer storage facilities, an account of the quantities, types, storage, and handling of any hazardous materials, and any ancillary services performed, including firearm repair and maintenance.

(c) Details regarding proposed ventilation systems for the building, including any filtration systems.

(d) Staff positions and responsibilities.

(e) A parking study, prepared pursuant to Section 16-651.

(2) In addition to the factors described in Section 16-532, conditions of approval involving the following factors may be imposed by the Planning Commission on a special use permit for firearm ranges:

(a) Safety and security related to the design and operation of the proposed use, security and access control systems, etc.;

(b) Site and building target hardening;

(c) Inspections to ensure compliance with conditions of approval and

applicable laws;

(d) Weapons and ammunition storage;

(e) The maintenance of all required state, federal and local licenses;

(f) Copies of a live-scan for all applicants for employment, submitted to the Chief of Police or his/her designee; and

(g) Liability and risk management.

(h) Mitigations of potential environmental issues (noise, ventilation, cleaning, etc.).

(i) Health, safety and trauma procedures and equipment for employees.

(E) Requirements for Granting: In addition to those findings listed in Section 16-531, the applicant must demonstrate and the Planning Commission must find that the proposed use is in conformance with the following, prior to granting a special use permit for the sale of firearms and ammunition:

(1) The establishment has incorporated adequate security so as to reduce the likelihood that the use will aggravate policing issues; and

(2) The proposed operational procedures are sufficient to mitigate issues related to facility security, staff and customer safety, and first responder events.

Section 4. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court of competent jurisdiction, then decision or order shall not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted this Ordinance, and each section, sentence, subsection, clause, phrase, part or portion thereof, regardless of the fact that any one or more sections, sentences, subsections, clauses, phrases, be declared invalid or unconstitutional.

Section 5. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 6. Exempt from CEQA. The City Council determines and finds that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the Guidelines to the California Environmental Quality Act because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Therefore, CEQA does not apply to this action.

Section 7. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

Section 8. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this Ordinance, including for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on _____ 2021, to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this __th day of _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

John Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

COMMUNITY DEVELOPMENT DEPARTMENT
OXNARD PLANNING DIVISION
214 SOUTH C STREET
OXNARD, CALIFORNIA 93030



NOTICE OF EXEMPTION

Project Description: Firearms Ordinance Update

PLANNING AND ZONING PERMIT NO. 20-580-05 (Zone Text Amendment) a request to modify Oxnard City Code (OCC) Chapter 16 (Zoning Code) pertaining to the permitting and development requirements related to firearm ranges and businesses engaged in the sale of firearms and ammunition. Proposed modifications include adding medical clinics and hospitals as a sensitive use requiring a 600-foot separation from businesses engaged in the sale of firearms and ammunition and firearm ranges to OCC Chapter 16, Article II, Section 16-10 (Definitions), and OCC Chapter 16, Article V (Specific Use Requirements), Division 19 (Firearm and Ammunition Sales) Section 16-540.1(B) & Division 20 (Firearm Ranges) Section 16-504.2 (B). Filed by the City of Oxnard, Community Development Department, 214 South C Street, Oxnard, California 93030.

Finding:

The Planning Division of the Community Development Department of the City of Oxnard has reviewed the proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- ☐ Ministerial Project
- ☐ Categorical Exemption
- ☐ Statutory Exemption
- ☐ Emergency Project
- ☐ Quick Disapproval [CEQA Guidelines, 14 Cal. Code of Regs. 15270]
- ☒ No Possibility of Significant Effect [CEQA Guidelines, 14 Cal. Code of Regs. 15060 (c)(2) and (3), and 15061(b)(3)]

Supporting Reasons: Pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act, regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA. The proposed zone text amendment is a regulatory action. Furthermore, any resulting foreseeable development following approval of the ZTA is anticipated to be less intense than what is allowed by the existing regulations pertaining to the firearm sales, ammunition sales, and firearm range uses within the City. Therefore, the Planning Commission has determined that there is no possibility that the project will have a significant effect on the environment.

(Date)

Scott Kolwitz, Planning & Environmental
Services Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING CHAPTER 16 (ZONING CODE) OF THE OXNARD CITY CODE (OCC) TO PERTAINING TO THE PERMITTING AND DEVELOPMENT REQUIREMENTS RELATED TO FIREARM RANGES AND BUSINESSES ENGAGED IN THE SALE OF FIREARMS AND AMMUNITION. PROPOSED MODIFICATIONS INCLUDE ADDING MEDICAL CLINICS AND HOSPITALS AS SENSITIVE USES REQUIRING A 600-FOOT SEPARATION FROM BUSINESSES ENGAGED IN THE SALE OF FIREARMS AND AMMUNITION AND FIREARM RANGES TO OCC CHAPTER 16, ARTICLE II, SECTION 16-10 (DEFINITIONS), AND OCC CHAPTER 16, ARTICLE V (SPECIFIC USE REQUIREMENTS) DIVISION 19 (FIREARM AND AMMUNITION SALES) SECTION 16-540.1(B) AND DIVISION 20 (FIREARM RANGES) SECTION 16-504.2(B). FILED BY THE CITY OF OXNARD, COMMUNITY DEVELOPMENT DEPARTMENT, 214 SOUTH C STREET, OXNARD, CALIFORNIA 93030.

WHEREAS, the Planning Commission of the City of Oxnard has considered Zone Text Amendment (ZTA) PZ No. 20-580-05, filed by the City of Oxnard Community Development Department, to amend Chapter 16 of the Oxnard City Code (OCC) pertaining to the permitting and development requirements related to firearm ranges and businesses engaged in the sale of firearms and ammunition. Proposed modifications include adding medical clinics and hospitals as sensitive uses requiring a 600-foot separation from businesses engaged in the sale of firearms and ammunition and firearm ranges to OCC Chapter 16, Article II, Section 16-10 (Definitions), and OCC Chapter 16, Article V (Specific Use Requirements), Division 19 (Firearm and Ammunition Sales) Section 16-540.1(B) & Division 20 (Firearm Ranges) Section 16-504.2(B); and

WHEREAS, On July 16, 2019, the City Council approved the second reading and adopted Ordinance No. 2961 pertaining to the permitting and development of firearm ranges and businesses engaged in the sale of firearms and ammunition; and

WHEREAS, On April 13, 2021, Community Services, Public Safety, Housing & Development Committee unanimously determined staff should pursue a ZTA to amend Chapter 16 of the OCC to include medical clinics and hospitals as a sensitive use requiring a minimum separation from firearm and ammunition sales and firearm ranges uses within Chapter 16, Article V, Divisions 19 and 20; and

WHEREAS, on May 17, 2021, a public Community Workshop meeting was held for the community and the general public to receive community input on the proposed ZTA; and

WHEREAS, on July 15, 2021, the Planning Commission of the City of Oxnard conducted a duly noticed public hearing to consider Planning and Zoning Permit No. 19-580-02 (Zone Text Amendment) (the “**Project**”) in accordance with the Oxnard City Code and recommended approval to the City Council; and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, the Planning Commission found the Project to be Categorically Exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines 15060(c)(2) and (3) and 15061(b)(3); and

WHEREAS, the Planning Commission adopt Resolution 2021-XX recommending that the City Council approve Planning & Zoning Permit No. 20-580-05 (Zone Text Amendment) adding Medical Clinics and Hospitals as sensitive uses requiring separation from establishing regulations to address Firearm Ranges and the Sales of Firearms and Ammunition; and

WHEREAS, on September 21, 2021, the City Council of the City of Oxnard conducted a duly noticed public hearing to consider the Applicant's request to approve Planning and Zoning Permit No. 20-580-05 (Zone Text Amendment) in accordance with the OCC, and

WHEREAS, the Planning Commission received written and verbal comments from the public; and

WHEREAS, the City Council finds proposed Zoning Text Amendment is in the public interest and reflects the input from residents, stakeholders in the community, and decision-makers. There are no changes recommended under the proposed ZTA that would reduce or compromise existing standards that protect the health, safety or general welfare of the City; and

WHEREAS, the proposed ZTA does not involve any direct physical changes to the environment. There are no changes in landforms or an intensification of land uses as a part of the proposed ZTA and all public services for existing land uses will remain as-is, with no changes and no diminishment of service or safety; and

WHEREAS, the proposed ZTA to Chapter 16 of the OCC would establish specific provisions consistent with the action items and policy directives in the 2030 General Plan; and

WHEREAS, the adoption of ZTA would be a reasonable exercise of the City's police powers to ensure the continued health, safety, and welfare of the public by establishing regulations related to the siting, permitting and operation of firearm and ammunition sales businesses and firearm ranges within the City of Oxnard; and

WHEREAS, the City Council determined that this action is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3) as this ZTA is a regulatory action which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA; and

WHEREAS, it is in the public interest, consistent with the 2030 General Plan and will further protect the public health, safety, and general welfare to establish special zoning regulations governing firearm and ammunition sales and firearm ranges.

NOW, THEREFORE, the City Council of the City of Oxnard does ordain as follows:

Section 1. Amend Oxnard City Code Chapter 16, Article II, Section 16-10 “Definitions”.

Existing City Code Section 16-10 shall be amended as shown below to add the following definitions and reorganize the existing definitions accordingly:

(X) MEDICAL CLINIC – An organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients.

(X) HOSPITAL – A health facility having a duly constituted governing body with overall administrative and professional responsibility and having an organized medical staff which provides twenty-four-hour inpatient care including one (1) or more of the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary services, or psychiatric care and treatment.

Section 2. Amend Oxnard City Code Chapter 16, Division 19. FIREARM AND AMMUNITION SALES (Only underlined portions are to be added)

SEC. 16-504.1. PURPOSE AND INTENT.

(A) Firearm and ammunition sales may be established, subject to all other provisions of this Chapter and Division, only in the General Commercial (C-2) and Limited Manufacturing (M-L) zoning districts. For the purposes of this Division, the establishment of any business engaged in firearm and ammunition sales shall include the locating and opening of such a business as a new business, the relocation of such business, the conversion of an existing business location to any firearm and ammunition sales use, or the expansion of an existing firearm and ammunition sales use.

(B) Locational Criteria: In the C-2 and M-L zoning districts, no firearm and ammunition sales use may be established within the following proximity to the sensitive uses identified below:

- (1) Within 600 feet of any residentially zoned property;
- (2) Within 600 feet of any day care center. For the purposes of this Division, ‘day care center’ includes any child or adult day care facility other than a family day care home and includes infant center, preschools, extended day care facilities for adults and/or children which involve the supervision of more than 14 persons for a period of less than 24 hours per day;
- (3) Within 600 feet of any park. For the purposes of this Division, ‘park’ includes any land or easements owned or leased by the City of Oxnard which, by ordinance, resolution, regulation or agreement, is dedicated to or operated by the City for purposes of public recreation, be it active or passive. This term does not apply to trails, bikeways, or similar

facilities;

(4) Within 600 feet of any church, as defined by Section 16-10 – A building primarily operated for worship or for promotion of religious activities excluding other buildings or activities maintained by religious organizations such as educational institutions, hospitals, homeless shelters, and day care centers or operations that are commercial in nature;

(5) Within 600 feet of any school. For the purposes of this Division, ‘school’ includes any child day care facility or educational institution for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the state Board of Education. This definition includes nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education for grades K through 12. This definition does not include tutoring centers, a professional or commercial school, or an institution of higher education, including a community or junior college, college, or university; and

(6) Within 600 feet of the boundaries of the Oxnard Transportation Center and Oxnard Airport; and

(7) Within 600 of any medical clinic; and

(8) Within 600 of any hospital; and

(9) Within 200 feet of another legally authorized firearm and ammunition sales business or firearm range.

(C) Measurement: All locational criteria outlined in this Division shall be calculated using the distance between the closest exterior wall of the firearm and ammunition sales business and the nearest property line of the identified sensitive use in a straight line extended between two points, without regard for intervening structures.

(D) Permit Requirements and Conditions: The establishment of a firearm and ammunition sales use is permitted only on approval of a special use permit, as provided in Sections 16-530 through 16-553.

(1) In addition to the application materials described in Section 16-553, the following information shall be provided within an application for a special use permit:

(a) Plans shall indicate the nature of construction of exterior walls, placement, and size of exterior windows and doors, and location of exterior heating, ventilation, air conditioning equipment, and skylights.

(b) A business proposal detailing the proposed operation, what types of firearms and ammunition will be sold and stored on-site, an account of the quantities, types, storage, and handling of any hazardous materials, and any ancillary services performed, including firearm repair and maintenance.

(c) Staff positions and responsibilities.

(2) In addition to the factors described in Section 16-532, conditions of approval involving the following factors may be imposed by the Planning Commission on a special use permit for firearm and ammunition sales:

(a) Safety and security related to the design and operation of the proposed use, security and access control systems, etc.;

(b) Site and building target hardening;

(c) Inspections to ensure compliance with conditions of approval and applicable laws;

(d) Weapons and ammunition storage;

- (e) The maintenance of all required state, federal and local licenses;
 - (f) Copies of a live-scan for all applicants for employment, submitted to the Chief of Police or his/her designee; and
 - (g) Liability and risk management.
- (E) Requirements for Granting: In addition to those findings listed in Section 16-531, the applicant must demonstrate and the Planning Commission must find that the proposed use is in conformance with the following, prior to granting a special use permit for the sale of firearms and ammunition:
- (1) The establishment has incorporated adequate security so as to reduce the likelihood that the use will aggravate policing issues; and
 - (2) The proposed operational procedures are sufficient to mitigate issues related to facility security, staff and customer safety, and first responder events.

Section 3. Amend Oxnard City Code Chapter 16, Division 20. FIREARM RANGES
(Only underlined portions are to be added)

SEC. 16-504.1. PURPOSE AND INTENT.

- (A) Firearm ranges may be established, subject to all other provisions of this Chapter and Division, only in the Limited Manufacturing (M-L) zoning district. For the purposes of this Division, the establishment of any firearm range shall include the locating and opening of such a business as a new business, the relocation of such business, the conversion of an existing business location to a firearm range, or the expansion of an existing firearm range.
- (B) Locational Criteria: In the M-L zoning district, no firearm range may be established within the following proximity to the sensitive uses identified below:
- (1) Within 500 feet of any residentially zoned property;
 - (2) Within 500 feet of any day care center. For the purposes of this Division, ‘day care center’ includes any child or adult day care facility other than a family day care home and includes infant center, preschools, extended day care facilities for adults and/or children which involve the supervision of more than 14 persons for a period of less than 24 hours per day;
 - (3) Within 500 feet of any park. For the purposes of this Division, ‘park’ includes any land or easements owned or leased by the City of Oxnard which, by ordinance, resolution, regulation or agreement, is dedicated to or operated by the City for purposes of public recreation, be it active or passive. This term does not apply to trails, bikeways, or similar facilities;
 - (4) Within 500 feet of any church, as defined by Section 16-10 – A building primarily operated for worship or for promotion of religious activities excluding other buildings or activities maintained by religious organizations such as educational institutions, hospitals, homeless shelters, and day care centers or operations that are commercial in nature;
 - (5) Within 500 feet of any school. For the purposes of this Division, ‘school’ includes any child day care facility or educational institution for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the state Board of Education. This definition includes nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education for grades K through 12. This definition does

not include tutoring centers, a professional or commercial school, or an institution of higher education, including a community or junior college, college, or university; and

(6) Within 600 feet of the boundaries of the Oxnard Transportation Center and Oxnard Airport; and

(7) Within 600 of any medical clinic; and

(8) Within 600 of any hospital; and

(9) Within 200 feet of another legally authorized firearm and ammunition sales business or firearm range.

(C) Measurement: All locational criteria outlined in this Division shall be calculated using the distance between the closest exterior wall of the firearm and ammunition sales business and the nearest property line of the identified sensitive use in a straight line extended between two points, without regard for intervening structures.

(D) Permit Requirements and Conditions: The establishment of a firearm range is permitted only on approval of a special use permit, as provided in Sections 16-530 through 16-553.

(1) In addition to the application materials described in Section 16-553, the following information shall be provided within an application for a special use permit:

(a) Plans shall indicate the nature of construction of exterior walls, placement, and size of exterior windows and doors, and location of exterior heating, ventilation, air conditioning equipment, and skylights.

(b) A business proposal detailing the proposed operation including the number of shooters to be accommodated, whether the range will emphasize training or competitive activities, what types of firearms and ammunition will be used, any special uses proposed (e.g., advanced training, special weapons, or explosives), individual customer storage facilities, an account of the quantities, types, storage, and handling of any hazardous materials, and any ancillary services performed, including firearm repair and maintenance.

(c) Details regarding proposed ventilation systems for the building, including any filtration systems.

(d) Staff positions and responsibilities.

(e) A parking study, prepared pursuant to Section 16-651.

(2) In addition to the factors described in Section 16-532, conditions of approval involving the following factors may be imposed by the Planning Commission on a special use permit for firearm ranges:

(a) Safety and security related to the design and operation of the proposed use, security and access control systems, etc.;

(b) Site and building target hardening;

(c) Inspections to ensure compliance with conditions of approval and applicable laws;

(d) Weapons and ammunition storage;

(e) The maintenance of all required state, federal and local licenses;

(f) Copies of a live-scan for all applicants for employment, submitted to the Chief of Police or his/her designee; and

(g) Liability and risk management.

(h) Mitigations of potential environmental issues (noise, ventilation, cleaning,

etc.).

(i) Health, safety and trauma procedures and equipment for employees.

(E) Requirements for Granting: In addition to those findings listed in Section 16-531, the applicant must demonstrate and the Planning Commission must find that the proposed use is in conformance with the following, prior to granting a special use permit for the sale of firearms and ammunition:

(1) The establishment has incorporated adequate security so as to reduce the likelihood that the use will aggravate policing issues; and

(2) The proposed operational procedures are sufficient to mitigate issues related to facility security, staff and customer safety, and first responder events.

Section 4. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court of competent jurisdiction, then decision or order shall not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted this Ordinance, and each section, sentence, subsection, clause, phrase, part or portion thereof, regardless of the fact that any one or more sections, sentences, subsections, clauses, phrases, be declared invalid or unconstitutional.

Section 5. Cumulative Ordinance. Nothing in this Ordinance shall be interpreted to allow any land use which is not expressly listed as permitted or conditionally permitted within the City's Zoning Code.

Section 6. Exempt from CEQA. The City Council determines and finds that the adoption of this Ordinance is exempt from review under the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the Guidelines to the California Environmental Quality Act because the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Therefore, CEQA does not apply to this action.

Section 7. Pursuant to Government Code Section 36933(c)(1), the City Attorney was designated to prepare, and the City Clerk published, a summary of this Ordinance, and a certified copy the Ordinance was posted in the Office of the City Clerk a minimum of five days before the City Council's adoption of the Ordinance.

Section 8. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published within fifteen calendar (15) days of the adoption and shall post a certified copy of this Ordinance, including for and against the same, in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on October 5, 2021, to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this 21st day of September, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

John Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

Firearms Ordinance Update Adding “Medical Clinics” and “Hospitals” As A Sensitive Use Requiring 600-foot Separation from Businesses Engaged in the Sale of Firearms and Ammunition and Firearm Ranges PZ 20-580-05 (Zone Text Amendment - Inland Zone)

Isidro Figueroa, Principal Planner
Scott Kolwitz, Planning Manager
Vyto Adomaitis, Community Development Director
Community Development Department

**Presentation to the City Council
September 21, 2021**



Zone Text Amendment

2

- An Amendment to the Oxnard City Code, Chapter 16 (Zoning Code) adding ‘Medical Clinics’ and ‘Hospitals’ as sensitive uses requiring separation from Firearm Ranges and Businesses Engaged in the Sale of Firearms and Ammunition.
- The proposed regulations would apply Citywide (Inland Zone) and pertain to the General Commercial (C-2) and Limited Manufacturing (M-L) zoning districts.

- July 16, 2019 public hearing, the Council approved a Zone Text Amendment (ZTA) to amend Chapters 11 and 16 of the Oxnard City Code (OCC) to:
 - Establish definitions for ammunition, firearm range, firearm, and firearm & ammunition sales;
 - Establish and/or modify land uses related to these activities within the General Commercial (C-2), Limited Manufacturing (M-L) and Community Reserve (C-R) zoning districts; and
 - Establishing siting criteria, operational considerations, and the process for review of Special Use Permit (SUP) applications related to these uses.

- July 16, 2019 public hearing, the Council deliberated on the possibility of including hospitals and clinics as a sensitive use.
 - Public testimony urged the Council to consider clinics and hospitals as sensitive uses.
 - A patient's safety and security should be protected equally as the sensitive uses being considered under the proposed ordinance.
 - Firearm/ammunition sales and firearm ranges required a minimum 600 foot separation from any sensitive use.
- Council directed staff to research the potential inclusion of "medical clinics" and "hospitals" in the Ordinance and report back at a future date.

- April 13, 2021, the Community Services, Public Safety, Housing & Development Committee unanimously voted to:
 - Direct staff to pursue a ZTA to amend Chapter 16 of the Oxnard City Code (OCC) to include medical clinics and hospitals as a sensitive use.
 - Staff was not given direction to amend any of the standards and requirements currently in place that regulate firearm/ammunition sales and firearm range uses.
 - Nor was direction given to alter the regulations or the operations of any of the four existing firearm and ammunition retailers within the City.

Community Workshop

- May 17, 2021, a Community Workshop was held for the ZTA and two members of the public attended and made the following comments:
 - One member inquired about an existing legal non-conforming firearm retailer (Big 5) located near the Orchard neighborhood.
 - Mr. Keith Lauterback, submitted a letter addressed to the City Council outlining his opposition to the proposed ZTA.

- July 15, 2021 - Planning Commission reviewed the proposed ZTA
 - Two individuals provided written correspondence supporting the ZTA
 - Mr. Keith Lauterbach provided comments on a proposed firearms use that would not be allowed if medical clinics are included as a sensitive use
 - Submitted letter opposing the proposed ZTA
 - Planning Commission discussed two amendments to the proposed ZTA:
 - consider reducing the required 600-foot separation between firearms uses and a sensitive use to 400 feet for medical clinics
 - consider decreasing the required 600-foot separation between firearms uses and sensitive uses to 500 feet
 - Both motions failed
 - Voted 6:0:1 to adopt Resolution No. 2021-15 recommending that the City Council adopt the proposed ZTA as presented.
-

Existing Firearm Retailer Engagement

- Staff has contacted the four existing legal non-conforming firearm retailers (one firearm retailer also operates a firearm range) owners via U.S. Postal Service and phone of the proposed ZTA and notified them of all public meetings to date.
 - The existing firearm retailers have declined to participate in the public meetings.
-

- Oxnard City Code (OCC) does not contain definitions for medical clinics and hospitals
- Using best practices, staff outlined the following definitions to guide discussion:
 - **‘Medical clinic’** means “An organized outpatient health facilities that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours and that may also provide diagnostic or therapeutic services to patients.”

- **‘Hospital’** means “A health facility having a duly constituted governing body with overall administrative and professional responsibility and having an organized medical staff which provides twenty-four-hour inpatient care including one (1) or more of the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, dietary services, or psychiatric care and treatment.”

- 'Medical clinic' definition is not intended to include land uses such as, but not limited to:
 1. Medical insurance and medical services
 2. Retail medical equipment and supplies
 3. Pharmacies (unless ancillary to a medical clinic or hospital)
 4. Medical research and laboratories (unless ancillary to a medical clinic or hospital)
 5. Medical devices, equipment, and hospital supplies manufacturers
 6. Ambulance Services
 7. Veterinarian services
 8. Spa and wellness centers

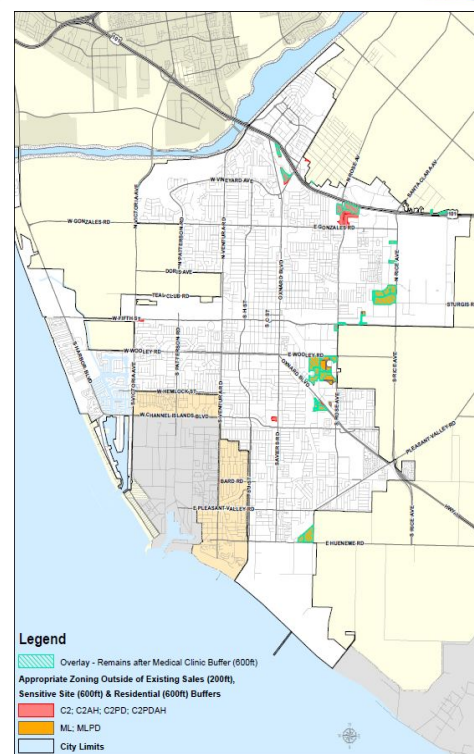
Locational Criteria

- Firearms related businesses must maintain a 600-foot separation from sensitive uses:
 - Non-residential day care (child or adult)
 - Parks
 - Churches
 - Schools (public or private)
 - Any residentially zoned property
 - Oxnard Transportation Center
 - Oxnard Airport
- A 200-foot separation is required between individual firearm-related uses.

Buffer Map 1

13

- Based on the proposed definitions for medical clinics and hospitals, staff plotted clinics and hospitals on the previously approved buffer map under Ordinance 2961.
- Over 290 medical establishments were plotted based on the City's Business License rolls.
- Map identifies the zoning areas (red and orange) throughout the City that allow firearm sales/uses under the current Firearms Ordinance.
- The green dashed areas identified all of the areas where firearm sales/uses are allowed if hospitals/clinics are included as a sensitive use.



Buffer Map 2

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- Map 2 contains a map that identifies all sensitive use buffers including medical clinics and hospitals.
- Baseline: Approximately 1.57% of land area where firearm sales/uses are allowed to operate.
- Potential: If medical clinics and hospitals are included as a sensitive use, the available land area where firearm sales/uses are allowed would be reduced by 0.38% to approximately 1.19%.
- Community Development Department staff consulted with the City Attorney's office and Police Department, and determined inclusion of medical clinics and hospitals as a sensitive use would provide for a legally sufficient number of parcels to accommodate firearms uses.



- ZTA is exempt pursuant to Sections 15060(c)(2) and (3) and 15061(b)(3) of the California Environmental Quality Act (CEQA), regulatory actions which will not result in direct or reasonably foreseeable indirect physical change in the environment and when it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment are not subject to CEQA.

Recommendation

That the City Council:

1. Conduct a public hearing;
2. Determine the Zone Text Amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15060(c)(2) and (3) and 15061(b)(3);
3. Introduce an Ordinance for first reading (by title only, waiving further reading) adding Medical Clinics and Hospitals as sensitive uses requiring separation from establishing regulations to address Firearm Ranges and the Sales of Firearms and Ammunition.



End of Presentation



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.1

DATE: September 21, 2021

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: Selection of American Rescue Plan Act Investment Projects

RECOMMENDATION

That the City Council begins making final decisions on American Rescue Plan Act (ARPA) investments. Staff recommends that the City Council makes tranche 1 investment decisions and as many tranche 2 investment decisions as the City Council deems appropriate. If the City Council does not decide on investment decisions totaling \$59,540,662, the City Council can decide on the balance at a later date.

ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/7a470lozT_k

BACKGROUND

EXECUTIVE SUMMARY

On March 11, 2021, President Biden signed the ARPA into law. As part of the federal stimulus package, the City of Oxnard is expected to receive a total of \$59,540,662. The needs of the community far outweigh the \$59,540,662 the City will receive; however, this funding is a unique opportunity to lay the foundation for our local government's Covid recovery. The initial Preliminary American Rescue Plan Act (ARPA) Investment Ideas was developed with consideration to:

1. City Council Priorities
2. Alternative, past, or expected funding to address the economic impact or implement the project
3. Meeting the unique needs of our communities and population
4. If the project can be implemented in the Rule timeframe
5. Return on investment of the project
6. One-time cost.

City Council and the public have provided input on the investment list at the July 13th Council Committee meetings, the July 29th City Council meeting, and the August 4th Inter-Neighborhood Council Organization (INCO) meeting. From these discussions with the City Council Committees and City Council, a few common themes emerged:

1. Use the funds on one-time expenditures;
2. Prioritize projects with no other committed/secured funding sources; and
3. Projects should be focused on those that have immediate as well as lasting impacts.

The “Preliminary ARPA Investment Ideas” attachment is organized and sorted in the following manner:

1. Decisions the City Council has already made (3 projects shaded in green, orange, and yellow) (\$5.1M);
2. Then organized by ARPA’s six broad categories;
3. Then sorted within each ARPA category by those with potential funding sources;
4. Then sorted by tranche 1 or tranche 2 (based on how quickly staff can deliver the program or project and the priority within the community);
5. Projects in blue were added by the Council at the July 13th or July 29th meetings (\$10M);
6. Projects in green are staff’s final recommended projects, which do not exceed the \$59M total federal allotment (\$41M); and
7. Projects in black are all the other projects from the original July 13th Preliminary ARPA Investment Ideas list (\$32M).

Many of these ARPA projects will likely cause delay of some of the City’s currently funded projects. This is due to two main factors:

1. Staff capacity and bandwidth, especially in the Engineering Division; and
2. ARPA funds must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

This is a good problem to have. Every dollar in ARPA is an unexpected, additive contribution to our efforts to recover from the pandemic.

In summary, the investment list per ARPA category is as follows:

Category	# of Proposed Projects	\$ Amount of Proposed Projects
Support Public Health Response	11	\$7,836,200
Replace Public Sector Revenue Loss	9	\$12,630,000
Water and Sewer Infrastructure	13	\$4,700,000
Address Negative Economic Impacts	47	\$57,481,000
Premium Pay for Essential Workers	2	\$4,500,000
Broadband Infrastructure	2	\$692,000

	Total Proposed:	\$87,839,200
	Total ARPA funds available:	\$59,540,662
	Variance:	(\$28,298,538)

Attachment 2 provides additional “Preliminary ARPA Investment Ideas” that were considered but not recommended (Appendix), primarily because they have their own funding sources.

Most importantly, the City Council can add, delete, or change any of these recommendations.

At the time of publishing this agenda, the United States Department of the Treasury (US Treasury) had not yet released the final rule on the ARPA program. In the event projects selected by City Council do not align with US Treasury’s final rule, staff will come back before City Council with project options.

DISCUSSION

Council Input

On July 13, 2021, all three City Council Committees began the discussion about ARPA preliminary investment ideas and forwarded their comments to City Council for further deliberation.

On July 29, the City Council discussed the investment ideas report. During this meeting, Council provided staff with comments, feedback, and additional project proposals to include for consideration.

Below summarizes the combination of the July 13th and July 29th councilmembers comments on the Draft Preliminary ARPA Investment Ideas:

1. Reorder the Preliminary ARPA Investment list to group projects that are eligible for other sources of funding (competitive or secured)
2. Projects should be prioritized based on City Council’s Five-Year Priorities, and park improvements
3. Concentrate ARPA funding in the 93030 and 93033 zip codes in the City
4. Need for further discussion and explanation on “Premium Pay for City Employees”
5. Add “Pleasant Valley Park repair and playground replacement” as a new project for consideration
6. Add “Shade structures in parks” as a new project for consideration
7. Add “Bike/pedestrian path on top of Santa Clara River Levee - 3 (SCR-3)” as a new project for consideration
8. Add “painting of curbs red next to fire hydrants and enforcing parking violations for illegally parked vehicles” as a new project for consideration
9. Add “Safe Sleep Program” as a new project for consideration
10. Add “Carnegie Museum seismic study” as a new project for consideration
11. Add an additional “Contactless payment kiosk for utility payments” as a new project for consideration.

Updated List of ARPA Investment Ideas

After City Council on July 29, 2021, Council directed staff to add the following projects for consideration to the investment list:

New Investment Idea	Line No.	Amount
Safe Sleep Program - capital improvements	4	\$700,000

Safe Sleep Program - ongoing costs	5	\$500,000
Carnegie Museum architectural and seismic study	6	\$160,000
Seed money for park equipment repair, replacement, and consideration of all-access equipment. Staff will determine specific park locations based on safety and need	7	\$3,000,000
Seed money for 10 park playground shade structures. Specific park locations based on parks receiving replacement of playground equipment*	8	\$1,000,000
Pleasant Valley Park: repair and replacement of playground equipment	9	\$600,000
City-wide painting of curbs red next to fire hydrants	51	\$250,000
Bike / Pedestrian project: Path along the SCR-3 levee road north of the River Ridge Golf Course between Ventura Rd and Victoria Rd	52	\$3,800,000
Additional contactless payment kiosk for utility payments	60	\$80,000
	Total Additions:	\$10,090,000

Since the July 29th meeting, staff amended 7 projects on the ARPA Investment Idea list:

1. Saviers Rd Corridor (previously Line No. 13, now Line No. 15): Project is for concept plans only(cost unchanged). The previous version inadvertently combined two projects
2. Saviers Rd Corridor (now Line No. 16): created a \$100,000 stand-alone project for the formation of the South Oxnard Property Business Improvement District. This was previously listed with the project above but did not include the associated costs of the project
3. Personal Protective Equipment (previously Line No. 66, now Line No. 64): increased the costs from \$85,000 to \$160,000. With the surge of the Delta Variant and other unknown variants, additional PPE will be needed during the ARPA spending period
4. Fire Department Supplied Air Respirators and Multi-band Radios (previously Line No. 63, now Line 61): reduced amount of item from \$2,200,000 to \$1,700,000 due to updated costs for the Supplied Air Respirators and partial grant funding for the multi-band radios
5. Broadband Placeholder Project (previously Line No. 50): moved to Appendix, Line No. 8, due to alternative competitive funding & application sources, unlikely to finish in the required timeline
6. Last-mile fiber builds at 512 FCC-designated unserved addresses (previously Line No. 46): moved to Appendix, Line No. 10, due to alternative competitive funding & application sources, unlikely to finish in the required timeline
7. Fiber Master Plan Fiber Network Hardware (previously Line No. 49): moved to Appendix, Line No. 11, due to alternative competitive funding & application sources, unlikely to finish in the required timeline

Parks

During the public meetings, there was a lot of support for ARPA park improvement projects. Thanks in large part to the

citizen's passage of Measure E, the Public Works Division saw restoration and enhancement to their FY 21-22 budget, specifically to address the needs in parks, streets, and medians. In addition to FY 21-22 baseline maintenance budgets, approximately \$7.3 million is budgeted for enhancements within City parks, including replacing playground equipment, improved lighting, new Exeloo restrooms, and enhancements for at least ten (10) parks.

Another \$300,000 is allocated for playground safety repairs on equipment not slated for replacement this fiscal year. Staff is currently prioritizing the parks that will receive repairs based on the limited budget and staff constraints. To date, staff has prior repairs at eleven (11) parks and will continue to allocate the remaining balance of the \$300,000 based on safety and need (Attachment 4).

Park-related ARPA projects total approximately \$35 million, of which approximately \$11.3 million is included as a final recommendation by staff. Park improvement projects are an example where planned projects funded through the general fund or other sources that do not have spending time constraints like ARPA funding may need to be delayed so we can spend the ARPA funding first. ARPA projects need to be encumbered by December 31, 2024, and projects completed by December 31, 2026.

Another consideration for park-related projects, and the associated budget, is the discussion surrounding “All-Inclusive Play Areas.” Council has not yet set a policy on when, where, and in what manner to install inclusive play areas. Staff will bring a policy discussion to the Council Committee this Fall on the topic. The costs associated with all-inclusive play areas are greater than the current park replacement budget and the costs listed on the ARPA investment list. Once Council approves a policy on the level and scope of inclusiveness for our new playground equipment, staff can determine if any additional replacement playgrounds can be funded within the FY 2021-22 Parks budget.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

The City has been allocated \$59,540,662 in ARPA funding from the US Treasury, of which half, \$29,770,331, was received in May 2021 and deposited into Fund 276-1001-531-7201 (Federal Grant Revenue). The remaining \$29,770,331 is expected in May 2022.

ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

Upon City Council's selection of ARPA investment projects, a project number will be assigned to each specific project

selected for investment for tracking and federal reporting purposes. Staff will return to City Council for budget appropriations once investment projects have been identified.

COMMITTEE OUTCOME

On July 13, 2021, all three City Council Committees began the discussion about ARPA preliminary investment ideas and forwarded their comments to City Council for further deliberation.

On July 29, the City Council discussed the investment ideas report. During this meeting, Council provided staff with comments, feedback, and additional project proposals to include for consideration.

Prepared by: Alexander Nguyen, City Manager, Ashley Golden, Assistant City Manager, Adam Smith, Project Manager

ATTACHMENTS

1. Preliminary ARPA Investment List - September 21, 2021
2. Preliminary ARPA Investment List - APPENDIX
3. US Treasury Interim Final Rule
4. FY 21-22 Park Improvements & Repairs
5. US Treasury ARPA Quick Reference Guide
6. Committee Staff Report - July 13, 2021 (no attachments)
7. Council Staff Report - July 29, 2021 (no attachments)
8. ARPA Presentation

DRAFT Preliminary American Rescue Plan Act (ARPA) Investment Ideas
\$59,540,662 Total

Tranche 1 = \$29,770,331 - Tranche 2 = \$29,770,331

- Tranche 1 was received May 2021. Tranche 2 expected in May 2022
- Non-infrastructure projects and programs are required to be completed by December 31, 2024
- Funds for Infrastructure projects are required to be encumbered by December 31, 2024, and projects completed by December 31, 2026
- Items in **blue** indicate projects added for consideration by councilmembers
- Items in **green** indicate staff's final project recommendations
- Items in **black** indicate all other projects

Item No.	Investment Idea	ARPA Category	ARPA Sub-Category, Federal Register page	Estimated Cost	Council Priority	Tranche 1 or 2	Alternative Funding & Application Sources
1	Gratitude program for grocery store workers *City Council approved June 1, 2021, Resolution No. 15,443	Premium Pay for Essential Workers	Premium Pay, pg 26797	\$2,500,000	Y	1	
2	Premium pay for City employees working on the front-line during the pandemic	Premium Pay for Essential Workers	Premium Pay, pg 26797	\$2,000,000	Y	1	
3	Refreshing school crosswalks and Safe Routes planning	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$600,000	Y	1	Active Transportation Program (ATP) Grant; Congestion Mitigation Air Quality (CMAQ) Grant
4	Safe Sleep Program - Capital improvements to support up to 14 RVs in City-owned parking lot at former Oxnard National Guard Armory	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$700,000	Y	1	
5	Safe Sleep Program - Programming (ongoing costs)	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$500,000	Y	1	
6	Carnegie Art Museum: architectural and seismic study (New)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$160,000	Y	1	
7	Seed money for park equipment repair, replacement, and consideration of all-access equipment. Specific park locations will be determined based on safety and need	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$3,000,000	Y	2	CDBG
8	Seed money for 10 park playground shade structures. Specific park locations based on parks receiving replacement of playground equipment (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$1,000,000	Y	2	CDBG
9	Pleasant Valley Park: repair and replacement of playground equipment (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$600,000	Y	2	CDBG
10	Oxnard festivals - "Comeback Year" grants	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$200,000	N	1	
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$300,000	N	1	
12	Community Assessment report on Oxnard's business attractions assets and gap analysis	Address Negative Economic Impacts	Small Business and Nonprofits, pg 26794	\$100,000	Y	1	
13	Relocate COVID-19 shelter from PAL to the Armory and costs to repair and clean PAL	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$15,000	Y	1	
14	Revitalize Corridors: site-based development in downtown and Hueneme corridor, including land acquisition and plan development	Address Negative Economic Impacts	Building Stronger Communities through Investments in Housing & Neighborhoods, pg 26795	\$3,000,000	Y	1	
15	Saviers Rd Corridor: conceptual plan for widening sidewalks, landscape, lighting.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$140,000	Y	2	
16	Saviers Rd Corridor: formation of South Oxnard Property Business Improvement District (PBID)	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$100,000	Y	1	
17	River Ridge Playing Fields: parking improvements & permanent power (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$325,000	N	1	
18	River Ridge Golf Course: Event space for golf course to expand wedding business (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$600,000	N	1	
19	PACC - upgraded marquee with new digital sign	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$85,000	N	1	
20	City-wide wayfinding program	Address Negative Economic Impacts	Aid to Impacted Industries: Hotels and Tourism, pg 26795	\$1,000,000	N	1	
21	Visit Oxnard: Branding & publications, destination management, digital advertising	Address Negative Economic Impacts	Aid to Impacted Industries: Hotels and Tourism, pg 26795	\$436,000	N	1	
22	Sports Park: Baseball and softball complex, lawns spaces w/ walking trails, inclusive playgrounds (Parks & Rec Master Plan, pgs 140, 158, 214, 217)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$6,500,000	Y	2	
23	Homeless/Housing: Temporary staffing (over 2 years) to support the administration of Mainstream and Emergency Housing Vouchers	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$400,000	Y	1	HCD grants such as the Emergency Solutions Grant Program (due Oct. 19th)
24	Colonia Park: repair and resurface pool, renovation of locker rooms, construction of new public restrooms, basketball court resurfacing (resurfacing project, Parks & Rec Master Plan, pg 215)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$1,200,000	Y	2	CDBG

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Item No.	Investment Idea	ARPA Category	ARPA Sub-Category, Federal Register page	Estimated Cost	Council Priority	Tranche 1 or 2	Alternative Funding & Application Sources
25	Johnson Creek Park: renovation of snack bar, restrooms, and baseball fields (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$600,000	Y	2	CDBG
26	Durley Park: repair baseball fields (Parks & Rec Master Plan, pg 158)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$75,000	Y	1	Prop 68 park grants
27	River Ridge Playing Fields: permanent bleachers & stage area; 50% of \$200,000 total cost (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$100,000	N	2	Pending public/private partnership with golf course for equal investment
28	Youth Facilities (PAL): sports equipment, youth center supplies, vehicle	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$130,000	Y	1	CDBG
29	Youth Centers (Colonia Park, Durley Park, Southwinds Park, S. Oxnard Center): Sports equipment, youth center supplies, furniture, computer centers	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$190,000	Y	1	CDBG
30	Wilson Arts Building: reconstruct the ADA ramp at Wilson Art Building to serve youth classes and the Special Populations program	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$20,000	Y	1	CDBG
31	Oxnard Senior Centers (Wilson, South Oxnard, and Colonia): replacement of furniture in the social spaces	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$100,000	Y	1	CDBG
32	PACC CIP - remove and replace roofing material and metal flashing on the Ventura and Oxnard room roofs	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$545,000	N	2	Measure O / HERO Bond proceeds
33	Olympic Skatepark in Colonia	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$3,000,000	N	2	Prop 68
34	Main and S. Oxnard branch libraries technology purchases, laptops, security systems, and upgrades; conversion of computer labs with up to 100 Chromebooks for City's three libraries (includes Colonia)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$830,000	Y	1	Michael & Susan Dell Foundation grant; State Library, Local Library Infrastructure Grants
35	Oxnard Arts Academy: portable classrooms, instruments, tablets, music stands, chairs, tables	Address Negative Economic Impacts	Addressing Education Disparities, pg 26796	\$450,000	Y	2	Youth Arts Action, Artists in Schools, California Arts Council grant programs
36	Downtown: 50 trash receptacles, acquisition of water trailer for DOIA, marketing funds, acquisition of movable/lockable tables and chairs, public art, removable bollards, & reader boards.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$775,000	Y	1	Downtown Improvement Settlement Fund
37	Downtown: implement outdoor venues on City owned properties (A St and 5th St)	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$250,000	Y	1	Downtown Improvement Settlement Fund
38	Heritage Square building & site enhancements, repairs, and event support	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$1,000,000	N	1	Downtown Improvement Settlement Fund
39	PAL improvements: Bathrooms, lockers, showers	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$2,500,000	Y	2	
40	PAL CIP: Complete phase II of north wing. Begin phase I of south wing (demo, new roof, and new windows)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$2,000,000	Y	2	
41	College Park: soccer fields, multi-purpose fields, pelota mixteca, inclusive playgrounds, walking trails (Parks & Rec Master Plan, pgs 140, 156, 211, 217)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$18,000,000	Y	2	
42	Oxnard Beach Park: repair basketball courts, rehabilitation and ADA improvements of playground equipment (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$700,000	Y	2	Explore the Coast Overnight grant (SCC Prop 68) for previously proposed airstream glamping component
43	Permanent Outdoor Patio Program Fund: provide grants for restaurants to create permanent attractive and safe outdoor dining spaces.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$1,000,000	Y	1	Ventura County Business Assistance Grant Program; Economic Development Collaborative Grant and Loan Program
44	Homeless: Acquisition of land and permitting of a Homeless Solutions Center in South Oxnard	Address Negative Economic Impacts	Services to Address Homelessness, pg 26796	\$3,000,000	Y	1	Homekey Family Housing Program; CA Senate Bill 129 & Assembly Bill 140
45	Oxnard Employee Pipeline and Homeless Vocational programs	Address Negative Economic Impacts	Assistance to Unemployed Workers, Households, pg 26794; Services to address homelessness pg 26796	\$200,000	Y	1	Expanded funding to the California Workforce Development Board
46	Oxnard Tennis Center: replace the foundation and resurface the tennis courts	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$500,000	Y	2	CDBG
47	Saviors Rd Corridor: acquisition of trash receptacles and marketing campaign	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$55,000	Y	2	CalRecycle grants; Keep America Beautiful grants

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48	River Ridge Playing Fields: new grass / level playing fields, new irrigation; 50% of \$1,000,000 total cost (not in Parks & Rec Master Plan)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$500,000	N	2	Pending public/private partnership with golf course for equal investment
49	Libraries (Main, S. Oxnard, and Colonia branch): upgrade of Wifi systems with Bluesocket Access Points with omnidirectional antennas	Broadband Infrastructure	Broadband Infrastructure, pg 26804	\$17,000	N	1	FCC Emergency Connectivity Fund; State Library, Local Library Infrastructure Grants
50	Youth Recreation Centers: Installation of Fiber Lines for South Oxnard Center, Southwinds Center, Colonia Center, Durley Park Center - requires an internet servuce provider to provide service	Broadband Infrastructure	Promoting Healthy Childhood Environments, pg 26796; Broadband Infrastructure, pg 26804	\$675,000	N	2	Pending expected funding availability from federal Infrastructure Investment and Jobs Act; State of CA Broadband Loan Loss Reserve Fund
51	City-wide painting of curbs red next to fire hydrants	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$250,000	N	2	
52	Bike / Pedestrian project: Path along the SCR-3 levee road north of the River Ridge Golf Course between Ventura Rd and Victoria Rd	Replace Public Sector Revenue Loss	Government Services pg 26801	\$3,800,000	N	2	Department of Parks and Recreation - Recreational Trails Program annual grants
53	City-wide ADA tree and sidewalk improvements	Replace Public Sector Revenue Loss	Government Services pg 26801	\$1,000,000	Y	2	
54	Fire station architectural design for Oxnard Fire Stations 2, 3, 5	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$1,000,000	Y	1	
55	Fire Department Vehicle for 2-person paramedic squad	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$80,000	Y	2	
56	Police Department radio communications: upgrade City-wide radio infrastructure to a P25 system	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$4,000,000	Y	2	
57	Howell Rd lighting and safety improvements	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$250,000	Y	2	Southern California Edison
58	Intelligent Transportation Systems (ITS) Traffic Signal Retiming Safety Project – Phase 1	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$750,000	Y	2	Highway Safety Improvement Program (HSIP), ATP, SB1
59	Bike / Pedestrian project: Wooley Rd Protected Bike Lanes	Replace Public Sector Revenue Loss	Government Services pg 26801	\$1,500,000	N	2	Active Transportation Program (ATP) Grants
60	Contactless payment kiosk for utility payments, installed at location to be determined	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$80,000	N	1	Utility Funds
61	Fire Department Supplied Air Respirators replacement and multi-band radios	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$1,700,000	Y	1	
62	Police Department Covid Response: Polaris ATV for PD beach patrols, equipment decontamination software, additional car wash cleaning, social distancing COVID compliance materials	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$40,000	Y	1	
63	Code Compliance: Tablet purchases for field reporting, access to information, inspections, and video	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$12,600	Y	1	
64	PPE Purchase - 1 year supply for City employees	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$160,000	Y	1	
65	Zoom license bundles - 1 year	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$6,600	N	1	
66	Fire Catch-up Academy: cost of six recruits	Support Public Health Response	Public Health & Safety Staff, pg 26791	\$580,000	Y	1	
67	305 W 3rd St - West Wing repair and asbestos abatement, capital investment to meet pandemic operational needs	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$3,000,000	N	2	
68	Contactless payment kiosk for utility payments, installed at the South Oxnard Center	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$80,000	N	1	Utility Funds
69	Senior Nutrition Program: commercial freezers, cookware, thermal insulated bags, industrial pressure cookers, vehicle	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$350,000	Y	1	Older Americans Act Funding
70	Public Safety Payroll Costs	Support Public Health Response	Public Health & Safety Staff pg 26791	\$1,827,000	Y	2	
71	Electrical Plant Water Quality Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2	
72	Phase 1 Design: College Park-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2	
73	Phase 1 Design: Driffill Elementary School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2	
74	Phase 1 Design: Frank Intermediate School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2	

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75	Stormwater Conveyance Improvements along Oxnard Boulevard	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2	
76	Stormdrain: Diamond Bar	Water & Sewer Infrastructure	Stormwater, pg 26802	\$600,000	N	2	
77	Harbor Area Water Quality Feasibility Study	Water & Sewer Infrastructure	Stormwater, pg 26802	\$300,000	N	2	Ocean Protection Council Prop 1 Grant
78	Harbor Water Quality Mitigation Fund	Water & Sewer Infrastructure	Stormwater, pg 26802	\$1,000,000	N	2	Ocean Protection Council Prop 1 Grant
79	Phase 1 Design: East Village/Del Sol Park diversion and infiltration-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2	Prop 1, Round 2 Water Quality, Supply, and Infrastructure Improvement Act
80	Phase 1 Design: Ventura Road and 2nd St. diversion and infiltration-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2	Prop 1, Round 2 Water Quality, Supply, and Infrastructure Improvement Act
81	Stormwater Catch Basins Full Capture Devices Installation for Edison Canal and Channel Islands Harbor	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2	EPA/State Water Board Stormwater Grant Program; Dept. of Water Resources IRWM; Ocean Protection Council
82	AWPF-Oxnard Regional Stormwater Capture Project Wetland Storage & Sewer Diversion Pilot	Water & Sewer Infrastructure	Stormwater, pg 26802	\$1,000,000	Y	2	EPA/State Water Board Stormwater Grant Program; Dept. of Water Resources IRWM
83	Phase 1 Design: Riverpark basin - recycled water storage project	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$100,000	N	2	City Recycled Water Fund 601

SUBTOTAL:	\$85,339,200
GRATITUDE PROGRAM:	\$2,500,000
GRAND TOTAL:	\$87,839,200
ARPA FUNDS:	\$59,540,662
VARIANCE:	\$28,298,538

TRANCHE 1 TOTAL:	\$24,617,200
TRANCHE 2 TOTAL:	\$63,222,000
TRANCHE 1 VARIANCE:	\$5,153,131
TRANCHE 2 VARIANCE:	(\$33,451,669)

DRAFT Preliminary American Rescue Plan Act (ARPA) Investment Ideas - APPENDIX

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1	PACC - auditorium improvements, connection between park and outside amphitheater, repave parking lots, landscape improvements, external paint	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$2,500,000	N	
2	Embassy Suites/Beach Improvements: public/private partnership, parking meters and parking lot improvements	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$250,000	N	
3	River Ridge Golf Course: Lights for driving range	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$950,000	N	
4	River Ridge Golf Course: Clubhouse improvements/modernization: • Restaurant • Retail area • Banquet Room	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$1,000,000	N	
5	River Ridge Golf Course: Repave parking lot & add additional parking (remove turf area)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$1,900,000	N	
6	Forgive delinquent utility debt	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$4,200,000	N	CA COVID-19 Rent Relief Program
7	Increase funding to Utility Rate Assistance Program	Address Negative Economic Impacts	Assistance to Households, pg 26794	\$150,000	N	CA COVID-19 Rent Relief Program
8	Placeholder project	Broadband Infrastructure	Broadband Infrastructure, pg 26804	\$5,000,000	N	
9	Water/Wastewater SCADA Fiber Network: buildout of "SCADA Phase III" ITS network as designed in 2017, connecting Waste Water lift stations and Water blending stations to respective head ends. Enables cameras and other security systems, plus a more reliable and secure SCADA system.	Broadband Infrastructure / Water, Sewer, Stormwater Infrastructure	Broadband Infrastructure, pg 26804; Water & Sewer Infrastructure pg 26802	\$2,400,000	N	Water/Wastewater Operating Funds
10	Last-mile fiber builds at 512 FCC-designated unserved addresses throughout City to provide the infrastructure required to deliver high speed Internet; requires middle-mile fiber build-out to the unserved addresses and an internet service provider to provide service	Broadband Infrastructure	Broadband Infrastructure, pg 26804	\$5,120,000	N	Pending expected funding availability from federal Infrastructure Investment and Jobs Act; State of CA Broadband Loan Loss Reserve Fund
11	Fiber Master Plan Fiber Network Hardware: Electronics required to open Oxnard's fiber network to broadband public-private partnerships	Broadband Infrastructure	Broadband Infrastructure, pg 26804	\$245,000	N	Pending expected funding availability from federal Infrastructure Investment and Jobs Act; State of CA Broadband Loan Loss Reserve Fund
12	NIH wastewater and data analysis	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 26790	\$1,500,000	N	
13	Recycled Water: AWPf Total Organic Carbon (TOC) Analyzer (DESIGN PHASE)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$400,000	Y	Water Impact Fees
14	Wastewater Collection: Central Trunk Sewer Manhole Replacement - Phase I (CONSTRUCTION TO START 7/19/2021)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$2,600,000	N	Wastewater Collection Operating Fund
15	Wastewater Collection: UPRR Central Trunk Sewer Pipe Replacement (DESIGN PHASE)	Water & Sewer Infrastructure	Water and Sewer Infrastructure pg 26802	\$2,945,000	N	Wastewater Collection Operating Fund
16	Wastewater OWTP: Electrical Improvements (OUT TO BID)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$15,341,000	N	Wastewater Treatment Operating Fund
17	Wastewater OWTP: Electrical Vault & Conduit Rehabilitation (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$2,175,000	N	Wastewater Treatment Operating Fund
18	Wastewater Collection: Sewer Manhole Rehabilitation and Replacement (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$810,000	N	Wastewater Collection Operating Fund
19	Wastewater Collection: Lift Station No. 20 Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$400,000	N	Wastewater Collection Operating Fund
20	Wastewater Collection: Lift Station No. 4 Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$1,525,000	N	Wastewater Collection Operating Fund

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21	Wastewater Collection: Lift Station No. 6 (Wooley & Canal) Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$1,250,000	N	Wastewater Collection Operating Fund
22	Wastewater OWTP: Motor Control Center (MCC) Construction (OUT TO BID)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$5,350,000	N	Wastewater Treatment Operating Fund
23	Wastewater OWTP: New Maintenance Storage Building (OUT TO BID)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$4,550,000	N	Wastewater Treatment Operating Fund
24	Wastewater OWTP: Primary Clarifiers and Activated Sludge Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$5,225,000	N	Wastewater Treatment Operating Fund
25	Wastewater OWTP: Reliability Improvements (OUT TO BID)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$14,000,000	N	Wastewater Treatment Operating Fund
26	Wastewater Collection: Rice Avenue Sewer Pipeline Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$1,330,000	N	Wastewater Collection Operating Fund
27	Wastewater Collection: Odor Reduction Program (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$3,200,000	N	Wastewater Collection Operating Fund
28	Wastewater OWTP: Site Security Improvements (OUT TO BID)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$850,000	N	Wastewater Treatment Operating Fund
29	Wastewater Collection: Third & Navarro Streets Sewer Pipeline Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$364,869	N	Wastewater Collection Operating Fund
30	Wastewater Collection: Ventura Road Sewer Pipeline Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$1,755,197	N	Wastewater Collection Operating Fund
31	Wastewater OWTP: System SCADA Improvements (OUT TO BID)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$4,500,000	N	Wastewater Treatment Operating Fund
32	Wastewater OWTP: Effluent Pump Station Improvements (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$2,200,000	N	Wastewater Treatment Operating Fund
33	Water Distribution: CMWD Transmission Main (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$33,000,000	Y	FEMA Hazard Mitigation Grant Program/ FEMA BRIC grant program; Water Operating Fund
34	Water Distribution: Cast Iron Pipe Replacements FY 21-22 (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$14,300,000	Y	Water Operating Fund
35	Water Distribution: Automated Metering Infrastructure (AMI) (OUT TO BID)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$30,000,000	Y	Water Operating Fund
36	Water Production: Well Construction/BS Upgrades (PLANNING STAGES)	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$6,000,000	Y	Water Operating Fund
TOTAL \$:				\$179,286,066		

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505-AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Interim final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is issuing this interim final rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: *Effective date:* The provisions in this interim final rule are effective May 17, 2021.

Comment date: Comments must be received on or before July 16, 2021. **ADDRESSES:** Please submit comments electronically through the Federal eRulemaking Portal: <http://www.regulations.gov>. Comments can be mailed to the Office of the Undersecretary for Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captions with “Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments.” Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary.

In general, comments received will be posted on <http://www.regulations.gov> without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Senior Advisor, Office of Recovery Programs, Department of the Treasury, (844) 529-9527.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

Since the first case of coronavirus disease 2019 (COVID-19) was discovered in the United States in January 2020, the disease has infected

over 32 million and killed over 575,000 Americans.¹ The disease has impacted every part of life: As social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.² As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.³ During this time, a significant share of households have faced food and housing insecurity.⁴ Economic disruptions impaired the flow of credit to households, State and local governments, and businesses of all sizes.⁵ As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.⁶

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of

COVID-19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID-19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic’s impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance; rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic patterns during the pandemic.⁷ Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly 1.3 million jobs below pre-pandemic levels.⁸ These cuts to State, local, and Tribal government workforces

¹ Centers for Disease Control and Prevention, COVID Data Tracker, <http://www.covid.cdc.gov/covid-data-tracker/#data-tracker-home> (last visited May 8, 2021).

² U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/UNRATE>, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNU02000000>, May 3, 2021.

³ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PAYEMS>, May 7, 2021.

⁴ Nirmita Panchal et al., The Implications of COVID-19 for Mental Health and Substance Abuse (Feb. 10, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis;U.S.CensusBureau,HouseholdPulseSurvey:MeasuringSocialandEconomicImpactsduringtheCoronavirusPandemic,https://www.census.gov/programs-surveys/household-pulse-survey.html> (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1—October 17, 2020, *Morb. Mortal. Wkly. Rep.* 69(45):1675–80 (Nov. 13, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm>.

⁵ Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), <https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm>.

⁶ Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/>.

⁷ Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), <https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities>.

⁸ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited May 8, 2021).

come at a time when demand for government services is high, with State, local, and Tribal governments on the frontlines of fighting the pandemic. Furthermore, State, local, and Tribal government austerity measures can hamper overall economic growth, as occurred in the recovery from the Great Recession.⁹

Finally, although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began. Low-income communities, people of color, and Tribal communities have faced higher rates of infection, hospitalization, and death,¹⁰ as well as higher rates of unemployment and lack of basic necessities like food and housing.¹¹ Pre-existing social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and, frequently, denser housing amplified the risk of infection. Higher rates of pre-existing health conditions also may have contributed to more severe COVID-19 health outcomes.¹² Similarly, communities or households facing economic insecurity before the pandemic were less able to weather business closures, job losses, or declines in earnings and were less able to participate in remote work or education due to the inequities in access to reliable and affordable broadband infrastructure.¹³ Finally, though schools in all areas faced challenges, those in high poverty areas had fewer resources to adapt to remote and hybrid learning models.¹⁴ Unfortunately, the pandemic

also has reversed many gains made by communities of color in the prior economic expansion.¹⁵

B. The Statute and Interim Final Rule

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President.¹⁶ Section 9901 of ARPA amended Title VI of the Social Security Act¹⁷ (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).¹⁸ The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).¹⁹

a lifetime (June 2020), https://webtest.childreainsstitute.net/sites/default/files/documents/COVID-19-and-student-learning-in-the-United-States_FINAL.pdf; Andrew Bacher-Hicks et al., *Inequality in Household Adaptation to Schooling Shocks: Covid-Induced Online Engagement in Real Time*, J. of Public Econ. Vol. 193(C) (July 2020), available at <https://www.nber.org/papers/w27555>.

¹⁵ See, e.g., Tyler Atkinson & Alex Richter, *Pandemic Disproportionately Affects Women, Minority Labor Force Participation*, <https://www.dallasfed.org/research/economics/2020/1110> (last visited May 9, 2021); Jared Bernstein & Janelle Jones, *The Impact of the COVID19 Recession on the Jobs and Incomes of Persons of Color*, https://www.cbpp.org/sites/default/files/atoms/files/6-2-20bud_0.pdf (last visited May 9, 2021).

¹⁶ American Rescue Plan Act of 2021 (ARPA), sec. 9901, Public Law 117–2, codified at 42 U.S.C. 802 *et seq.* The term “state” as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means each of the 50 States and the District of Columbia. The term “territory” as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, and American Samoa. Tribal government is defined in the Act and the interim final rule to mean “the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of the [American Rescue Plan Act] pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).” See section 602(g)(7) of the Social Security Act, as added by the American Rescue Plan Act. On January 29, 2021, the Bureau of Indian Affairs published a current list of 574 Tribal entities. See 86 FR 7554, January 29, 2021. The term “local governments” as used in this **SUPPLEMENTARY INFORMATION** includes metropolitan cities, counties, and nonentitlement units of local government.

¹⁷ 42 U.S.C. 801 *et seq.*

¹⁸ Sections 602, 603 of the Act.

¹⁹ The CRF was established by the section 601 of the Act as added by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136, 134 Stat. 281 (2020).

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties. Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

(a) 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;

(b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

(c) 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

(d) To make necessary investments in water, sewer, or broadband infrastructure.

In addition, Congress clarified two types of uses which do not fall within these four categories. Sections 602(c)(2)(B) and 603(c)(2) provide that these eligible uses do not include, and thus funds may not be used for, depositing funds into any pension fund. Section 602(c)(2)(A) also provides, for States and territories, that the eligible uses do not include “directly or indirectly offset[ing] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation.”

The ARPA provides a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. First, payments from the Fiscal Recovery Funds help to ensure that State, local, and Tribal governments have the resources needed to continue to take actions to decrease the spread of COVID-19 and bring the pandemic under control. Payments from the Fiscal Recovery Funds may also be used by recipients to provide support for costs incurred in addressing public health and economic challenges resulting from the pandemic, including resources to offer premium pay to essential workers, in recognition of their sacrifices over the

⁹ Tracy Gordon, *State and Local Budgets and the Great Recession*, Brookings Institution (Dec. 31, 2012), <http://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession>.

¹⁰ Sebastian D. Romano et al., *Trends in Racial and Ethnic Disparities in COVID-19 Hospitalizations, by Region—United States*, March–December 2020, *MMWR Morb Mortal Wkly Rep* 2021, 70:560–565 (Apr. 16, 2021), https://www.cdc.gov/mmwr/volumes/70/wr/mm7015e2.htm?s_cid=mm7015e2_w.

¹¹ Center on Budget and Policy Priorities, *Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships*, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-housing-and> (last visited May 4, 2021).

¹² Lisa R. Fortuna et al., *Inequity and the Disproportionate Impact of COVID-19 on Communities of Color in the United States: The Need for Trauma-Informed Social Justice Response*, *Psychological Trauma* Vol. 12(5):443–45 (2020), available at <https://psycnet.apa.org/fulltext/2020-37320-001.pdf>.

¹³ Emily Vogles et al., *53% of Americans Say the internet Has Been Essential During the COVID-19 Outbreak* (Apr. 30, 2020), <https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/>.

¹⁴ Emma Dorn et al., *COVID-19 and student learning in the United States: The hurt could last*

last year. Recipients may also use payments from the Fiscal Recovery Funds to replace State, local, and Tribal government revenue lost due to COVID-19, helping to ensure that governments can continue to provide needed services and avoid cuts or layoffs. Finally, these resources lay the foundation for a strong, equitable economic recovery, not only by providing immediate economic stabilization for households and businesses, but also by addressing the systemic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color.

Within the eligible use categories outlined in the Fiscal Recovery Funds provisions of ARPA, State, local, and Tribal governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. The interim final rule facilitates swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of uses that State, local, and Tribal governments may consider. These uses build on eligible expenditures under the CRF, including some expansions in eligible uses to respond to the public health emergency, such as vaccination campaigns. They also reflect changes in the needs of communities, as evidenced by, for example, nationwide data demonstrating disproportionate impacts of the COVID-19 public health emergency on certain populations, geographies, and economic sectors. The interim final rule takes into consideration these disproportionate impacts by recognizing a broad range of eligible uses to help States, local, and Tribal governments support the families, businesses, and communities hardest hit by the COVID-19 public health emergency.

Implementation of the Fiscal Recovery Funds also reflect the importance of public input, transparency, and accountability. Treasury seeks comment on all aspects of the interim final rule and, to better facilitate public comment, has included specific questions throughout this **SUPPLEMENTARY INFORMATION.** Treasury encourages State, local, and Tribal governments in particular to provide feedback and to engage with Treasury regarding issues that may arise regarding all aspects of this interim final rule and Treasury's work in administering the Fiscal Recovery Funds. In addition, the interim final rule establishes certain regular reporting

requirements, including by requiring State, local, and Tribal governments to publish information regarding uses of Fiscal Recovery Funds payments in their local jurisdiction. These reporting requirements reflect the need for transparency and accountability, while recognizing and minimizing the burden, particularly for smaller local governments. Treasury urges State, territorial, Tribal, and local governments to engage their constituents and communities in developing plans to use these payments, given the scale of funding and its potential to catalyze broader economic recovery and rebuilding.

II. Eligible Uses

A. Public Health and Economic Impacts

Sections 602(c)(1)(A) and 603(c)(1)(A) provide significant resources for State, territorial, Tribal governments, and counties, metropolitan cities, and nonentitlement units of local governments (each referred to as a recipient) to meet the wide range of public health and economic impacts of the COVID-19 public health emergency.

These provisions authorize the use of payments from the Fiscal Recovery Funds to respond to the public health emergency with respect to COVID-19 or its negative economic impacts. Section 602 and section 603 also describe several types of uses that would be responsive to the impacts of the COVID-19 public health emergency, including assistance to households, small businesses, and nonprofits and aid to impacted industries, such as tourism, travel, and hospitality.²⁰

Accordingly, to assess whether a program or service is included in this category of eligible uses, a recipient should consider whether and how the use would respond to the COVID-19 public health emergency. Assessing whether a program or service "responds to" the COVID-19 public health emergency requires the recipient to, first, identify a need or negative impact of the COVID-19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact. While the COVID-19 public health emergency affected many aspects of American life, eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency.

²⁰ Sections 602(c)(1)(A), 603(c)(1)(A) of the Act.

The interim final rule implements these provisions by identifying a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. The interim final rule also provides flexibility for recipients to use payments from the Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but that fall under the terms of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID-19 public health emergency or its negative economic impacts. As an example, in determining whether a program or service responds to the negative economic impacts of the COVID-19 public health emergency, the interim final rule provides that payments from the Fiscal Recovery Funds should be designed to address an economic harm resulting from or exacerbated by the public health emergency. Recipients should assess the connection between the negative economic harm and the COVID-19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm.

As discussed, the pandemic and the necessary actions taken to control the spread had a severe impact on households and small businesses, including in particular low-income workers and communities and people of color. While eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) provide flexibility to recipients to identify the most pressing local needs, Treasury encourages recipients to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

1. Responding to COVID-19

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.²¹ By late March, the virus had spread to many States and the first wave was growing rapidly, centered in the northeast.²² This wave brought acute

²¹ Press Release, Centers for Disease Control and Prevention, First Travel-related Case of 2019 Novel Coronavirus Detected in United States (Jan. 21, 2020), <https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html>.

²² Anne Schuchat et al., Public Health Response to the Initiation and Spread of Pandemic COVID-19 in the United States, February 24–April 21, 2021, *MMWR Morb Mortal Wkly Rep* 2021, 69(18):551–56 (May 8, 2021), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e2.htm>.

strain on health care and public health systems: Hospitals and emergency medical services struggled to manage a major influx of patients; response personnel faced shortages of personal protective equipment; testing for the virus was scarce; and congregate living facilities like nursing homes and prisons saw rapid spread. State, local, and Tribal governments mobilized to support the health care system, issue public health orders to mitigate virus spread, and communicate safety measures to the public. The United States has since faced at least two additional COVID-19 waves that brought many similar challenges: The second in the summer, centered in the south and southwest, and a wave throughout the fall and winter, in which the virus reached a point of uncontrolled spread across the country and over 3,000 people died per day.²³ By early May 2021, the United States has experienced over 32 million confirmed COVID-19 cases and over 575,000 deaths.²⁴

Mitigating the impact of COVID-19, including taking actions to control its spread and support hospitals and health care workers caring for the sick, continues to require a major public health response from State, local and Tribal governments. New or heightened public health needs include COVID-19 testing, major expansions in contact tracing, support for individuals in isolation or quarantine, enforcement of public health orders, new public communication efforts, public health surveillance (e.g., monitoring case trends and genomic sequencing for variants), enhancement to health care capacity through alternative care facilities, and enhancement of public health data systems to meet new demands or scaling needs. State, local, and Tribal governments have also supported major efforts to prevent COVID-19 spread through safety measures at key settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and in other public facilities. This has included implementing infection prevention measures or making ventilation improvements in congregate settings, health care settings, or other key locations.

Other response and adaptation costs include capital investments in public facilities to meet pandemic operational

needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. In recent months, State, local, and Tribal governments across the country have mobilized to support the national vaccination campaign, resulting in over 250 million doses administered to date.²⁵

The need for public health measures to respond to COVID-19 will continue in the months and potentially years to come. This includes the continuation of the vaccination campaign for the general public and, if vaccinations are approved for children in the future, eventually for youths. This also includes monitoring the spread of COVID-19 variants, understanding the impact of these variants (especially on vaccination efforts), developing approaches to respond to those variants, and monitoring global COVID-19 trends to understand continued risks to the United States. Finally, the long-term health impacts of COVID-19 will continue to require a public health response, including medical services for individuals with “long COVID,” and research to understand how COVID-19 impacts future health needs and raises risks for the millions of Americans who have been infected.

Other areas of public health have also been negatively impacted by the COVID-19 pandemic. For example, in one survey in January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.²⁶ The proportion of children’s emergency department visits related to mental health has also risen noticeably.²⁷ Similarly, rates of substance misuse and overdose deaths have spiked: Preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from September 2019 to September 2020.²⁸ Stay-at-home orders and other pandemic responses may have also reduced the ability of individuals affected by domestic violence to access

services.²⁹ Finally, some preventative public health measures like childhood vaccinations have been deferred and potentially forgone.³⁰

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.³¹ The CDC has found that racial and ethnic minorities are at increased risk for infection, hospitalization, and death from COVID-19, with Hispanic or Latino and Native American or Alaska Native patients at highest risk.³²

Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000, as of May 2021.³³ Counties with high social vulnerability, as measured by factors such as poverty and educational attainment, have also fared more poorly than the national average, with 211 deaths per 100,000 as of May 2021.³⁴

²⁹ Megan L. Evans, et al., A Pandemic within a Pandemic—Intimate Partner Violence during Covid-19, *N. Engl. J. Med.* 383:2302–04 (Dec. 10, 2020), available at <https://www.nejm.org/doi/full/10.1056/NEJMp2024046>.

³⁰ Jeanne M. Santoli et al., Effects of the COVID-19 Pandemic on Routine Pediatric Vaccine Ordering and Administration—United States, *Morb. Mortal. Wkly. Rep.* 69(19):591–93 (May 8, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e2.htm>; Marisa Langdon-Embry et al., Notes from the Field: Rebound in Routine Childhood Vaccine Administration Following Decline During the COVID-19 Pandemic—New York City, March 1–June 27, 2020, *Morb. Mortal. Wkly. Rep.* 69(30):999–1001 (Jul. 31 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6930a3.htm>.

³¹ Office of the White House, National Strategy for the COVID-19 Response and Pandemic Preparedness (Jan. 21, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf>.

³² In a study of 13 states from October to December 2020, the CDC found that Hispanic or Latino and Native American or Alaska Native individuals were 1.7 times more likely to visit an emergency room for COVID-19 than White individuals, and Black individuals were 1.4 times more likely to do so than White individuals. See Romano, *supra* note 10.

³³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases and Deaths in the United States, by County-level Population Factors, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

³⁴ The CDC’s Social Vulnerability Index includes fifteen variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases

²³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last visited May 8, 2021).

²⁴ *Id.*

²⁵ Centers for Disease Control and Prevention, COVID Data Tracker: COVID-19 Vaccinations in the United States, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last visited May 8, 2021).

²⁶ Panchal, *supra* note 4; Mark E. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID-19 Pandemic—United States, June 24–30 2020, *Morb. Mortal. Wkly. Rep.* 69(32):1049–57 (Aug. 14, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm>.

²⁷ Leeb, *supra* note 4.

²⁸ Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (last visited May 8, 2021).

Over the last year, Native Americans have experienced more than one and a half times the rate of COVID-19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.³⁵ Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID-19 mortality.³⁶

In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and were over-represented among essential workers, who faced greater risk of exposure.³⁷ Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while screenings for elevated blood lead levels declined during the pandemic.³⁸ The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.³⁹

and Deaths in the United States, by Social Vulnerability Index, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

³⁵ Centers for Disease Control and Prevention, Risk for COVID-19 Infection, Hospitalization, and Death By Race/Ethnicity, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> (last visited Apr. 26, 2021).

³⁶ See, e.g., Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID-19 (Dec. 10, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html> (last visited Apr. 26, 2021).

³⁷ Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID-19: Evidence from Geolocation Data (Sept. 22, 2020), NYU Stern School of Business (forthcoming), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249; Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, *JAMA* 324(4):388–90 (2020), available at <https://jamanetwork.com/journals/jama/fullarticle/2767630>.

³⁸ See, e.g., Joseph G. Courtney et al., Decreases in Young Children Who Received Blood Lead Level Testing During COVID-19—34 Jurisdictions, *January–May 2020*, *Morb. Mort. Wkly. Rep.* 70(5):155–61 (Feb. 5, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm>; Emily A. Benfer & Lindsay F. Wiley, Health Justice Strategies to Combat COVID-19: Protecting Vulnerable Communities During a Pandemic, *Health Affairs Blog* (Mar. 19, 2020), <https://www.healthaffairs.org/doi/10.1377/hlbg20200319.757883/full/>.

³⁹ See, e.g., Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra*

Eligible Public Health Uses. The Fiscal Recovery Funds provide resources to meet and address these emergent public health needs, including through measures to counter the spread of COVID-19, through the provision of care for those impacted by the virus, and through programs or services that address disparities in public health that have been exacerbated by the pandemic. To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding to respond to the COVID-19 public health emergency. Eligible uses listed under this section build and expand upon permissible expenditures under the CRF, while recognizing the differences between the ARPA and CARES Act, and recognizing that the response to the COVID-19 public health emergency has changed and will continue to change over time. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID-19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.

The interim final rule identifies a non-exclusive list of uses that address the effects of the COVID-19 public health emergency, including:

- *COVID-19 Mitigation and Prevention*. A broad range of services and programming are needed to contain COVID-19. Mitigation and prevention efforts for COVID-19 include vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools;⁴⁰ ventilation improvements in

note 38; Nathaniel M. Lewis et al., Disparities in COVID-19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation—Utah, March 3–July 9, 2020, *Morb. Mort. Wkly. Rep.* 69(38):1369–73 (Sept. 25, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm>.

⁴⁰ This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Operational

congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.⁴¹ They also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. These COVID-19 prevention and mitigation programs and services, among others, were eligible expenditures under the CRF and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds.⁴²

- *Medical Expenses*. The COVID-19 public health emergency continues to have devastating effects on public health; the United States continues to average hundreds of deaths per day and the spread of new COVID-19 variants has raised new risks and genomic surveillance needs.⁴³ Moreover, our understanding of the potentially serious and long-term effects of the virus is growing, including the potential for symptoms like shortness of breath to continue for weeks or months, for multi-organ impacts from COVID-19, or for post-intensive care syndrome.⁴⁴ State and local governments may need to continue to provide care and services to address these near- and longer-term needs.⁴⁵

Strategy for K–12 Schools through Phased Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html>.

⁴¹ Many of these expenses were also eligible in the CRF. Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under the ARPA, including those not explicitly listed here (e.g., telemedicine costs, costs to facilitate compliance with public health orders, disinfection of public areas, facilitating distance learning, increased solid waste disposal needs related to PPE, paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions), with the following two exceptions: (1) The standard for eligibility of public health and safety payrolls has been updated (see section II.A of this **SUPPLEMENTARY INFORMATION**) and (2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see discussion of debt service in section II.B of this **SUPPLEMENTARY INFORMATION**).

⁴² Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182 (Jan. 15, 2021), available at https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.

⁴³ Centers for Disease Control and Prevention, *supra* note 24.

⁴⁴ Centers for Disease Control and Prevention, Long-Term Effects (Apr. 8, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html> (last visited Apr. 26, 2021).

⁴⁵ Pursuant to 42 CFR 433.51 and 45 CFR 75.306, Fiscal Recovery Funds may not serve as a State or locality's contribution of certain Federal funds.

- *Behavioral Health Care.* In addition, new or enhanced State, local, and Tribal government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. These services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

- *Public Health and Safety Staff.* Treasury recognizes that responding to the public health and negative economic impacts of the pandemic, including administering the services described above, requires a substantial commitment of State, local, and Tribal government human resources. As a result, the Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID-19 public health emergency.⁴⁶ Accordingly, the Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID-19 public health emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID-19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on

the COVID-19 response. Recipients need not routinely track staff hours.

- *Expenses to Improve the Design and Execution of Health and Public Health Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to engage in planning and analysis in order to improve programs addressing the COVID-19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Eligible Uses to Address Disparities in Public Health Outcomes. In addition, in recognition of the disproportionate impacts of the COVID-19 pandemic on health outcomes in low-income and Native American communities and the importance of mitigating these effects, the interim final rule identifies a broader range of services and programs that will be presumed to be responding to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a Qualified Census Tract (QCT),⁴⁷ to families living in QCTs, or when these services are provided by Tribal governments.⁴⁸ Recipients may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the

⁴⁷ Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level.

While QCTs are an effective tool generally, many tribal communities have households with a wide range of income levels due in part to non-tribal member, high income residents living in the community. Mixed income communities, with a significant share of tribal members at the lowest levels of income, are often not included as eligible QCTs yet tribal residents are experiencing disproportionate impacts due to the pandemic. Therefore, including all services provided by Tribal governments is a more effective means of ensuring that disproportionately impacted Tribal members can receive services.

⁴⁸ U.S. Department of Housing and Urban Development (HUD), Qualified Census Tracts and Difficult Development Areas, <https://www.huduser.gov/portal/datasets/qct.html> (last visited Apr. 26, 2021); U.S. Department of the Interior, Bureau of Indian Affairs, Indian Lands of Federally Recognized Tribes of the United States (June 2016), <https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf> (last visited Apr. 26, 2021).

specific populations, households, or geographic areas to be served.

Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs and build healthier environments, such as:

- Funding community health workers to help community members access health services and services to address the social determinants of health;⁴⁹
- Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services;
- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.⁵⁰

2. Responding to Negative Economic Impacts

Impacts on Households and Individuals. The public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote

⁴⁹ The social determinants of health are the social and environmental conditions that affect health outcomes, specifically economic stability, health care access, social context, neighborhoods and built environment, and education access. See, e.g., U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030: Social Determinants of Health, <https://health.gov/healthypeople/objectives-and-data/social-determinants-health> (last visited Apr. 26, 2021).

⁵⁰ National Commission on COVID-19 and Criminal Justice, Impact Report: COVID-19 and Crime (Jan. 31, 2021), <https://covid19.counciloncj.org/2021/01/31/impact-report-covid-19-and-crime-3/> (showing a spike in homicide and assaults); Brad Boesrup et al., Alarming Trends in US domestic violence during the COVID-19 pandemic, *Am. J. of Emerg. Med.* 38(12): 2753–55 (Dec. 1, 2020), available at [https://www.ajemjournal.com/article/S0735-6757\(20\)30307-7/fulltext](https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext) (showing a spike in domestic violence).

⁴⁶ In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

education, and travel declined precipitously, over 20 million jobs were lost in March and April 2020.⁵¹ Although many have returned to work, as of April 2021, the economy remains 8.2 million jobs below its pre-pandemic peak,⁵² and more than 3 million workers have dropped out of the labor market altogether relative to February 2020.⁵³

Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United States was 6.1 percent in April 2021, but certain groups saw much higher rates: 9.7 percent for Black workers, 7.9 percent for Hispanic or Latino workers, and 9.3 percent for workers without a high school diploma.⁵⁴ Job losses have also been particularly steep among low wage workers, with these workers remaining furthest from recovery as of the end of 2020.⁵⁵ A severe recession—and its concentrated impact among low-income workers—has amplified food and housing insecurity, with an estimated nearly 17 million adults living in households where there is sometimes or often not enough food to eat and an estimated 10.7 million adults living in households that were not current on rent.⁵⁶ Over the course of the pandemic,

inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without child care during the day.⁵⁷ Women of color have been hit especially hard: The labor force participation rate for Black women has fallen by 3.2 percentage points⁵⁸ during the pandemic as compared to 1.0 percentage points for Black men⁵⁹ and 2.0 percentage points for White women.⁶⁰

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.⁶¹ In addition to the labor market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores⁶² and reduced familial and childhood wellbeing.⁶³

Food, Housing, and Employment Hardships, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and> (last visited May 8, 2021).

⁵¹ Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. See, e.g., Gema Zamarró & Maria J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID-19, *Rev. Econ. Household* 19:11–40 (2021), available at <https://link.springer.com/article/10.1007/s11150-020-09534-7>; Titan Alon et al., The Impact of COVID-19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), available at <https://www.nber.org/papers/w26947>.

⁵² U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300032> (last visited May 8, 2021).

⁵³ U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300031> (last visited May 8, 2021).

⁵⁴ U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300029> (last visited May 8, 2021).

⁵⁵ See, e.g., Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2021), <https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/>.

⁵⁶ Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (Dec. 2013), https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.

⁵⁷ Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., *Children of the Great Recession*,

These potential long-term economic consequences underscore the continued need for robust policy support.

Impacts on Businesses. The pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment⁶⁴ and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.⁶⁵ Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.⁶⁶ Sectors with a large share of small business employment have been among those with the most drastic drops in employment.⁶⁷ The negative outlook for small businesses has continued: As of April 2021, approximately 70 percent of small businesses reported that the pandemic has had a moderate or large negative effect on their business, and over a third expect that it will take over 6 months for their business to return to their normal level of operations.⁶⁸

This negative outlook is likely the result of many small businesses having faced periods of closure and having seen declining revenues as customers stayed home.⁶⁹ In general, small businesses can face greater hurdles in accessing credit,⁷⁰ and many small businesses were already financially fragile at the outset of the pandemic.⁷¹ Non-profits, which provide vital services to communities, have similarly faced

Russell Sage Foundation (Aug. 2016), available at <https://www.russellsage.org/publications/children-great-recession>.

⁶⁴ Board of Governors of the Federal Reserve System, *supra* note 5.

⁶⁵ U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), <https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/>.

⁶⁶ Biden, *supra* note 6.

⁶⁷ Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID-19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), available at <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf>.

⁶⁸ U.S. Census Bureau, Small Business Pulse Survey, <https://portal.census.gov/pulse/data/> (last visited May 8, 2021).

⁶⁹ Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID-19 Pandemic (Nov. 2020), <https://www.nber.org/papers/w28151>.

⁷⁰ See e.g., Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), available at <https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm>.

⁷¹ Alexander W. Bartik et al., The Impact of COVID-19 on small business outcomes and expectations, PNAS 117(30): 17656–66 (July 28, 2020), available at <https://www.pnas.org/content/117/30/17656>.

⁵¹ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm (PAYEMS), retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PAYEMS> (last visited May 8, 2021).

⁵² *Id.*

⁵³ U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/CLF16OV> (last visited May 8, 2021).

⁵⁴ U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (May 8 2021), <https://www.bls.gov/news.release/empsit.t01.htm> (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (May 8, 2021), <https://www.bls.gov/web/empsit/cpseea04.htm> (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (May 8, 2021), <https://www.bls.gov/web/empsit/cpseea05.htm> (last visited May 8, 2021).

⁵⁵ Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), <https://files.epi.org/pdf/219418.pdf>. See also, Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID-19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (Feb. 2021), <https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf>.

⁵⁶ Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on

economic and financial challenges due to the pandemic.⁷²

Impacts to State, Local, and Tribal Governments. State, local, and Tribal governments have felt substantial fiscal pressures. As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels.⁷³ These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.

Exacerbation of Pre-existing Disparities. The COVID-19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.

The negative economic impacts of the COVID-19 pandemic are particularly pronounced in certain communities and families. Low- and moderate-income jobs make up a substantial portion of both total pandemic job losses,⁷⁴ and jobs that require in-person frontline work, which are exposed to greater risk of contracting COVID-19.⁷⁵ Both factors compound pre-existing vulnerabilities and the likelihood of food, housing, or other financial insecurity in low- and moderate-income families and, given the concentration of low- and moderate-income families within certain communities,⁷⁶ raise a substantial risk that the effects of the COVID-19 public health emergency will be amplified within these communities.

These compounding effect of recessions on concentrated poverty and the long-lasting nature of this effect were observed after the 2007–2009 recession, including a large increase in concentrated poverty with the number of people living in extremely poor

neighborhoods more than doubling by 2010–2014 relative to 2000.⁷⁷ Concentrated poverty has a range of deleterious impacts, including additional burdens on families and reduced economic potential and social cohesion.⁷⁸ Given the disproportionate impact of COVID-19 on low-income households discussed above, there is a risk that the current pandemic-induced recession could further increase concentrated poverty and cause long-term damage to economic prospects in neighborhoods of concentrated poverty.

The negative economic impacts of COVID-19 also include significant impacts to children in disproportionately affected families and include impacts to education, health, and welfare, all of which contribute to long-term economic outcomes.⁷⁹ Many low-income and minority students, who were disproportionately served by remote or hybrid education during the pandemic, lacked the resources to participate fully in remote schooling or live in households without adults available throughout the day to assist with online coursework.⁸⁰ Given these trends, the pandemic may widen educational disparities and worsen outcomes for low-income students,⁸¹ an

⁷⁷ Elizabeth Kneebone & Natalie Holmes, U.S. concentrated poverty in the wake of the Great Recession, Brookings Institution (Mar. 31, 2016), <https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/>.

⁷⁸ David Erickson et al., The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. (2008), available at https://www.frbsf.org/community-development/files/cp_fullreport.pdf.

⁷⁹ Educational quality, as early as Kindergarten, has a long-term impact on children's public health and economic outcomes. See, e.g., Tyler W. Watts et al., The Chicago School Readiness Project: Examining the long-term impacts of an early childhood intervention, *PLoS ONE* 13(7) (2018), available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0200144>; Opportunity Insights, How Can We Amplify Education as an Engine of Mobility? Using big data to help children get the most from school, <https://opportunityinsights.org/education/> (last visited Apr. 26, 2021); U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Early Childhood Development and Education, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/early-childhood-development-and-education> (last visited Apr. 26, 2021).

⁸⁰ See, e.g., Bacher-Hicks, *supra* note 14.

⁸¹ A Department of Education survey found that, as of February 2021, 42 percent of fourth grade students nationwide were offered only remote education, compared to 48 percent of economically disadvantaged students, 54 percent of Black students and 57 percent of Hispanic students. Large districts often disproportionately serve low-income students. See Institute of Education Sciences, Monthly School Survey Dashboard, <https://ies.ed.gov/schoolsurvey/> (last visited Apr. 26, 2021). In summer 2020, a review found that 74 percent of the largest 100 districts chose remote learning only.

effect that would substantially impact their long-term economic outcomes. Increased economic strain or material hardship due to the pandemic could also have a long-term impact on health, educational, and economic outcomes of young children.⁸² Evidence suggests that adverse conditions in early childhood, including exposure to poverty, food insecurity, housing insecurity, or other economic hardships, are particularly impactful.⁸³

The pandemic's disproportionate economic impacts are also seen in Tribal communities across the country—for Tribal governments as well as families and businesses on and off Tribal lands. In the early months of the pandemic, Native American unemployment spiked to 26 percent and, while partially recovered, remains at nearly 11 percent.⁸⁴ Tribal enterprises are a significant source of revenue for Tribal governments to support the provision of government services. These enterprises, notably concentrated in gaming, tourism, and hospitality, frequently closed, significantly reducing both revenues to Tribal governments and employment. As a result, Tribal governments have reduced essential services to their citizens and communities.⁸⁵

Eligible Uses. Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID-19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be

See Education Week, School Districts' Reopening Plans: A Snapshot (Jul. 15, 2020), <https://www.edweek.org/leadership/school-districts-reopening-plans-a-snapshot/2020/07> (last visited May 4, 2021).

⁸² HHS, *supra* note 79.

⁸³ Hirokazu Yoshikawa, Effects of the Global Coronavirus Disease—2019 Pandemic on Early Childhood Development: Short- and Long-Term Risks and Mitigating Program and Policy Actions, *J. of Pediatrics* Vol. 223:188–93 (Aug. 1, 2020), available at [https://www.jpeds.com/article/S0022-3476\(20\)30606-5/abstract](https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract).

⁸⁴ Based on calculations conducted by the Minneapolis Fed's Center for Indian Country Development using Flood et al. (2020)'s Current Population Survey." Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren. Integrated Public Use Microdata Series, Current Population Survey: Version 8.0 [dataset]. Minneapolis, MN: IPUMS, 2020. <https://doi.org/10.18128/D030.V8.0>; see also Donna Feir & Charles Golding, Native Employment During COVID-19: Hard hit in April but Starting to Rebound? (Aug. 5, 2020), <https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound>.

⁸⁵ Moreno & Sobrepena, *supra* note 73.

⁷² Federal Reserve Bank of San Francisco, Impacts of COVID-19 on Nonprofits in the Western United States (May 2020), <https://www.frbsf.org/community-development/files/impact-of-covid-nonprofits-serving-western-united-states.pdf>.

⁷³ Bureau of Labor Statistics, *supra* note 8; Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID-19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2021), <https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances>.

⁷⁴ Kim Parker et al., Economic Fallout from COVID-19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center (Sept. 24, 2020), <https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/>; Gould, *supra* note 55.

⁷⁵ See *infra* Section II.B of this Supplementary Information.

⁷⁶ Elizabeth Kneebone, The Changing geography of US poverty, Brookings Institution (Feb. 15, 2017), <https://www.brookings.edu/testimonies/the-changing-geography-of-us-poverty/>.

eligible under this category, the recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID-19 public health emergency and whether, and the extent to which, the use would respond or address this harm.⁸⁶ A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID-19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.

In addition, the eligible use must “respond to” the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and/or exacerbated by the public health emergency.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began

and remain so due to the negative economic impacts of the pandemic.

- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021, given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic’s negative economic impacts on unemployed workers.

- *Assistance to Households.* Assistance to households or populations facing negative economic impacts due to COVID-19 is also an eligible use. This includes: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance (discussed below); emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker’s occupation or level of training. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative

economic impacts resulting from the pandemic. For example, a cash transfer program may focus on unemployed workers or low- and moderate-income families, which have faced disproportionate economic harms due to the pandemic. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID-19 public health emergency or its negative impacts. In particular, when considering the appropriate size of permissible cash transfers made in response to the COVID-19 public health emergency, State, local and Tribal governments may consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID-19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) and could be subject to recoupment. In addition, a recipient could provide survivor’s benefits to surviving family members of COVID-19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID-19 victims.

- *Expenses to Improve Efficacy of Economic Relief Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.

- *Small Businesses and Non-profits.*

As discussed above, small businesses and non-profits faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency, including:

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical

⁸⁶ In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of the Act.

plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and

- Technical assistance, counseling, or other services to assist with business planning needs.

As discussed above, these services should respond to the negative economic impacts of COVID-19. Recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (e.g., comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. Recipients should consider local economic conditions and business data when establishing such criteria.⁸⁷

- *Rehiring State, Local, and Tribal Government Staff.* State, local, and Tribal governments continue to see pandemic impacts in overall staffing levels: State, local, and Tribal government employment remains more than 1 million jobs lower in April 2021 than prior to the pandemic.⁸⁸ Employment losses decrease a state or local government's ability to effectively administer services. Thus, the interim final rule includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government.

- *Aid to Impacted Industries.* Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively impacted by the COVID-19 public health emergency. Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the

pandemic on those and similarly impacted industries. For example, aid may include assistance to implement COVID-19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID-19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.

When considering providing aid to industries other than tourism, travel, and hospitality, recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID-19 public health emergency.⁸⁹ Recipients should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

To facilitate transparency and accountability, the interim final rule requires that State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use, including

tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the pandemic. Recipients also should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

As discussed above, economic disparities that existed prior to the COVID-19 public health emergency amplified the impact of the pandemic among low-income and minority groups. These families were more likely to face housing, food, and financial insecurity; are over-represented among low-wage workers; and many have seen their livelihoods deteriorate further during the pandemic and economic contraction. In recognition of the disproportionate negative economic impacts on certain communities and populations, the interim final rule identifies services and programs that will be presumed to be responding to the negative economic impacts of the COVID-19 public health emergency when provided in these communities.

Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments.⁹⁰ Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. The interim final rule identifies a non-exclusive list of uses that address the disproportionate negative economic effects of the COVID-19 public health emergency, including:

- *Building Stronger Communities through Investments in Housing and Neighborhoods.* The economic impacts of COVID-19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity.⁹¹

⁸⁷ See Federal Reserve Bank of Cleveland, An Uphill Battle: COVID-19's Outsized Toll on Minority-Owned Firms (Oct. 8, 2020), <https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx> (discussing the impact of COVID-19 on minority owned businesses).

⁸⁸ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited May 8, 2021).

⁸⁹ From February 2020 to April 2021, employment in "Leisure and hospitality" has fallen by approximately 17 percent. See U.S. Bureau of Labor Statistics, All Employees, Leisure and Hospitality, retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/USLAH> (last visited May 8, 2021). From 2019Q4 to 2020Q4, gross output (e.g. revenue) in arts, entertainment, recreation, accommodation, and food services has fallen by approximately 24 percent. See Bureau of Economic Analysis, News Release: Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, Fourth Quarter and Year 2020 (Mar. 25, 2021), Table 17, https://www.bea.gov/sites/default/files/2021-03/gdp4q20_3rd.pdf.

⁹⁰ HUD, *supra* note 48.

⁹¹ Stuart M. Butler & Jonathan Grabinsky, Tackling the legacy of persistent urban inequality and concentrated poverty, Brookings Institution (Nov. 16, 2020), <https://www.brookings.edu/blog/upt-front/2020/11/16/tackling-the-legacy-of->

Services in this category alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing.⁹² Eligible services include:

- Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
- Affordable housing development to increase supply of affordable and high-quality living units; and

- Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity.⁹³

○ *Addressing Educational Disparities.* As outlined above, school closures and the transition to remote education raised particular challenges for lower-income students, potentially exacerbating educational disparities, while increases in economic hardship among families could have long-lasting impacts on children's educational and economic prospects. Services under this prong would enhance educational supports to help mitigate impacts of the pandemic. Eligible services include:

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;

- Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;

- Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other

extended learning and enrichment programs; and

- Evidence-based practices to address the social, emotional, and mental health needs of students;

- *Promoting Healthy Childhood Environments.* Children's economic and family circumstances have a long-term impact on their future economic outcomes.⁹⁴ Increases in economic hardship, material insecurity, and parental stress and behavioral health challenges all raise the risk of long-term harms to today's children due to the pandemic. Eligible services to address this challenge include:

- New or expanded high-quality childcare to provide safe and supportive care for children;

- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and

- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

State, local, and Tribal governments are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by the public health emergency. As highlighted above, low-income communities and workers and people of color have faced more severe health and economic outcomes during the pandemic, with pre-existing social vulnerabilities like low-wage or insecure employment, concentrated neighborhoods with less economic opportunity, and pre-existing health disparities likely contributing to the magnified impact of the pandemic. The Fiscal Recovery Funds provide resources to not only respond to the immediate harms of the pandemic but also to mitigate its longer-term impact in compounding the systemic public health and economic challenges of disproportionately impacted populations. Treasury encourages recipients to consider funding uses that foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.

Uses Outside the Scope of this Category. Certain uses would not be within the scope of this eligible use category, although may be eligible under other eligible use categories. A general infrastructure project, for example, typically would not be included unless the project responded to a specific pandemic public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (e.g., affordable housing in a QCT). The ARPA explicitly includes infrastructure if it is "necessary" and in water, sewer, or broadband. See Section II.D of this **SUPPLEMENTARY INFORMATION**. State, local, and Tribal governments also may use the Fiscal Recovery Funds under sections 602(c)(1)(C) or 603(c)(1)(C) to provide "government services" broadly to the extent of their reduction in revenue. See Section II.C of this **SUPPLEMENTARY INFORMATION**.

This category of eligible uses also would not include contributions to rainy day funds, financial reserves, or similar funds. Resources made available under this eligible use category are intended to help meet pandemic response needs and provide relief for households and businesses facing near- and long-term negative economic impacts. Contributions to rainy day funds and similar financial reserves would not address these needs or respond to the COVID-19 public health emergency but would rather constitute savings for future spending needs. Similarly, this eligible use category would not include payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. As discussed below, payments from the Fiscal Recovery Funds are intended to be used prospectively and the interim final rule precludes use of these funds to cover the costs of debt incurred prior to March 3, 2021. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts. The purpose of the Fiscal Recovery Funds is to provide fiscal relief that will permit State, local, and Tribal governments to continue to respond to the COVID-19 public health emergency.

For the same reasons, this category of eligible uses would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring

persistent-urban-inequality-and-concentrated-poverty/.

⁹² U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Quality of Housing, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#11> (last visited Apr. 26, 2021).

⁹³ The Opportunity Atlas, <https://www.opportunityatlas.org/> (last visited Apr. 26, 2021); Raj Chetty & Nathaniel Hendren, The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects, Quarterly J. of Econ. 133(3):1107–162 (2018), available at <https://opportunityinsights.org/paper/neighborhoodsi/>.

⁹⁴ See *supra* notes 52 and 84.

plan in a judicial, administrative, or regulatory proceeding, except to the extent 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 these needs, as described above.

In addition, as described in Section V.III of this **SUPPLEMENTARY INFORMATION**, Treasury will establish reporting and record keeping requirements for uses within this category, including enhanced reporting requirements for certain types of uses.

Question 1: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 2: The interim final rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID-19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID-19 response, and therefore reimbursable, in an easily-administrable manner?

Question 3: The interim final rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2020. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?

Question 4: The interim final rule permits deposits to Unemployment Insurance Trust Funds, or using funds to pay back advances, up to the pre-pandemic balance. What, if any, conditions should be considered to ensure that funds repair economic impacts of the pandemic and strengthen unemployment insurance systems?

Question 5: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 6: What other measures, presumptions, or considerations could be used to assess "impacted industries"

affected by the COVID-19 public health emergency?

Question 7: What are the advantages and disadvantages of using Qualified Census Tracts and services provided by Tribal governments to delineate where a broader range of eligible uses are presumed to be responsive to the public health and economic impacts of COVID-19? What other measures might Treasury consider? Are there other populations or geographic areas that were disproportionately impacted by the pandemic that should be explicitly included?

Question 8: Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID-19 on low-income populations and communities? Describe how these respond to the COVID-19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Question 9: The interim final rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately-impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing units?

B. Premium Pay

Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.⁹⁵ These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

Since the start of the COVID-19 public health emergency in January 2020, essential workers have put their physical wellbeing at risk to meet the daily needs of their communities and to provide care for others. In the course of this work, many essential workers have

contracted or died of COVID-19.⁹⁶ Several examples reflect the severity of the health impacts for essential workers. Meat processing plants became "hotspots" for transmission, with 700 new cases reported at a single plant on a single day in May 2020.⁹⁷ In New York City, 120 employees of the Metropolitan Transit Authority were estimated to have died due to COVID-19 by mid-May 2020, with nearly 4,000 testing positive for the virus.⁹⁸ Furthermore, many essential workers are people of color or low-wage workers.⁹⁹ These workers, in particular, have borne a disproportionate share of the health and economic impacts of the pandemic. Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

During the public health emergency, employers' policies on COVID-19-related hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.¹⁰⁰

⁹⁶ See, e.g., Centers for Disease Control and Prevention, COVID Data Tracker: Cases & Death among Healthcare Personnel, <https://covid.cdc.gov/covid-data-tracker/#health-care-personnel> (last visited May 4, 2021); Centers for Disease Control and Prevention, COVID Data Tracker: Confirmed COVID-19 Cases and Deaths among Staff and Rate per 1,000 Resident-Weeks in Nursing Homes, by Week—United States, <https://covid.cdc.gov/covid-data-tracker/#nursing-home-staff> (last visited May 4, 2021).

⁹⁷ See, e.g., The Lancet, The plight of essential workers during the COVID-19 pandemic, Vol. 395, Issue 10237:1587 (May 23, 2020), available at <https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2931200-9/fulltext>.

⁹⁸ *Id.*

⁹⁹ Joanna Gaitens et al., Covid-19 and essential workers: A narrative review of health outcomes and moral injury, *Int'l J. of Envtl. Research and Pub. Health* 18(4):1446 (Feb. 4, 2021), available at <https://pubmed.ncbi.nlm.nih.gov/33557075/>; Tiana N. Rogers et al., Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States, *World Med. & Health policy* 12(3):311–27 (Aug. 5, 2020), available at <https://onlinelibrary.wiley.com/doi/full/10.1002/wmh3.358> (finding that vulnerability to coronavirus exposure was increased among non-Hispanic blacks, who disproportionately occupied the top nine essential occupations).

¹⁰⁰ Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), <https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/>.

⁹⁵ Sections 602(c)(1)(B), 603(c)(1)(B) of the Act.

Many of these workers earn lower wages on average and live in socioeconomically vulnerable communities as compared to the general population.¹⁰¹ A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.¹⁰² The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks, including working hours lost due to sickness or disruptions to childcare and other daily routines, or the likelihood of COVID-19 spread in their households or communities. Thus, the threats and costs involved with maintaining the ongoing operation of vital facilities and services have been, and continue to be, borne by those that are often the most vulnerable to the pandemic. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities.

The Fiscal Recovery Funds will help respond to the needs of essential workers by allowing recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency. To ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work, the interim final rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.

Sections 602(g)(2) and 603(g)(2) define eligible worker to mean “those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government.”¹⁰³ The rule incorporates this definition and provides a list of industries recognized as essential critical infrastructure sectors.¹⁰⁴ These sectors include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, among others

as noted above. As provided under sections 602(g)(2) and 603(g)(2), the chief executive of each recipient has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.

In providing premium pay to essential workers or grants to eligible employers, a recipient must consider whether the pay or grant would “respond to” to the worker or workers performing essential work. Premium pay or grants provided under this section respond to workers performing essential work if it addresses the heightened risk to workers who must be physically present at a jobsite and, for many of whom, the costs associated with illness were hardest to bear financially. Many of the workers performing critical essential services are low- or moderate-income workers, such as those described above. The ARPA recognizes this by defining premium pay to mean an amount up to \$13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed \$25,000 per eligible worker. To ensure the provision is implemented in a manner that compensates these workers, the interim final rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.

As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. If premium pay would increase a worker’s total pay above 150 percent of their residing state’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, or their residing county’s average annual wage, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency.¹⁰⁵

The threshold of 150 percent for requiring additional written justification is based on an analysis of the distribution of labor income for a sample of 20 occupations that generally correspond to the essential workers as defined in the interim final rule.¹⁰⁶ For these occupations, labor income for the vast majority of workers was under 150 percent of average annual labor income across all occupations. Treasury anticipates that the threshold of 150 percent of the annual average wage will be greater than the annual average wage of the vast majority of eligible workers performing essential work. These enhanced reporting requirements help to ensure grants are directed to essential workers in critical infrastructure sectors and responsive to the impacts of the pandemic observed among essential workers, namely the mis-alignment between health risks and compensation. Enhanced reporting also provides transparency to the public. Finally, using a localized measure reflects differences in wages and cost of living across the country, making this standard administrable and reflective of essential worker incomes across a diverse range of geographic areas.

Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID-19, it must be entirely additive to a worker’s regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker’s normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.¹⁰⁷ Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many

of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town, https://www.bls.gov/oes/current/county_links.htm (last visited May 1, 2021).

¹⁰⁶ Treasury performed this analysis with data from the U.S. Census Bureau’s 2019 Annual Social and Economic Supplement. In determining which occupations to include in this analysis, Treasury excluded management and supervisory positions, as such positions may not necessarily involve regular in-person interactions or physical handling of items to the same extent as non-managerial positions.

¹⁰⁷ However, such compensation must be “in addition to” remuneration or wages already received. That is, employers may not reduce such workers’ current pay and use Fiscal Recovery Funds to compensate themselves for premium pay previously provided to the worker.

¹⁰¹ McCormack, *supra* note 37.

¹⁰² *Id.*

¹⁰³ Sections 602(g)(2), 603(g)(2) of the Act.

¹⁰⁴ The list of critical infrastructure sectors provided in the interim final rule is based on the list of essential workers under The Heroes Act, H.R. 6800, 116th Cong. (2020).

¹⁰⁵ County median annual wage is taken to be that of the metropolitan or nonmetropolitan area that includes the county. See U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates, <https://www.bls.gov/oes/current/oesrcst.htm> (last visited May 1, 2021); U.S. Bureau

months. Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. See Section VIII of this **SUPPLEMENTARY INFORMATION**, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the interim final rule and discussed above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the interim final rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.¹⁰⁸ Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same

period 2019.¹⁰⁹ At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021.¹¹⁰ Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.¹¹¹ These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID-19 pandemic and help citizens weather the economic downturn.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007–2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.¹¹² Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,¹¹³ while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019—just a few months before the COVID-19 public health emergency began.¹¹⁴

¹⁰⁹ Major sources include personal income tax, corporate income tax, sales tax, and property tax. See Lucy Dadayan, States Reported Revenue Growth in July–September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), available at https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3_0.pdf.

¹¹⁰ National League of Cities, City Fiscal Conditions (2020), available at https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf.

¹¹¹ Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. See Moreno & Sobrepna, *supra* note 73.

¹¹² See, e.g., Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), available at <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

¹¹³ State and local government general revenue from own sources, adjusted for inflation using the GDP price index. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

¹¹⁴ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001],

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services and, thus, enable State, local, and Tribal governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery. The interim final rule implements these provisions by establishing a definition of “general revenue” for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID-19 public health emergency.

General Revenue. The interim final rule adopts a definition of “general revenue” based largely on the components reported under “General Revenue from Own Sources” in the Census Bureau’s Annual Survey of State and Local Government Finances, and for purposes of this interim final rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.¹¹⁵ By relying on a methodology that is both familiar and comprehensive, this approach minimizes burden to recipients and provides consistency in the measurement of general revenue across a diverse set of recipients.

The interim final rule defines the term “general revenue” to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.¹¹⁶ In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the overall impact of

retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited Apr. 27, 2021).

¹¹⁵ U.S. Census Bureau, Annual Survey of State and Local Government Finances, <https://www.census.gov/programs-surveys/gov-finances.html> (last visited Apr. 30, 2021).

¹¹⁶ The interim final rule would define tax revenue in a manner consistent with the Census Bureau’s definition of tax revenue, with certain changes (*i.e.*, inclusion of revenue from liquor stores and certain intergovernmental transfers). Current charges are defined as “charges imposed for providing current services or for the sale of products in connection with general government activities.” It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (*i.e.*, other than liquor store, utility, and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

¹⁰⁸ ARPA, *supra* note 16.

the COVID-19 public health emergency on a recipient's revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.¹¹⁷

Consistent with the Census Bureau's definition of "general revenue from own sources," the definition of general revenue in the interim final rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.¹¹⁸ For example, public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility's continued operation, rather than being used as a source of revenue to support government services generally.

The definition of general revenue would include all revenue from Tribal enterprises, as this revenue is generated from economic activity and is available to fund government services. Tribes are not able to generate revenue through taxes in the same manner as State and local governments and, as a result, Tribal enterprises are critical sources of revenue for Tribal governments that enable Tribal governments to provide a range of services, including elder care, health clinics, wastewater management, and forestry.

Finally, the term "general revenue" includes intergovernmental transfers between State and local governments, but excludes intergovernmental transfers from the Federal Government, including Federal transfers made via a State to a local government pursuant to the CRF or as part of the Fiscal Recovery Funds. States and local governments often share or collect revenue on behalf of one another, which results in

intergovernmental transfers. When attributing revenue to a unit of government, the Census Bureau's methodology considers which unit of government imposes, collects, and retains the revenue and assigns the revenue to the unit of government that meets at least two of those three factors.¹¹⁹ For purposes of measuring loss in general revenue due to the COVID-19 public health emergency and to better allow continued provision of government services, the retention and ability to use the revenue is a more critical factor. Accordingly, and to better measure the funds available for the provision of government services, the definition of general revenue would include intergovernmental transfers from States or local governments other than funds transferred pursuant to ARPA, CRF, or another Federal program. This formulation recognizes the importance of State transfers for local government revenue.¹²⁰

Calculation of Loss. In general, recipients will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. This approach measures losses in revenue relative to the most recent fiscal year prior to the COVID-19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic. In other words, the counterfactual trend starts with the last full fiscal year prior to the COVID-19 public health emergency and then assumes growth at a constant rate in the subsequent years. Because recipients can estimate the revenue shortfall at multiple points in time throughout the covered period as revenue is collected, this approach accounts for variation across recipients in the timing of pandemic impacts.¹²¹ Although revenue may decline for

reasons unrelated to the COVID-19 public health emergency, to minimize the administrative burden on recipients and taking into consideration the devastating effects of the COVID-19 public health emergency, any diminution in actual revenues relative to the counterfactual pre-pandemic trend would be presumed to have been due to the COVID-19 public health emergency.

For purposes of measuring revenue growth in the counterfactual trend, recipients may use a *growth adjustment* of either 4.1 percent per year or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency, whichever is higher. The option of 4.1 percent represents the average annual growth across all State and local government "General Revenue from Own Sources" in the most recent three years of available data.¹²² This approach provides recipients with a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID-19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.

Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

- **Step 1:** Identify revenues collected in the most recent full fiscal year prior to the public health emergency (*i.e.*, last full fiscal year before January 27, 2020), called the *base year revenue*.
- **Step 2:** Estimate *counterfactual revenue*, which is equal to *base year revenue* * $[(1 + \text{growth adjustment})^{\wedge} (n/12)]$, where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal

¹¹⁹ U.S. Census Bureau, Government Finance and Employment Classification Manual (Dec. 2000), <https://www2.census.gov/govs/class/classfull.pdf>.

¹²⁰ For example, in 2018, state transfers to localities accounted for approximately 27 percent of local revenues. U.S. Census Bureau, Annual Survey of State and Local Government Finances, Table 1 (2018), <https://www.census.gov/data/datasets/2018/econ/local/public-use-datasets.html>.

¹²¹ For example, following the 2007–09 recession, local government property tax collections did not begin to decline until 2011, suggesting that property tax collection declines can lag downturns. See U.S. Bureau of Economic Analysis, Personal current taxes: State and local: Property taxes [S210401A027NBEA], retrieved from Federal Reserve Economic Data, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/graph/?g=r3YI> (last visited Apr. 22, 2021). Estimating the reduction in revenue at points throughout the covered period will allow for this type of lagged effect to be taken into account during the covered period.

¹¹⁷ Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. See Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287–B (Feb. 2009).

¹¹⁸ *Supra* note 116.

¹²² Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015–2018 represents the most recent available data. See U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), <https://www.census.gov/programs-surveys/gov-finances/data/datasets.html>.

years prior to the COVID-19 public health emergency.

- *Step 3:* Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date.

- *Step 4:* The extent of the reduction in revenue is equal to *counterfactual*

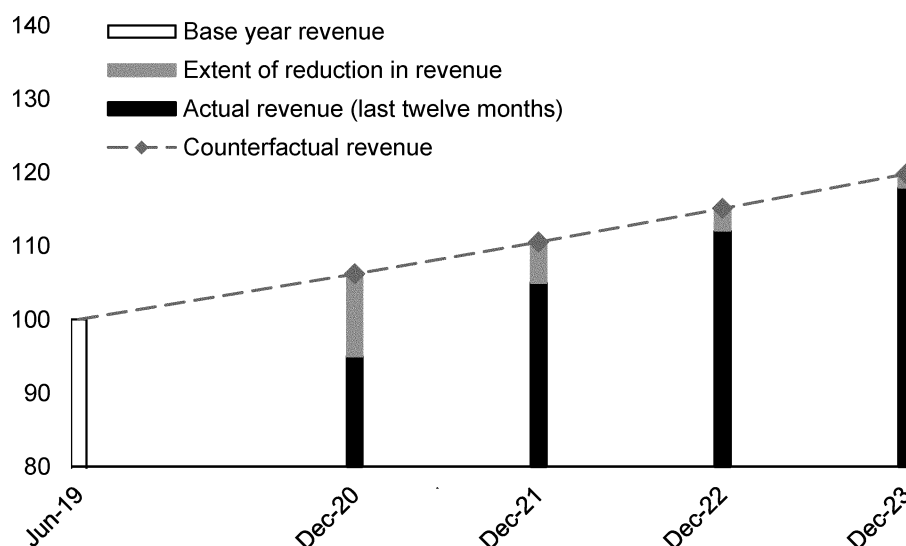
revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1

percent is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. Furthermore, this recipient's base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
<i>n</i> (months elapsed)	18	30	42	54
<i>Counterfactual revenue:</i>	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building¹²³ of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for

borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (e.g., rainy day or other reserve funds) would

not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the interim final rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the interim final rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID-19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID-

¹²³ Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID-19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury do to support these recipients through its implementation of the program?

Question 17: In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The interim final rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.¹²⁴

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to

ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.¹²⁵ By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).¹²⁶

¹²⁵ Sections 602(c)(1)(D), 603(c)(1)(D) of the Act.

¹²⁶ Environmental Protection Agency, Drinking Water State Revolving fund, <https://www.epa.gov/dwsrf> (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf> (last visited Apr. 30, 2021).

Established by the 1987 amendments¹²⁷ to the Clean Water Act (CWA),¹²⁸ the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.¹²⁹ Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.¹³⁰

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),¹³¹ with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.¹³² Like the CWSRF,

¹²⁷ Water Quality Act of 1987, Public Law 100-4.

¹²⁸ Federal Water Pollution Control Act as amended, codified at 33 U.S.C. 1251 *et seq.*, common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. Public Law 111-5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. Public Law 113-121. The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, Public Law 115-270.

¹²⁹ See Environmental Protection Agency, The Drinking Water State Revolving Funds: Financing America's Drinking Water, EPA-816-R-00-023 (Nov. 2000), <https://nepis.epa.gov/Exe/ZyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF>; See also Environmental Protection Agency, *Learn About the Clean Water State Revolving Fund*, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021).

¹³⁰ 33 U.S.C. 1383(c). See also Environmental Protection Agency, *Overview of Clean Water State Revolving Fund Eligibilities* (May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, *Clean Water Act: A Summary of the Law*, Congressional Research Service (Oct. 18, 2016), <https://fas.org/sgp/crs/misc/RL30030.pdf>; Jonathan L. Ramseur, *Wastewater Infrastructure: Overview, Funding, and Legislative Developments*, Congressional Research Service (May 22, 2018), <https://fas.org/sgp/crs/misc/R44963.pdf>.

¹³¹ 42 U.S.C. 300j-12.

¹³² Environmental Protection Agency, *Drinking Water State Revolving Fund Eligibility Handbook*, (June 2017), https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf; Environmental Protection Agency, *Drinking Water*

¹²⁴ Treasury notes that using funds to support or oppose collective bargaining would not be included as part of "necessary investments in water, sewer, or broadband infrastructure."

the DWSRF provides States with the flexibility to meet the needs of their populations.¹³³ The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.¹³⁴ In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.¹³⁵

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the interim final rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.¹³⁶ The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that needed relief for the people and communities most affected by the pandemic can be deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID-19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.¹³⁷ Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to “assist systems most in need on a per household basis according to state affordability criteria” would also have the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.¹³⁸

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also

support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, underserved, or rural communities? How do these projects differ from DWSRF and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible

Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ 42 U.S.C. 300j–12(b)(3)(A).

¹³⁶ Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021); 42 U.S.C. 300j–12.

¹³⁷ House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), <https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief>.

¹³⁸ Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf; Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, <https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations> (last visited Apr. 30, 2020).

infrastructure under the interim final rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure

The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband internet access service for every facet of daily life including work, study, and healthcare.¹³⁹ With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.¹⁴⁰ By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure

exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).¹⁴¹ There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.¹⁴² Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.¹⁴³

The interim final rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the interim final rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to

a minimum of 100 Mbps symmetrical for download and upload speeds.¹⁴⁴ In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.¹⁴⁵ In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017¹⁴⁶ and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,¹⁴⁷ attributable, in part to a shift to using broadband and the internet by individuals and businesses

¹³⁹ See, e.g., <https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show>; <https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show>; and generally, <https://www.ntia.gov/data/digital-nation-data-explorer>.

¹⁴⁰ As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, <https://broadbandmap.fcc.gov/#/> (last visited May 9, 2021).

¹⁴¹ How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, available at <https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide>.

¹⁴² See, e.g., Federal Communications Commission, Fourteenth Broadband Deployment Report, available at <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>.

¹⁴³ See, e.g., Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), <https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx>; Kansas Office of Broadband Development, Broadband Acceleration Grant, <https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf> (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), [https://www.nysac.org/files/BroadbandUpdateReport2017\(1\).pdf](https://www.nysac.org/files/BroadbandUpdateReport2017(1).pdf).

¹⁴⁴ This scalability threshold is consistent with scalability requirements used in other jurisdictions. *Id.*

¹⁴⁵ Federal Communications Commission, Broadband Speed Guide, <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last visited Apr. 30, 2021).

¹⁴⁶ Letter from Lisa R. Youngers, President and CEO of Fiber Broadband Association to FCC, WC Docket No. 19-126 (filed Jan. 3, 2020), including an Appendix with research from RVA LLC, *Data Review Of The Importance of Upload Speeds* (Jan. 2020), and Ookla speed test data, available at <https://ecfsapi.fcc.gov/file/101030085118517/FCC%20RDOF%20Jan%203%20Ex%20Parte.pdf>. Additional information on historic growth in data usage is provided in Schools, Health & Libraries Broadband Coalition, *Common Sense Solutions for Closing the Digital Divide*, Apr. 29, 2021.

¹⁴⁷ *Id.* See also United States's Mobile and Broadband internet Speeds—Speedtest Global Index, available at <https://www.speedtest.net/global-index/united-states#fixed>.

to create and share content using video sharing, video conferencing, and other applications.¹⁴⁸

The increasing use of data accelerated markedly during the pandemic as households across the country became increasingly reliant on tools and applications that require greater internet capacity, both to download data but also to upload data. Sending information became as important as receiving it. A video consultation with a healthcare provider or participation by a child in a live classroom with a teacher and fellow students requires video to be sent and received simultaneously.¹⁴⁹ As an example, some video conferencing technology platforms indicate that download and upload speeds should be roughly equal to support two-way, interactive video meetings.¹⁵⁰ For both work and school, client materials or completed school assignments, which may be in the form of PDF files, videos, or graphic files, also need to be shared with others. This is often done by uploading materials to a collaboration site, and the upload speed available to a user can have a significant impact on the time it takes for the content to be shared with others.¹⁵¹ These activities require significant capacity from home internet connections to both download and upload data, especially when there are multiple individuals in one household engaging in these activities simultaneously.

This need for increased broadband capacity during the pandemic was reflected in increased usage patterns seen over the last year. As OpenVault noted in recent advisories, the pandemic significantly increased the amount of data users consume. Among data users observed by OpenVault, per-subscriber average data usage for the fourth quarter of 2020 was 482.6 gigabytes per month, representing a 40 percent increase over the 344 gigabytes consumed in the fourth quarter of 2019 and a 26 percent increase over the third quarter 2020 average of 383.8

gigabytes.¹⁵² OpenVault also noted significant increases in upstream usage among the data users it observed, with upstream data usage growing 63 percent—from 19 gigabytes to 31 gigabytes—between December, 2019 and December, 2020.¹⁵³ According to an OECD Broadband statistic from June 2020, the largest percentage of U.S. broadband subscribers have services providing speeds between 100 Mbps and 1 Gbps.¹⁵⁴

Jurisdictions and Federal programs are increasingly responding to the growing demands of their communities for both heightened download and upload speeds. For example, Illinois now requires 100 Mbps symmetrical service as the construction standard for its state broadband grant programs. This standard is also consistent with speed levels, particularly download speed levels, prioritized by other Federal programs supporting broadband projects. Bids submitted as part of the FCC in its Rural Digital Opportunity Fund (RDOF), established to support the construction of broadband networks in rural communities across the country, are given priority if they offer faster service, with the service offerings of 100 Mbps download and 20 Mbps upload being included in the “above baseline” performance tier set by the FCC.¹⁵⁵ The Broadband Infrastructure Program (BBIP)¹⁵⁶ of the Department of Commerce, which provides Federal funding to deploy broadband

infrastructure to eligible service areas of the country also prioritizes projects designed to provide broadband service with a download speed of not less than 100 Mbps and an upload speed of not less than 20 Mbps.¹⁵⁷

The 100 Mbps upload and download speeds will support the increased and growing needs of households and businesses. Recognizing that, in some instances, 100 Mbps upload speed may be impracticable due to geographical, topographical, or financial constraints, the interim final rule permits upload speeds of between at least 20 Mbps and 100 Mbps in such instances. To provide for investments that will accommodate technologies requiring symmetry in download and upload speeds, as noted above, eligible projects that are not designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical speeds of 100 Mbps because it would be impracticable to do so should be designed so that they can be scalable to such speeds. Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities.

Under the interim final rule, eligible projects are expected to focus on locations that are unserved or underserved. The interim final rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload as households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications. This threshold is consistent with the FCC’s benchmark for an “advanced telecommunications capability.”¹⁵⁸ This threshold is also consistent with thresholds used in other Federal programs to identify eligible areas to be served by programs to improve broadband services. For example, in the FCC’s RDOF program, eligible areas include those without current (or already funded) access to terrestrial broadband service providing 25 Mbps download and 3 Mbps upload speeds.¹⁵⁹ The Department of Commerce’s BBIP also considers households to be “unserved” generally if they lack access to broadband service

¹⁵² OVBI: Covid-19 Drove 15 percent Increase in Broadband Traffic in 2020, OpenVault, Quarterly Advisory, (Feb. 10, 2021), available at <https://openvault.com/ovbi-covid-19-drove-15-increase-in-broadband-traffic-in-2020>; See OpenVault’s data set incorporates information on usage by subscribers across multiple continents, including North America and Europe. Additional data and detail on increases in the amount of data users consume and the broadband speeds they are using is provided in *OpenVault Broadband Insights Report Q4*, Quarterly Advisory (Feb. 10, 2021), available at <https://openvault.com/complimentary-report-4q20/>.

¹⁵³ OVBI Special Report: 202 Upstream Growth Nearly 4X of Pre-Pandemic Years, OpenVault, Quarterly Advisory, (April 1, 2020), available at <https://openvault.com/ovbi-special-report-2020-upstream-growth-rate-nearly-4x-of-pre-pandemic-years/>; Additional data is provided in *OpenVault Broadband Insights Pandemic Impact on Upstream Broadband Usage and Network Capacity*, available at <https://openvault.com/upstream-whitepaper/>.

¹⁵⁴ Organisation for Economic Co-operation and Development, Fixed broadband subscriptions per 100 inhabitants, per speed tiers (June 2020), <https://www.oecd.org/sti/broadband/5.1-Fixed-BB-SpeedTiers-2020-06.xls> [www.oecd.org/sti/broadband-statistics](https://www.oecd.org/sti/broadband/broadband-statistics).

¹⁵⁵ Rural Digital Opportunity Fund, Report and Order, 35 FCC Rcd 686, 690, para. 9 (2020), available at <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0>.

¹⁵⁶ The BBIP was authorized by the Consolidated Appropriations Act, 2021, Section 905, Public Law 116–260, 134 Stat. 1182 (Dec. 27, 2020).

¹⁵⁷ Section 905(d)(4) of the Consolidated Appropriations Act, 2021.

¹⁵⁸ *Deployment Report*, *supra* note 142.

¹⁵⁹ Rural Digital Opportunity Fund, *supra* note 156.

¹⁴⁸ *Id.*

¹⁴⁹ One high definition Zoom meeting or class requires approximately 3.8 Mbps/3.0 Mbps (up/down).

¹⁵⁰ See, e.g., Zoom, System Requirements for Windows, macOS, and Linux, https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_d278c327-e03d-4896-b19a-96a8f3c0c69c (last visited May 8, 2021).

¹⁵¹ By one estimate, to upload a one gigabit video file to YouTube would take 15 minutes at an upload speed of 10 Mbps compared with 1 minute, 30 seconds at an upload speed of 100 Mbps, and 30 seconds at an upload speed of 300 Mbps. *Reviews.org*: What is Symmetrical internet? (March 2020).

with a download speed of not less than 25 Mbps download and 3 Mbps upload, among other conditions. In selecting an area to be served by a project, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Under sections 602(c)(1)(A) and 603(c)(1)(A), assistance to households facing negative economic impacts due to COVID-19 is also an eligible use, including internet access or digital literacy assistance. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic.

Question 22: What are the advantages and disadvantages of setting minimum symmetrical download and upload speeds of 100 Mbps? What other minimum standards would be appropriate and why?

Question 23: Would setting such a minimum be impractical for particular types of projects? If so, where and on what basis should those projects be identified? How could such a standard be set while also taking into account the practicality of using this standard in particular types of projects? In addition to topography, geography, and financial factors, what other constraints, if any, are relevant to considering whether an investment is impracticable?

Question 24: What are the advantages and disadvantages of setting a minimum level of service at 100 Mbps download and 20 Mbps upload in projects where it is impracticable to set minimum symmetrical download and upload speeds of 100 Mbps? What are the advantages and disadvantages of setting a scalability requirement in these cases? What other minimum standards would be appropriate and why?

Question 25: What are the advantages and disadvantages of focusing these investments on those without access to a wireline connection that reliably delivers 25 Mbps download by 3 Mbps upload? Would another threshold be appropriate and why?

Question 26: What are the advantages and disadvantages of setting any particular threshold for identifying unserved or underserved areas, minimum speed standards or scalability minimum? Are there other standards that should be set (e.g., latency)? If so, why and how? How can such threshold, standards, or minimum be set in a way that balances the public's interest in making sure that reliable broadband services meeting the daily needs of all Americans are available throughout the country with the providing recipients flexibility to meet the varied needs of their communities?

III. Restrictions on Use

As discussed above, recipients have considerable flexibility to use Fiscal Recovery Funds to address the diverse needs of their communities. To ensure that payments from the Fiscal Recovery Funds are used for these congressionally permitted purposes, the ARPA includes two provisions that further define the boundaries of the statute's eligible uses. Section 602(c)(2)(A) of the Act provides that States and territories may not “use the funds . . . to either directly or indirectly offset a reduction in . . . net tax revenue . . . resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax . . . or delays the imposition of any tax or tax increase.” In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. These restrictions support the use of funds for the congressionally permitted purposes described in Section II of this Supplementary Information by providing a backstop against the use of funds for purposes outside of the eligible use categories.

These provisions give force to Congress's clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute—(1) to respond to the public health emergency and its negative economic impacts, (2) to provide premium pay to essential workers, (3) to provide government services to the extent of eligible governments' revenue losses, and (4) to make necessary water, sewer, and broadband infrastructure investments—and not otherwise. These

four eligible uses reflect Congress's judgment that the Fiscal Recovery Funds should be expended in particular ways that support recovery from the COVID-19 public health emergency. The further restrictions reflect Congress's judgment that tax cuts and pension deposits do not fall within these eligible uses. The interim final rule describes how Treasury will identify when such uses have occurred and how it will recoup funds put toward these impermissible uses and, as discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, establishes a reporting framework for monitoring the use of Fiscal Recovery Funds for eligible uses.

A. Deposit Into Pension Funds

The statute provides that recipients may not use Fiscal Recovery Funds for “deposit into any pension fund.” For the reasons discussed below, Treasury interprets “deposit” in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. The payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and
2. the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a “deposit” is distinct from a “payroll contribution,” which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a predetermined percentage of employees' wages and salaries.

As discussed above, eligible uses for premium pay and responding to the negative economic impacts of the COVID-19 public health emergency include hiring and compensating public sector employees. Interpreting the scope of “deposit” to exclude contributions that are part of payroll contributions is more consistent with these eligible uses and would reduce administrative burden for recipients. Accordingly, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans

(Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Treasury anticipates that this approach to employees' covered benefits will be comprehensive and, for employees whose wage and salary costs are eligible expenses, will allow all covered benefits listed in the previous paragraph to be eligible under the Fiscal Recovery Funds. Treasury expects that this will minimize the administrative burden on recipients by treating all the specified covered benefit types as eligible expenses, for employees whose wage and salary costs are eligible expenses.

Question 27: Beyond a "deposit" and a "payroll contribution," are there other types of payments into a pension fund that Treasury should consider?

B. Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments¹⁶⁰), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation¹⁶¹ during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the State or territory under the ARPA. See Section IV of this

SUPPLEMENTARY INFORMATION. As discussed below Section IV of this **SUPPLEMENTARY INFORMATION**, a State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received.

The interim final rule implements these conditions by establishing a framework for States and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—

i.e., cover the cost of—any reduction in net tax revenue resulting from such changes. A recipient government would only be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the recipient government could not identify sufficient funds from sources other than the Fiscal Recovery Funds to offset the reduction in net tax revenue. If sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, the remaining amount not covered by these sources will be considered to have been offset by Fiscal Recovery Funds, in contravention of the offset provision.

The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds—organic growth, increases in revenue (*e.g.*, an increase in a tax rate), and certain cuts in spending.

In order to reduce burden, the interim final rule's approach also incorporates the types of information and modeling already used by States and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, States and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of the Fiscal Recovery Funds based on information they likely have or can obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of the Fiscal Recovery Funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue, making them potentially subject to recoupment.

Reporting on both the eligible uses and on a State's or territory's covered tax changes that would reduce tax revenue will enable identification of, and recoupment for, use of Fiscal Recovery Funds to directly offset reductions in tax revenue resulting from tax relief. Moreover, this approach recognizes that, because money is fungible, even if Fiscal Recovery Funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for the State's or territory's funds that would otherwise have been needed to cover the costs of the reduction. By focusing on the cost of changes that reduce net tax revenue—and how a recipient government is

offsetting those reductions in constructing its budget over the covered period—the framework prevents efforts to use Fiscal Recovery Funds to indirectly offset reductions in net tax revenue for which the recipient government has not identified other offsetting sources of funding.

As discussed in greater detail below in this preamble, the framework set forth in the interim final rule establishes a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to "pay for" with sources other than Fiscal Recovery Funds (total value of revenue reducing changes).

- Second, the interim final rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.

- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government's actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.

- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:

- State or territory tax changes that would increase any source of general

¹⁶⁰ In this sub-section, "recipient governments" refers only to States and territories. In other sections, "recipient governments" refers more broadly to eligible governments receiving funding from the Fiscal Recovery Funds.

¹⁶¹ For brevity, referred to as "changes in law, regulation, or interpretation" for the remainder of this preamble.

fund revenue, such as a change that would increase a tax rate; and

- Spending cuts in areas not being replaced by Fiscal Recovery Funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to the Treasury an amount that is greater than the recipient government's actual tax revenue shortfall relative to the baseline (*i.e.*, fiscal year 2019 tax revenue adjusted for inflation). This “revenue reduction cap,” together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

- Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this

SUPPLEMENTARY INFORMATION.

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with Fiscal Recovery Funds. This process ensures Fiscal Recovery Funds are used in a manner consistent with the statute's defined eligible uses and the offset provision's limitation on these eligible uses, while avoiding undue interference with State and territory decisions regarding tax and spending policies.

The interim final rule also implements a process for recouping Fiscal Recovery Funds that were used to offset reductions in net tax revenue, including the calculation of any amounts that may be subject to recoupment, a process for a recipient government to respond to a notice of recoupment, and clarification regarding amounts excluded from recoupment. See Section IV of this **SUPPLEMENTARY INFORMATION**.

The interim final rule includes several definitions that are applicable to the implementation of the offset provision.

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from “a change in law, regulation, or administrative interpretation.” A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute

or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Changed administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered period; the operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only the changes within the control of the State or territory are considered covered changes. Covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period. For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the Federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the Federal Government's expansion of the EITC in the ARPA.¹⁶² This would not be considered a covered change. In addition, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. Finally, Treasury has determined and previously announced that income tax changes—even those made during the covered period—that simply conform with recent changes in Federal law (including those to conform to recent changes in Federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program) are permissible under the offset provision.

Baseline. For purposes of measuring a reduction in net tax revenue, the interim final rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.¹⁶³

FY 2019 was chosen as the starting year for the baseline because it is the last full fiscal year prior to the COVID–

19 public health emergency.¹⁶⁴ This baseline year is consistent with the approach directed by the ARPA in sections 602(c)(1)(C) and 603(c)(1)(C), which identify the “most recent full fiscal year of the [State, territory, or Tribal government] prior to the emergency” as the comparator for measuring revenue loss. U.S. gross domestic product is projected to rebound to pre-pandemic levels in 2021,¹⁶⁵ suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels. The FY 2019 baseline revenue will be adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

Reporting year. The interim final rule defines “reporting year” as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases (“in-year” value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term “reporting year” refers to the portion of the year falling within the covered period. For example, the reporting year for a fiscal year beginning July 2020 and ending June 2021 would be from March 3, 2021 to July 2021.

Tax revenue. The interim final rule's definition of “tax revenue” is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances.¹⁶⁶ It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this **SUPPLEMENTARY INFORMATION** describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this **SUPPLEMENTARY INFORMATION**, tax

¹⁶⁴ Using Fiscal Year 2019 is consistent with section 602 as Congress provided for using that baseline for determining the impact of revenue loss affecting the provision of government services. See section 602(c)(1)(C).

¹⁶⁵ Congressional Budget Office, An Overview of the Economic Outlook: 2021 to 2031 (February 1, 2021), available at <https://www.cbo.gov/publication/56965>.

¹⁶⁶ U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, <https://www.census.gov/programs-surveys/state/about/glossary.html> (last visited Apr. 30, 2021).

¹⁶² See, e.g., Tax Policy Center, How do state earned income tax credits work?, <https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/> (last visited May 9, 2021).

¹⁶³ U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, <https://www.bea.gov/data/prices-inflation/gdp-price-deflator> (last visited May 9, 2021).

revenue does not include revenue taxed and collected by a different unit of government (e.g., revenue from taxes levied by a local government and transferred to a recipient government).

Framework. The interim final rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State's or territory's use of Fiscal Recovery Funds:

(1) *Covered changes that reduce tax revenue.* For each reporting year, a recipient government will identify and value covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Further, estimation approaches should not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework. Relative to these dynamic scoring methodologies, scoring methodologies that do not incorporate projected effects of macroeconomic growth rely on fewer assumptions and thus provide greater consistency among States and territories. Dynamic scoring that incorporates macroeconomic growth may also increase the likelihood of underestimation of the cost of a reduction in tax revenue.

In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, the approach of using the projected value of changes in law that enact fiscal policies to estimate the net effect of such policies is consistent with the way many States

and territories already consider tax changes.¹⁶⁷

(2) *In excess of the de minimis.* The recipient government will next calculate the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de minimis level, the recipient government will be deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue.

The de minimis level is calculated as 1 percent of the reporting year's baseline. Treasury recognizes that, pursuant to their taxing authority, States and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as "resulting from" tax law changes. The de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. Treasury determined the 1 percent level by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.¹⁶⁸ The 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies.

(3) *Safe harbor.* The recipient government will then compare the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of Fiscal Recovery Funds only in the event that

such funds are used to offset a reduction in net tax revenue. If net tax revenue has not been reduced, this provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of the covered changes.

(4) *Consideration of other sources of funding.* Next, the recipient government will identify and calculate the total value of changes that could pay for revenue reduction due to covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. As when identifying and valuing covered changes that reduce tax revenue, the value of revenue-raising changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, aligned with the recipient government's existing approach for measuring the effects of fiscal policies, and measured relative to a current law baseline, or based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s). Further, and as discussed above, estimation approaches should not use dynamic scoring methodologies that incorporate the effects of macroeconomic growth because growth is accounted for separately under the interim final rule. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays not in an area where the recipient government has spent Fiscal Recovery Funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or

¹⁶⁷ See, e.g., Megan Randall & Kim Rueben, Tax Policy Center, Sustainable Budgeting in the States: Evidence on State Budget Institutions and Practices (Nov. 2017), available at https://www.taxpolicycenter.org/sites/default/files/publication/149186/sustainable-budgeting-in-the-states_1.pdf.

¹⁶⁸ Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004–2017.

authority from which spending has been cut and whether the recipient government has spent Fiscal Recovery Funds on that same department, agency, or authority. This approach was selected to allow recipient governments to report how Fiscal Recovery Funds have been spent using reporting units already incorporated into their budgeting process. If they have not spent Fiscal Recovery Funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have, the Fiscal Recovery Funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of Fiscal Recovery Funds spent on the department, agency, or authority would count.

To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offsetting other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding Fiscal Recovery Funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of States and territories. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Treasury chose this approach because while many recipient governments may score budget legislation using projections, spending cuts are readily observable using actual values.

This approach—allowing only spending reductions in areas where the recipient government has not spent Fiscal Recovery Funds to be used as an

offset for a reduction in net tax revenue—aims to prevent recipient governments from using Fiscal Recovery Funds to supplant State or territory funding in the eligible use areas, and then use those State or territory funds to offset tax cuts. Such an approach helps ensure that Fiscal Recovery Funds are not used to “indirectly” offset revenue reductions due to covered changes.

In order to help ensure recipient governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. If, over the course of the covered period, a spending cut is subsequently replaced with Fiscal Recovery Funds and used to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury may consider such change to be an evasion of the restrictions of the offset provision and seek recoupment of such amounts.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of reduction in revenue due to covered changes which a recipient government must cover is capped at the difference between the baseline and actual tax revenue.¹⁶⁹ In the event that the baseline is above actual tax revenue and the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. For example, if a recipient government reduces tax revenue by \$1 billion, makes no other changes, and experiences revenue growth driven by organic economic growth worth \$500 million, it need only pay for the remaining \$500 million with sources other than Fiscal Recovery Funds. The revenue reduction cap implements this

approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, as discussed further in Section IV of this **SUPPLEMENTARY INFORMATION**, a recipient government may request reconsideration of any amounts identified as subject to recoupment under this framework. This process ensures that all relevant facts and circumstances, including information regarding planned spending cuts and budgeting assumptions, are considered prior to a determination that an amount must be repaid. Amounts subject to recoupment are calculated on an annual basis; amounts recouped in one year cannot be returned if the State or territory subsequently reports an increase in net tax revenue.

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, in each year of the reporting period, each State and territory will report to Treasury the following items:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change;
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the interim final rule;

Treasury will provide additional guidance and instructions the reporting requirements at a later date.

Question 28: Does the interim final rule's definition of tax revenue accord with existing State and territorial practice and, if not, are there other definitions or elements Treasury should consider? Discuss why or why not.

Question 29: The interim final rule permits certain spending cuts to cover the costs of reductions in tax revenue, including cuts in a department, agency, or authority in which the recipient government is not using Fiscal Recovery Funds. How should Treasury and recipient governments consider the scope of a department, agency, or authority for the use of funds to ensure spending cuts are not being substituted with Fiscal Recovery Funds while also avoiding an overbroad definition of that captures spending that is, in fact, distinct?

Question 30: Discuss the budget scoring methodologies currently used by States and territories. How should the interim final rule take into consideration differences in approaches? Please discuss the use of

¹⁶⁹ This cap is applied in § 35.8(c) of the interim final rule, calculating the amount of funds used in violation of the tax offset provision.

practices including but not limited to macrodynamic scoring, microdynamic scoring, and length of budget windows.

Question 31: If a recipient government has a balanced budget requirement, how will that requirement impact its use of Fiscal Recovery Funds and ability to implement this framework?

Question 32: To implement the framework described above, the interim final rule establishes certain reporting requirements. To what extent do recipient governments already produce this information and on what timeline? Discuss ways that Treasury and recipient governments may better rely on information already produced, while ensuring a consistent application of the framework.

Question 33: Discuss States' and territories' ability to produce the figures and numbers required for reporting under the interim final rule. What additional reporting tools, such as a standardized template, would facilitate States' and territories' ability to complete the reporting required under the interim final rule?

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.¹⁷⁰

As provided for in the award terms, payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.

D. Timeline for Use of Fiscal Recovery Funds

Section 602(c)(1) and section 603(c)(1) require that payments from the Fiscal Recovery Funds be used only to cover costs incurred by the State, territory, Tribal government, or local government by December 31, 2024. Similarly, the CARES Act provided that payments from the CRF be used to cover costs incurred by December 31, 2021.¹⁷¹ The

definition of “incurred” does not have a clear meaning. With respect to the CARES Act, on the understanding that the CRF was intended to be used to meet relatively short-term needs, Treasury interpreted this requirement to mean that, for a cost to be considered to have been incurred, performance of the service or delivery of the goods acquired must occur by December 31, 2021. In contrast, the ARPA, passed at a different stage of the COVID–19 public health emergency, was intended to provide more general fiscal relief over a broader timeline. In addition, the ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband infrastructure, which entail a longer timeframe. In recognition of this, Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date. The interim final rule adopts a definition of “obligation” that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement and is a definition with which most recipients will be familiar.

Payments from the Fiscal Recovery Funds are grants provided to recipients to mitigate the fiscal effects of the COVID–19 public health emergency and to respond to the public health emergency, consistent with the eligible uses enumerated in sections 602(c)(1) and 603(c)(1).¹⁷² As such, these funds are intended to provide economic stimulus in areas still recovering from the economic effects of the pandemic. In implementing and interpreting these provisions, including what it means to “respond to” the COVID–19 public health emergency, Treasury takes into consideration pre-pandemic facts and circumstances (e.g., average revenue growth prior to the pandemic) as well as impact of the pandemic that predate the enactment of the ARPA (e.g., replenishing Unemployment Trust balances drawn during the pandemic). While assessing the effects of the COVID–19 public health emergency necessarily takes into consideration the facts and circumstances that predate the ARPA, use of Fiscal Recovery Funds is forward looking.

As discussed above, recipients are permitted to use payments from the Fiscal Recovery Funds to respond to the public health emergency, to respond to workers performing essential work by providing premium pay or providing

grants to eligible employers, and to make necessary investments in water, sewer, or broadband infrastructure, which all relate to prospective uses. In addition, sections 602(c)(1)(C) and 603(c)(1)(C) permit recipients to use Fiscal Recovery Funds for the provision of government services. This clause provides that the amount of funds that may be used for this purpose is measured by reference to the reduction in revenue due to the public health emergency relative to revenues collected in the most recent full fiscal year, but this reference does not relate to the period during which recipients may use the funds, which instead refers to prospective uses, consistent with the other eligible uses.

Although as discussed above the eligible uses of payments from the Fiscal Recovery Funds are all prospective in nature, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The interim final rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021. This aligns the period for use of Fiscal Recovery Funds with the period during which these funds may not be used to offset reductions in net tax revenue. Permitting Fiscal Recovery Funds to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the Fiscal Recovery Funds would be able to cover them using these payments.¹⁷³

As set forth in the award terms, the period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds.

IV. Recoupment Process

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.¹⁷⁴ The interim final rule implements these provisions by establishing a process for recoupment.

Identification and Notice of Violations. Failure to comply with the restrictions on use will be identified based on reporting provided by the

¹⁷⁰ See 42 CFR 433.51 and 45 CFR 75.306.

¹⁷¹ Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Act by extending the end of the covered period for CRF expenditures from December 30, 2020 to December 31, 2021.

¹⁷² Sections 602(a), 603(a), 602(c)(1) and 603(c)(1) of the Act.

¹⁷³ Given the nature of this program, recipients will not be permitted to use funds to cover pre-award costs, i.e., those incurred prior to March 3, 2021.

¹⁷⁴ Sections 602(e) and 603(e) of the Act.

recipient. As discussed further in Sections III.B and VIII of this **SUPPLEMENTARY INFORMATION**, Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If Treasury identifies a violation, it will provide written notice to the recipient along with an explanation of such amounts.

Request for Reconsideration. Under the interim final rule, a recipient may submit a request for reconsideration of any amounts identified in the notice provided by Treasury. This reconsideration process provides a recipient the opportunity to submit additional information it believes supports its request in light of the notice of recoupment, including, for example, additional information regarding the recipient's use of Fiscal Recovery Funds or its tax revenues. The process also provides the Secretary with an opportunity to consider all information relevant to whether a violation has occurred, and if so, the appropriate amount for recoupment.

The interim final rule also establishes requirements for the timing of a request for reconsideration. Specifically, if a recipient wishes to request reconsideration of any amounts identified in the notice, the recipient must submit a written request for reconsideration to the Secretary within 60 calendar days of receipt of such notice. The request must include an explanation of why the recipient believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered. To facilitate the Secretary's review of a recipient's request for reconsideration, the request should identify all supporting reasons for the request. Within 60 calendar days of receipt of the recipient's request for reconsideration, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

The process and timeline established by the interim final rule are intended to provide the recipient with an adequate opportunity to fully present any issues or arguments in response to the notice of recoupment.¹⁷⁵ This process will allow the Secretary to respond to the

issues and considerations raised in the request for reconsideration taking into account the information and arguments presented by the recipient along with any other relevant information.

Repayment. Finally, the interim final rule provides that any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment or, if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the Secretary.

Question 34: Discuss the timeline for requesting reconsideration under the interim final rule. What, if any, challenges does this timeline present?

V. Payments in Tranches to Local Governments and Certain States

Section 603 of the Act provides that the Secretary will make payments to local governments in two tranches, with the second tranche being paid twelve months after the first payment. In addition, section 602(b)(6)(A)(ii) provides that the Secretary may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to twelve months from the date on which the State or territory provides its certification to the Secretary. Any such withholding for a State or territory is required to be based on the unemployment rate in the State or territory as of the date of the certification.

The Secretary has determined to provide in this interim final rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (*i.e.*, February 2020) level. The Secretary will refer to the latest available monthly data from the Bureau of Labor Statistics as of the date the certification is provided. Based on data available at the time of public release of this interim final rule, this threshold would result in a majority of States being paid in two tranches.

Splitting payments for the majority of States is consistent with the requirement in section 603 of the Act to make payments from the Coronavirus Local Fiscal Recovery Fund to local governments in two tranches.¹⁷⁶

¹⁷⁶ With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements

Splitting payments to States into two tranches will help encourage recipients to adapt, as necessary, to new developments that could arise over the coming twelve months, including potential changes to the nature of the public health emergency and its negative economic impacts. While the U.S. economy has been recovering and adding jobs in aggregate, there is still considerable uncertainty in the economic outlook and the interaction between the pandemic and the economy.¹⁷⁷ For these reasons, Treasury believes it will be appropriate for a majority of recipients to adapt their plans as the recovery evolves. For example, a faster-than-expected economic recovery in 2021 could lead a recipient to dedicate more Fiscal Recovery Funds to longer-term investments starting in 2022. In contrast, a slower-than-expected economic recovery in 2021 could lead a recipient to use additional funds for near-term stimulus in 2022.

At the same time, the statute contemplates the possibility that elevated unemployment in certain States could justify a single payment. Elevated unemployment is indicative of a greater need to assist unemployed workers and stimulate a faster economic recovery. For this reason, the interim final rule provides that States and territories with an increase in their unemployment rate over a specified threshold may receive a single payment, with the expectation that a single tranche will better enable these States and territories to take additional immediate action to aid the unemployed and strengthen their economies.

Following the initial pandemic-related spike in unemployment in 2020, States' unemployment rates have been trending back towards pre-pandemic levels. However, some States' labor markets are healing more slowly than others. Moreover, States varied widely in their pre-pandemic levels of unemployment, and some States remain substantially further from their pre-

of the CMIA and Treasury's implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of Federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

¹⁷⁷ The potential course of the virus, and its impact on the economy, has contributed to a heightened degree of uncertainty relative to prior periods. *See, e.g.*, Dave Altig et al., Economic uncertainty before and during the COVID-19 pandemic, *J. of Public Econ.* (Nov. 2020), available at <https://www.sciencedirect.com/science/article/abs/pii/S0047272720301389>.

¹⁷⁵ The interim final rule also provides that Treasury may extend any deadlines.

pandemic starting point. Consequently, Treasury is delineating States with significant remaining elevation in the unemployment rate, based on the net difference to pre-pandemic levels.

Treasury has established that significant remaining elevation in the unemployment rate is a net change in the unemployment rate of 2.0 percentage points or more relative to pre-pandemic levels. In the four previous recessions going back to the early 1980s, the national unemployment rate rose by 3.6, 2.3, 2.0, and 5.0 percentage points, as measured from the start of the recession to the eventual peak during or immediately following the recession.¹⁷⁸ Each of these increases can therefore represent a recession's impact on unemployment. To identify States with significant remaining elevation in unemployment, Treasury took the lowest of these four increases, 2.0 percentage points, to indicate states where, despite improvement in the unemployment rate, current labor market conditions are consistent still with a historical benchmark for a recession.

No U.S. territory will be subject to withholding of its payment from the Fiscal Recovery Funds. For Puerto Rico, the Secretary has determined that the current level of the unemployment rate (8.8 percent, as of March 2021¹⁷⁹) is sufficiently high such that Treasury should not withhold any portion of its payment from the Fiscal Recovery Funds regardless of its change in unemployment rate relative to its pre-pandemic level. For U.S. territories that are not included in the Bureau of Labor Statistics' monthly unemployment rate data, the Secretary will not exercise the authority to withhold amounts from the Fiscal Recovery Funds.

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan

cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a "private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government."¹⁸⁰ Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The interim final rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive. The interim final rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (*e.g.*, a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

State, local, territorial, and Tribal governments that receive a Federal award directly from a Federal awarding agency, such as Treasury, are "recipients." A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding. The recipient remains responsible for monitoring and overseeing the subrecipient's use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and

regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award.

Transfers under sections 602(c)(3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor. Once Fiscal Recovery Funds are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. For example, if a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID-19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal. This also means that county A may not transfer Fiscal Recovery Funds to county B for use in county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A.

Section 603(c)(4) separately provides for transfers by a local government to its State or territory. A transfer under section 603(c)(4) will not make the State a subrecipient of the local government, and such Fiscal Recovery Funds may be used by the State for any purpose permitted under section 602(c). A transfer under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee State or territory. The transferor must provide notice of the transfer to Treasury in a format specified by Treasury. If the local government does not provide such notice, it will remain legally obligated to Treasury under the award and remain responsible for ensuring that the awarded Fiscal Recovery Funds are being used in accordance with the statute and program guidance and for reporting on such uses to Treasury. A State that receives a transfer from a local government under section 603(c)(4) will be bound by all of the use restrictions set forth in section 602(c) with respect to the use of those Fiscal Recovery Funds, including the prohibitions on use of such Fiscal Recovery Funds to offset certain reductions in taxes or to make deposits into pension funds.

Question 35: What are the advantages and disadvantages of treating the list of transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive, allowing States and localities to transfer funds to entities outside of the list?

Question 36: Are there alternative ways of defining "special-purpose unit of State or local government" and

¹⁷⁸ Includes the period during and immediately following recessions, as defined by the National Bureau of Economic Research. National Bureau of Economic Research, US Business Cycle Expansions and Contractions, <https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions> (last visited Apr. 27, 2021). Based on data from U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/UNRATE> (last visited Apr. 27, 2021).

¹⁷⁹ U.S. Bureau of Labor Statistics, Economic News Release—Table 1. Civilian labor force and unemployment by state and selected area, seasonally adjusted, <https://www.bls.gov/news.release/laus.t01.htm> (last visited Apr. 30, 2021).

¹⁸⁰ Section 602(c)(3) of the Act.

“public benefit corporation” that would better further the aims of the Funds?

VII. Nonentitlement Units of Government

The Fiscal Recovery Funds provides for \$19.53 billion in payments to be made to States and territories which will distribute the funds to nonentitlement units of local government (NEUs); local governments which generally have populations below 50,000. These local governments have not yet received direct fiscal relief from the Federal Government during the COVID-19 public health emergency, making Fiscal Recovery Funds payments an important source of support for their public health and economic responses. Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless an extension is granted by the Secretary. The interim final rule clarifies certain aspects regarding the distribution of Fiscal Recovery by States and territories to NEUs, as well as requirements around timely payments from the Fiscal Recovery Funds.

The ARPA requires that States and territories allocate funding to NEUs in an amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory, subject to a cap (described below). Because the statute requires States and territories to make distributions based on population, States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury’s implementing regulations and guidance. For example, a State may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU’s use of Fiscal Recovery Funds based on the NEU’s proposed spending plan or other policies. States and territories are also not permitted to offset any debt owed by the NEU against the NEU’s distribution. Further, States and territories may not provide funding on a reimbursement basis—*e.g.*, requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Funds payments—because this funding model would not comport with the statutory requirement that States and territories make distributions to NEUs within the statutory timeframe.

Similarly, States and territories distributing Fiscal Recovery Funds payments to NEUs are responsible for

complying with the Fiscal Recovery Funds statutory requirement that distributions to NEUs not exceed 75 percent of the NEU’s most recent budget. The most recent budget is defined as the NEU’s most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. Amounts in excess of such cap and therefore not distributed to the NEU must be returned to Treasury by the State or territory. States and territories may rely for this determination on a certified top-line budget total from the NEU.

Under the interim final rule, the total allocation and distribution to an NEU, including the sum of both the first and second tranches of funding, cannot exceed the 75 percent cap. States and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the cap. This approach will provide an administrable means to implement the cap for small local governments that do not adopt a formal budget.

Section 603(b)(3) of the Social Security Act provides for Treasury to make payments to counties but provides that, in the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county. As with NEUs, States may not place additional conditions or requirements on distributions to such units of general local government, beyond those required by the ARPA and Treasury’s implementing regulations and guidance.

In the case of consolidated governments, section 603(b)(4) allows consolidated governments (*e.g.*, a city-county consolidated government) to receive payments under each allocation based on the respective formulas. In the case of a consolidated government, Treasury interprets the budget cap to apply to the consolidated government’s NEU allocation under section 603(b)(2) but not to the consolidated government’s county allocation under section 603(b)(3).

If necessary, States and territories may use the Fiscal Recovery Funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local

government, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts. If a State or territory requires more time to disburse Fiscal Recovery Funds to NEUs than the allotted 30 days, Treasury will grant extensions of not more than 30 days for States and territories that submit a certification in writing in accordance with section 603(b)(2)(C)(ii)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient’s expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient’s utilization of the award funds. The reports will include the same general data (*e.g.*, on obligations, expenditures, contracts, grants, and subawards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit

annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As

discussed below, the requirements of advance notice and public comment do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.”¹⁸¹ The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁸² This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the interim final rule.

These comments must be submitted on or before July 16, 2021.

X. Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID-19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID-19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory

action as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as “economically significant” regulations);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available

¹⁸¹ 5 U.S.C. 553(a)(2).

¹⁸² 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”).

techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OMB’s Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this interim final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this interim final rule is consistent with the principles set forth in Executive Order 13563.

Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This interim final rule implements the \$350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID-19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this interim final rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress’ mandate for targeted fiscal relief.

This interim final rule is primarily a transfer rule: It transfers \$350 billion in aid from the Federal Government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond

to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined \$350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID-19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.¹⁸³ Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007–09 recession.¹⁸⁴

This interim final rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: Strengthening the response to the COVID-19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the interim final rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

¹⁸³ Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, *American Econ. J.: Econ. Policy*, 4:3 118–45 (Aug. 2012), available at <https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118>.

¹⁸⁴ See, e.g., Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), available at <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

These benefits are achieved in the interim final rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients’ overall flexibility, the interim final rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury’s approach to key provisions in the interim final rule will contribute to greater realization of benefits from the program.

- **Revenue Loss:** Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury’s decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients’ pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury’s approach provides a more accurate representation of the effect of the pandemic on overall revenues.

- **Premium Pay:** Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the interim final rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker’s annual pay above a certain threshold. To set this threshold, Treasury analyzed data

from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the interim final rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The interim final rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

- *Withholding of Payments to Recipients:* Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment. Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.

- *Hiring Public Sector Employees:* The interim final rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the interim final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need,

particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID-19 crisis. Targeting relief is in line with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” which laid out an Administration-wide priority to support “equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”¹⁸⁵ To this end, the interim final rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;¹⁸⁶ and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal Government programs and that many

have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this interim final rule generates administrative burden for State, local, and Tribal governments, but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications within the meaning of the Executive order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive order. The compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the interim final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, generally requires public notice and an opportunity for comment before a rule

¹⁸⁵ Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021) (86 FR 7009, January 25, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/> (last visited May 9, 2021).

¹⁸⁶ David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments, <https://www.epi.org/publication/bp339-public-sector-jobs-crisis> (last visited May 9, 2021).

becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.” The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus “both clearly and directly related to a federal grant program.” *National Wildlife Federation v. Snow*, 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the “process necessary to maintain state . . . eligibility for federal funds,” *id.*, as well as the “method[s] by which states can . . . qualify for federal aid,” and other “integral part[s] of the grant program,” *Center for Auto Safety v. Tiemann*, 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553’s requirements. The ARPA is a law responding to a historic economic and

public health emergency; it is “extraordinary” legislation about which “both Congress and the President articulated a profound sense of ‘urgency.’” *Petry v. Block*, 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this interim final rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to “respond to the public health emergency,” and the urgency is further exemplified by Congress’s command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, “[t]o the extent practicable,” funds must be provided to Tribes and cities “not later than 60 days after the date of enactment.” *See Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been “virtually impossible”). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA “covered period” began on March 3, 2021. The statutory urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the

Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (*e.g.*, payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) emergency processing procedures and assigned control number 1505–0271. The information collections related to ongoing reporting requirements, as discussed in this interim final rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	Number of respondents (estimated)	Number of responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondent (\$48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes) ...	1,262.5	\$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes) ...	1,262.5	61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes) ...	2,525	123,220
Quarterly Project and Expenditure Report.	5,050	4***	20,200	25	505,000	24,644,000
Annual Project and Expenditure Report from NEUs.	TBD	1 per year	† 20,000–40,000	15	300,000–600,000	14,640,000–29,280,000
Annual Recovery Plan Performance report.	418	1 per year	418	100	41,800	2,039,840
Total	(**)	N/A	55,768–75,768	141	851,850–1,151,850	41,570,280–56,210,280

*Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the internet at <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm> (visited March 28, 2020). Base wage of \$33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of \$48.80.

**5,050–TBD.

***Per year after first year.

† (Estimate only).

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the interim final rule.

As discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, recipients of Fiscal Recovery Funds will be required to submit one interim report

and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August

31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the www.regulations.gov docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to oira_submission@omb.eop.gov.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule

pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

- 1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116–260, 134 Stat. 1182; Section 104A, Pub. L. 103–325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117–2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

- 2. Revise the part heading to read as set forth above.
- 3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.

- 35.1 Purpose.
- 35.2 Applicability.
- 35.3 Definitions.
- 35.4 Reservation of authority, reporting.
- 35.5 Use of funds.
- 35.6 Eligible uses.
- 35.7 Pensions.
- 35.8 Tax.
- 35.9 Compliance with applicable laws.
- 35.10 Recoupment.
- 35.11 Payments to States.
- 35.12 Distributions to nonentitlement units of local government and units of general local government.

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et*

seq.) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

- (1) Begins on March 3, 2021; and
- (2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID–19 means the Coronavirus Disease 2019.

COVID–19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID–19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID-19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

- (1) Is not performed while teleworking from a residence; and
- (2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into

contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. Such amount may not exceed \$25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to \$13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to \$13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U-3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID-19 response and prevention.* Expenditures for the mitigation and prevention of COVID-19, including:

(i) Expenses related to COVID-19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID-19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID-19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(vi) Costs of providing COVID-19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID-19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment;

(ix) Expenses for communication related to COVID-19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID-19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in

response to the COVID-19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID-19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.*

Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID-19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021.

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance

or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(8) *Assistance to households.*

Assistance programs, including cash assistance programs, that respond to the COVID-19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID-19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID-19 public health emergency assistance programs, including services responding to the COVID-19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID-19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID-19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID-19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID-19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID-19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{\left(\frac{n_t}{12}\right)}] - \text{Actual General Revenue}_t; 0 \}$$

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency;

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date;

Subscript *t* denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory

resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations*—(1) *In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the

requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance

with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Laurie Schaffer,

Acting General Counsel.

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BILLING CODE 4810-AK-P

Budgeted FY 2021-22 Playground Equipment Replacement and Upgrades

Item No.	Park	Improvement	Amount (includes multiple funding sources)
1	Colonia	Roof Replacement - Colonia Park Basketball Gym and Youth Center	\$605,000
2	Community Center East	Replace the play structure, install new LED security lighting throughout the park, resurface the parking lot, construct a new restroom, and install new park amenities	\$857,922
3	Del Sol	Construct a new restroom at a new location near the street with more security lighting	\$520,000
4	Garden City	Install new smart irrigation and new controller. Repair and resod damaged turf. Install an additional basketball court with lights	\$693,000
6	Pleasant Valley	Remove existing restroom and install new Exeloo restroom including sidewalk improvements	\$325,000
7	Seaview	Install new walking path/track, new LED lighting and new restrooms. New all-inclusive play area to accommodate ages 2 through 5 and ages 5 through 12 years old	\$2,227,000
8	Wilson	Install new playground equipment and sidewalk improvements	\$437,000
9	Various - Replacing playgrounds	Installation of playgrounds at Thompson Park, Johnson Creek Park, and Sierra Linda Park. Purchase and installation of additional playgrounds at other parks located throughout the City.	\$1,638,600
		TOTAL	\$7,303,522

Budgeted FY 2021-22 Repair of Playgrounds Not Slated for Replacement This Year

Item No.	Park	Improvement	Amount (Parks operations budget)
1	Carty	4 new swings and deck coating	\$5,108
2	College Estates	Replace stationary cyler	\$1,459
3	Durley - 800 W Hill St	Replace swing seats, keyboard panel, mallet	\$7,577
4	East Village	Replace giggle juggler	\$6,837
5	Eastwood	4 new swings and deck coating	\$5,108
6	Fremont Tot Park	New panel, hardware, misc and deck coating	\$8,297
7	Lathrop	Replace cannon panel, wiggle ladder	\$8,417
8	Lemonwood	Replace chimney climber, store counter	\$6,811
9	Orchard	Swing replacements	\$1,645
10	Oxnard Beach Park	Replace and repair swings, cannons, panels	\$29,396
11	Via Marina	Replace swing hanger clamps	\$2,109
12	Additional parks will be selected based on safety and need		\$217,236
		TOTAL	\$300,000



Coronavirus State and Local Fiscal Recovery Funds

The American Rescue Plan will deliver \$350 billion for state, local, territorial, and Tribal governments to respond to the COVID-19 emergency and bring back jobs.

The Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery.

Funding Objectives

- **Support urgent COVID-19 response efforts** to continue to decrease spread of the virus and bring the pandemic under control
- **Replace lost public sector revenue** to strengthen support for vital public services and help retain jobs
- **Support immediate economic stabilization** for households and businesses
- **Address systemic public health and economic challenges** that have contributed to the inequal impact of the pandemic

Eligible Jurisdictions & Allocations

Direct Recipients

- States and District of Columbia (\$195.3 billion)
- Counties (\$65.1 billion)
- Metropolitan cities (\$45.6 billion)
- Tribal governments (\$20.0 billion)
- Territories (\$4.5 billion)

Indirect Recipients

- Non-entitlement units (\$19.5 billion)



Support Public Health Response

Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff



Address Negative Economic Impacts

Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector



Replace Public Sector Revenue Loss

Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic



Premium Pay for Essential Workers

Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors



Water and Sewer Infrastructure

Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure



Broadband Infrastructure

Make necessary investments to provide unserved or underserved locations with new or expanded broadband access



For More Information: Please visit www.treasury.gov/SLFRP

For Media Inquiries: Please contact the U.S. Treasury Press Office at (202) 622-2960

For General Inquiries: Please email SLFRP@treasury.gov for additional information



Example Uses of Funds



Support Public Health Response

- **Services to contain and mitigate the spread of COVID-19**, including vaccination, medical expenses, testing, contact tracing, quarantine costs, capacity enhancements, and many related activities
- **Behavioral healthcare services**, including mental health or substance misuse treatment, crisis intervention, and related services
- **Payroll and covered benefits** for public health, healthcare, human services, and public safety staff to the extent that they work on the COVID-19 response



Replace Public Sector Revenue Loss

- **Ensure continuity of vital government services** by filling budget shortfalls
- **Revenue loss is calculated** relative to the expected trend, beginning with the last full fiscal year pre-pandemic and adjusted annually for growth
- **Recipients may re-calculate revenue loss** at multiple points during the program, supporting those entities that experience revenue loss with a lag



Water & Sewer Infrastructure

- **Includes improvements to infrastructure**, such as building or upgrading facilities and transmission, distribution, and storage systems
- **Eligible uses aligned to Environmental Protection Agency project categories** for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund



Equity-Focused Services

- **Additional flexibility for the hardest-hit communities and families** to address health disparities, invest in housing, address educational disparities, and promote healthy childhood environments
- **Broadly applicable** to Qualified Census Tracts, other disproportionately impacted areas, and when provided by Tribal governments



Address Negative Economic Impacts

- **Deliver assistance to workers and families**, including support for unemployed workers, aid to households, and survivor's benefits for families of COVID-19 victims
- **Support small businesses** with loans, grants, in-kind assistance, and counseling programs
- **Speed the recovery of impacted industries**, including the tourism, travel, and hospitality sectors
- **Rebuild public sector capacity** by rehiring staff, replenishing state unemployment insurance funds, and implementing economic relief programs



Premium Pay for Essential Workers

- **Provide premium pay to essential workers**, both directly and through grants to third-party employers
- **Prioritize low- and moderate-income workers**, who face the greatest mismatch between employment-related health risks and compensation
- **Key sectors include** healthcare, grocery and food services, education, childcare, sanitation, and transit
- **Must be fully additive** to a worker's wages



Broadband Infrastructure

- **Focus on households and businesses** without access to broadband and those with connections that do not provide minimally acceptable speeds
- **Fund projects that deliver reliable service** with minimum 100 Mbps download / 100 Mbps upload speeds unless impracticable
- **Complement broadband investments** made through the Capital Projects Fund



Ineligible Uses

- **Changes that reduce net tax revenue** must not be offset with American Rescue Plan funds
- **Extraordinary payments into a pension fund** are a prohibited use of this funding
- **Other restrictions apply** to eligible uses

The examples listed in this document are non-exhaustive, do not describe all terms and conditions associated with the use of this funding, and do not describe all the restrictions on use that may apply. The U.S. Department of the Treasury provides this document, the State and Local contact channels, and other resources for informational purposes. Although efforts have been made to ensure the accuracy of the information provided, the information is subject to change or correction. Any Coronavirus State and Local Fiscal Recovery Funds received will be subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which shall incorporate the provisions of the Interim Final Rule and/or Final Rule that implements this program.



COMMUNITY SERVICES, PUBLIC SAFETY, HOUSING & DEVELOPMENT COMMITTEE AGENDA REPORT

REPORTS AGENDA ITEM NO. D.3

DATE: July 13, 2021

TO: Community Services, Public Safety, Housing & Development Committee

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: Preliminary American Rescue Plan Act Investment Ideas (0/15/15)

RECOMMENDATION

That the Community Services, Public Safety, Housing and Development Committee begins the discussion about American Rescue Plan Act (ARPA) preliminary investment ideas and forward discussion outcomes to the City Council for further deliberations.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/2iUpVV2J4kE>

BACKGROUND

EXECUTIVE SUMMARY

Direct relief funding to local government was greatly hoped for throughout the pandemic but was never a guaranteed outcome. Hence we are very grateful to our representatives in Washington, D.C., who worked tirelessly to deliver the much-needed ARPA.

In addition to the rules that accompany ARPA discussed below, staff offers some principles to consider as we formulate how Oxnard will invest our share of ARPA funding.

First and foremost, we hope this process will be positive throughout, recognizing that every dollar here is an unexpected, additive contribution to our efforts to recover from the pandemic.

Second, keep in mind the name of the bill includes the keyword “rescue” and that the local government share is meant to help local governments. There have been and continue to be other stimulus funding made available from the federal, State, and County governments to assist many sectors of the economy and community, such as business assistance grants, rent and mortgage assistance grants, tax deferrals, student loan deferrals, utility bill assistance, direct stimulus checks, and so on.

Third, this is one-time funding.

Fourth, we can approach this by making one or two large investments that can really accelerate a particular project, such as investing \$40M to construct the aquatic center, investing \$33M to construct the water

distribution transmission main, or, we can selectively spread the funding across a very long list of other important needs.

Fifth, we should focus on making investments in items that not only aid in our local government's recovery from the pandemic but also contribute to future improvement and growth.

BACKGROUND

On March 11, 2021, President Biden signed the ARPA into law. As part of the federal stimulus package, the City of Oxnard is expected to receive a total of \$59,540,662 payable in two equal tranches, twelve months apart. The City received its first payment totaling \$29,770,331 in May 2021. The second tranche is expected in May 2022.

The **Interim** Final Rule issued by the U.S. Department of the Treasury lists eligible uses of ARPA funding:

1. **Support Public Health Response:** Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
2. **Replace Public Sector Revenue Loss:** Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
3. **Water and Sewer Infrastructure:** Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure;
4. **Address Negative Economic Impacts:** Respond to the pandemic or its negative economic impacts, including assistance to households, small businesses and nonprofits, equity-focused services, or aid to impacted industries such as tourism, travel, and hospitality;
5. **Premium Pay for Essential Workers:** Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors; and
6. **Broadband Infrastructure:** Make necessary investments to provide unserved or underserved locations with new or expanded broadband access

The U.S. Treasury is expected to issue its final ARPA rule in August 2021.

Within the eligible use categories outlined in the interim ARPA provisions, local governments have the flexibility to determine how best to use payments from the federal government to meet the needs of their communities and populations.

The Interim Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of ARPA not explicitly listed. The Interim Final Rule provides flexibility for recipients to use ARPA funds for programs or services that are not identified on these non-exclusive lists but meet the objectives of responding to the COVID-19 public health emergency with respect to COVID-19 or its negative economic impacts.

In other words, if the prospective program or use of funds is not explicitly mentioned in the U.S. Treasury's Rule, that does not necessarily mean that it is ineligible. **Instead, a nexus has to be made** between the program and its application on responding to the negative impacts of COVID-19, emphasizing the program aiding in support of low to moderate-income residents of the City. Unlike with the CARES Act passed last year, ARPA money comes with fewer restrictions on how governments can spend it. Local governments can use the funds to help residents and businesses directly hurt by the pandemic, invest in long-term projects, or

supplement budgets hit by the decline in tax revenue amid shutdown restrictions that curtailed economic activity over the past year.

Finally, it is important to keep in mind three additional pieces of information from the Interim Final Rule. First, regarding the timeline for the use of the funding, for public infrastructure projects in water, sewer, or broadband, costs need to be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026. For all other programs, ARPA funds need to be expended to cover costs incurred by the City by December 31, 2024. Second, the U.S. Treasury encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. **Third, the U.S. Treasury identified several ineligible uses of ARPA funds, including funding debt service, legal settlements or judgments, or deposits to pension funds, rainy day funds, or financial reserves.**

DISCUSSION

The needs of the community far outweigh the \$59,540,662 the City will receive; however, this funding is a unique opportunity to lay the foundation for our local government's Covid recovery. The City Manager's office, in consultation with the department directors and the Oxnard Chamber of Commerce, has produced a preliminary draft list of prospective projects that meet Interim Final Rule guidelines (Attachment 3). In addition to these guidelines, the projects and programs were developed with consideration to:

1. Council Priorities
2. Alternative, past, or expected funding to address the economic impact or implement the project
3. Meeting the unique needs of our communities and population
4. If the project can be implemented in the Rule timeframe
5. Return on investment of the project
6. One time cost

Most importantly, the City Council can add, delete, or change any of these recommendations.

The attached list provides staff's preliminary recommendations for investing the funds from tranche 1 or tranche 2. The suggested tranche is based on how quickly we can deliver the program or project and the priority within the community.

The list is organized by ARPA's six broad categories; the projects and their respective total amounts follows:

Category	# of Proposed Projects	\$ Amount of Proposed Projects
Support Public Health Response	10	\$8,181,200
Replace Public Sector Revenue Loss	7	\$7,280,000
Water and Sewer Infrastructure	13	\$4,700,000
Address Negative Economic Impacts	42	\$53,101,000
Premium Pay for Essential Workers*	2	\$4,500,000
Broadband Infrastructure	5	\$11,057,000
Total Proposed:		\$88,819,200
Total ARPA funds available:		\$59,540,662

Variance:**(\$29,278,538)**

* Includes the gratitude program for grocery store workers that City Council previously approved on June 1, 2021, Resolution No. 15,443

Among the highlighted priority projects for the City Council to consider, in addition to the gratitude program for grocery store workers that City Council previously approved in June, is the possibility of providing premium pay for City employees working on the front-line during the pandemic (\$2,000,000).

Attachment 2 provides additional projects that were considered but not recommended (Appendix). The list of Appendix projects totals approximately \$169 million and includes projects that address the negative economic impacts of the pandemic and projects for water and sewer infrastructure, which have their own sources of funding.

NEXT STEPS

After the City Council Committees holds the initial discussions on July 13, staff will collect the outcomes of each Committee discussion and present the City Council with the updated ARPA list on July 29th for Council deliberation. As the U.S. Treasury is expected to issue its final ARPA rule in August 2021, staff will return to the City Council with any required changes or modifications to the preliminary project list for final consideration in the fall:

July 29, 2021 - City Council Meeting, discuss preliminary investment ideas.

August 2021 - Expected release of the U.S. Treasury's *final* final rules.

Fall 2021 - City Council begins making investment decisions.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

There is no financial impact in receiving this report.

Prepared by: Alexander Nguyen, City Manager, Ashley Golden, Assistant City Manager, Adam Smith, Project Manager

ATTACHMENTS

1. Preliminary ARPA Investment List
2. Preliminary ARPA Investment List APPENDIX
3. ARPA Interim Final Rule
4. ARPA Quick Reference Guide



CITY COUNCIL AGENDA REPORT
APPOINTMENT ITEMS (5:00 PM)
AGENDA ITEM NO. D.1

DATE: July 29, 2021
TO: City Council
FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org
SUBJECT: Preliminary American Rescue Plan Act Investment Ideas. (5/30/25)

RECOMMENDATION

That the City Council begins the discussion about American Rescue Plan Act (ARPA) preliminary investment ideas.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/2iUpVV2J4kE>

BACKGROUND

On July 13, 2021, all three City Council Committees -- Finance and Governance Committee, Community Services, Public Safety, Housing and Development Committee, and the Public Works and Transportation Committee -- began the discussion about the ARPA preliminary investment ideas. A few common themes emerged:

1. The Council wants to use the funds on one-time expenditures.
2. The Council wants to prioritize projects with no other committed/secured funding sources.
3. Projects should be focused on those that have immediate, as well as lasting impacts.
4. The Council wants staff to seek additional public input.

For a more detailed summary of the meetings, please see the Committee Outcome section of this report.

EXECUTIVE SUMMARY

Direct relief funding to local government was greatly hoped for throughout the pandemic but was never a guaranteed outcome. Hence we are very grateful to our representatives in Washington, D.C., who worked tirelessly to deliver the much-needed American Rescue Plan Act (ARPA).

In addition to the rules that accompany ARPA discussed below, staff offers some principles to consider as we formulate how Oxnard will invest our share of ARPA funding.

First and foremost, we hope this process will be positive throughout, recognizing that every dollar here is an unexpected, additive contribution to our efforts to recover from the pandemic.

Second, keep in mind the name of the bill includes the keyword "rescue" and that the local government share is meant to help local governments. There have been and continue to be other stimulus funding made available from the federal, State, and County governments to assist many sectors of the economy and community, such as business assistance grants, rent and mortgage assistance grants, tax deferrals, student loan deferrals, utility bill assistance, direct stimulus checks,

and so on.

Third, this is one-time funding.

Fourth, we can approach this by making one or two large investments that can really accelerate a particular project, such as investing \$40M to construct the aquatic center, investing \$33M to construct the water distribution transmission main, or, we can selectively spread the funding across a very long list of other important needs.

Fifth, we should focus on making investments in items that not only aid in our local government's recovery from the pandemic but also contribute to future improvement and growth.

OVERVIEW OF ARPA

On March 11, 2021, President Biden signed the ARPA into law. As part of the federal stimulus package, the City of Oxnard is expected to receive a total of \$59,540,662 payable in two equal tranches, twelve months apart. The City received its first payment totaling \$29,770,331 in May 2021. The second tranche is expected in May 2022.

The **Interim** Final Rule issued by the U.S. Department of the Treasury lists eligible uses of ARPA funding:

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6. **Broadband Infrastructure:** Make necessary investments to provide unserved or underserved locations with new or expanded broadband access

The U.S. Treasury is expected to issue its final ARPA rule in August 2021.

Within the eligible use categories outlined in the interim ARPA provisions, local governments have the flexibility to determine how best to use payments from the federal government to meet the needs of their communities and populations.

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DISCUSSION

The needs of the community far outweigh the \$59,540,662 the City will receive; however, this funding is a unique opportunity to lay the foundation for our local government's Covid recovery. The City Manager's office, in consultation with the department directors and the Oxnard Chamber of Commerce, has produced a preliminary draft list of prospective projects that meet Interim Final Rule guidelines (Attachment 3). In addition to these guidelines, the projects and programs were developed with consideration to:

1. Council Priorities
2. Alternative, past, or expected funding to address the economic impact or implement the project
3. Meeting the unique needs of our communities and population
4. If the project can be implemented in the Rule timeframe
5. Return on investment of the project
6. One time cost

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Total ARPA funds available:		\$59,540,662
Variance:		(\$29,278,538)

* Includes the gratitude program for grocery store workers that City Council previously approved on June 1, 2021, Resolution No. 15,443

Among the highlighted priority projects for the City Council to consider, in addition to the gratitude program for grocery store workers that City Council previously approved in June, is the possibility of providing premium pay for City employees working on the front-line during the pandemic (\$2,000,000).

Attachment 2 provides additional projects that were considered but not recommended (Appendix). The list of Appendix projects totals approximately \$169 million and includes projects that address the negative economic impacts of the pandemic and projects for water and sewer infrastructure, which have their own sources of funding.

NEXT STEPS

1. August 2021 - Expected release of the U.S. Treasury's *final* final rules.
2. August and Fall: continue to gather public input.
3. Fall 2021 - City Council begins making investment decisions.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

There is no financial impact in receiving this report.

COMMITTEE OUTCOME

On July 13, 2021, all three Committees (Finance and Governance, Community Services, Public Safety, Housing and Development and Public Works and Transportation), provided input on the use of the ARPA funds. Each Committee recommended their comments be forward to the full City Council.

Below summarizes each committee member's comments on the Draft Preliminary ARPA Investment Ideas:

Finance & Governance Committee

Chair Zaragoza -

Focused, and offered support for, the following ARPA categories: Support Public Health Response; Water and Sewer Infrastructure, specifically projects that are currently funded from the General Fund; Addressing Negative Economic Impacts; Premium Pay for Essential Workers; and Broadband Infrastructure, specifically for underserved areas.

Member Basua -

Prioritized the Replacing Public Sector Revenue Loss and Addressing Negative Economic Impacts ARPA categories, especially within South Oxnard.

Support for Water and Sewer Infrastructure projects, if there is no other funding available.

Suggested removing projects where alternative funding and application sources are secured.

Member Teran -

Prioritized projects within the Address Negative Economic Impacts ARPA category, specifically focusing on Cultural and Community Services and Economic Development projects

Rather than committed ARPA funds, suggested leveraging funds already available for broadband projects

Suggested new projects for Council consideration: a) "Safe Sleep" program and b) additional funding for a utility rate assistance program

Community Services, Public Safety, Housing & Development Committee

Chair MacDonald -

Prioritized the Water and Sewer Infrastructure ARPA category

Need for broadband infrastructure, but technology investments need to have lasting value

Important to keep in mind the timeline to spend down the ARPA funds

Focus on projects that benefit the community, not just one neighborhood

Member Madrigal -

Focus on "tranche 1" projects, regardless of the ARPA category, due to the need to deploy funds into the community to offset the negative impacts on residents caused by the pandemic

Has questions about specific projects, but understands the Final Rule, which will be issued in August, may affect the Preliminary Investment Ideas

Suggested additional investment in Project 62, "Contact Payment Kiosk for Utility Payments"

Suggested 2 specific projects (Nos 54 & 35) should be moved from "tranche 2" to "tranche 1"

No investments in PACC until a seismic study is completed and evaluated

Suggested new projects: a) seismic study for the Carnegie and b) Apprenticeship Programs

Member Zaragoza - same comments as Finance and Governance Committee

Public Works & Transportation Committee

Chair Perello -

Prioritized the Addressing Negative Economic Impacts, Premium Pay for Essential Workers, and Water and Sewer Infrastructure ARPA categories

ARPA funds should not be spent on only a few projects

Suggested new projects: a) Channel Islands Harbor water quality and b) Ormond Beach.

No investments in PACC until a seismic study is completed and evaluated

Member Lopez -

Prioritize those projects that align with the established Council Priorities, specifically projects within public safety, homelessness services, and small business support.

Importance of looking at projects with no alternative funding sources as a priority; projects that are also should be a focus; broadband projects may have an alternative, State-level funding available;

Member Zaragoza - same comments as Finance and Governance Committee

Prepared by: Alexander Nguyen, City Manager, Ashley Golden, Assistant City Manager, Adam Smith, Project Manager

ATTACHMENTS

1. Preliminary ARPA Investment List
2. Preliminary ARPA Investment List APPENDIX
3. ARPA Interim Final Rule
4. ARPA Quick Reference Guide

American Rescue Plan: Selection of Investments

City Council, September 21, 2021

Alexander Nguyen, City Manager
Ashley Golden, Assistant City Manager
Adam Smith, Project Manager



RECOMMENDATION

2

That the City Council begins making final decisions on American Rescue Plan Act (ARPA) investments. Staff recommends that the City Council makes tranche 1 investment decisions and as many tranche 2 investment decisions as the City Council deems appropriate. If the City Council does not decide on investment decisions totaling \$59,540,662, the City Council can decide on the balance at a later date.

ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

- On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) into law
- The City of Oxnard has been allocated \$59,540,662 in ARPA funding from the US Treasury, of which half, \$29,770,331, was received in May 2021
- The remaining \$29,770,331 is expected in May 2022
- This funding represents a unique and rare opportunity for the community

The initial Preliminary American Rescue Plan Act (ARPA) Investment Ideas was developed with consideration to:

1. City Council Priorities
2. Alternative, past, or expected funding to address the economic impact or implement the project
3. Meeting the unique needs of our communities and population
4. If the project can be implemented in the Rule timeframe
5. Return on investment of the project
6. One-time cost

- City Council and the public have provided input on the investment list at the July 13th Council Committee meetings, the July 29th City Council meeting, and the August 4th Inter-Neighborhood Council Organization meeting
- From these discussion, the following themes emerged:
 - Use the funds on one-time expenditures
 - Prioritize projects with no other committed/secured funding sources
 - Projects should be focused on those that have immediate as well as lasting impacts.

PRELIMINARY ARPA INVESTMENT IDEAS

The “Preliminary ARPA Investment Ideas” attachment is organized and sorted in the following manner:

1. Decisions the City Council has already made (3 projects shaded in green, orange, and yellow) (\$5.1M)
2. Organized by ARPA’s six broad categories;
3. Sorted within each ARPA category by those with potential funding sources;
4. Sorted by tranche 1 or tranche 2 (based on how quickly staff can deliver the program or project and the priority within the community)

The “Preliminary ARPA Investment Ideas” attachment is organized and sorted in the following manner (continued):

5. Projects in blue were added by the Council at the July 13th or July 29th meetings (\$10M);
6. Projects in green are staff's final recommended projects, which do not exceed the \$59M federal allotment (\$41M); and
7. Projects in black are all the other projects from the original July 13th Preliminary ARPA Investment Ideas list (\$32M).

These ARPA projects will delay many of the City's currently funded projects. This is due to two main factors:

1. Constraints with existing City resources, especially in the Engineering Division; and
2. ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

This is a good problem to have

Every dollar in ARPA is an unexpected, additive contribution to our efforts to recover from the pandemic.

Below summarizes the combination of the July 13th and July 29th councilmembers comments on the Draft Preliminary ARPA Investment Ideas:

1. Reorder the Preliminary ARPA Investment list to group projects that are eligible for other sources of funding (competitive or secured)
2. Projects should be prioritized based on City Council's Five-Year Priorities, and park improvements
3. Concentrate ARPA funding in the 93030 and 93033 zip codes in the City
4. Need for further discussion and explanation on "Premium Pay for City Employees"
5. Add "Pleasant Valley Park repair and playground replacement" as a new project for consideration

Below summarizes the combination of the July 13th and July 29th councilmembers comments on the Draft Preliminary ARPA Investment Ideas (continued):

6. Add "Shade structures in parks" as a new project for consideration
7. Add "Bike/pedestrian path on top of Santa Clara River Levee - 3 (SCR-3)" as a new project for consideration
8. Add "painting of curbs red next to fire hydrants and enforcing parking violations for illegally parked vehicles" as a new project for consideration
9. Add "Safe Sleep Program" as a new project for consideration
10. Add "Carnegie Museum seismic study" as a new project for consideration
11. Add an additional "Contactless payment kiosk for utility payments" as a new project for consideration.

NEW INVESTMENT IDEA	LINE NO.	AMOUNT
Safe Sleep Program - capital improvements	4	\$700,000
Safe Sleep Program - ongoing costs	5	\$500,000
Carnegie Museum architectural and seismic study	6	\$160,000
Seed money for park equipment repair, replacement, and consideration of all-access equipment. Staff will determine specific park locations based on safety and need	7	\$3,000,000
Seed money for 10 park playground shade structures. Specific park locations based on parks receiving replacement of playground equipment	8	\$1,000,000

NEW ITEMS - ARPA INVESTMENT LIST, CONTINUED

NEW INVESTMENT IDEA	LINE NO.	AMOUNT
Pleasant Valley Park: repair & replacement of playground equipment	9	\$600,000
City-wide painting of curbs red next to fire hydrants	51	\$250,000
Bike/pedestrian project: path along the SCR-3 levee road north of River Ridge Golf Course, between Ventura and Victoria	52	\$3,800,000
Additional contactless payment kiosk for utility payments	60	\$80,000
Total Additions:		\$10,090,000

Since the July 29th meeting staff amended 7 projects on the ARPA Investment Idea list:

1. Saviers Rd Corridor (previously Line No. 13, now Line No. 15): Project is for concept plans only (cost unchanged). The previous version inadvertently combined two projects
2. Saviers Rd Corridor (now Line No. 16): created a \$100,000 stand-alone project for the formation of the South Oxnard Property Business Improvement District. This was previously listed with the project above, but did not include the associated costs of the project.
3. Personal Protective Equipment (previously Line No. 66, now Line No. 64): increased the costs from \$85,000 to \$160,000. With the surge the Delta Variant and unknown other variants additional PPE will be needed during the ARPA spending period.

Since the July 29th meeting staff amended 7 projects on the ARPA Investment Idea list (continued):

4. Fire Department Supplied Air Respirators and Multi-band Radios (previously Line No. 63, now Line 61): reduced amount of item from \$2,200,000 to \$1,700,000 due to updated costs for the Supplied Air Respirators and partial grant funding for the multi-band radios
5. Broadband Placeholder Project (previously Line No. 50): moved to Appendix, Line No. 8, alternative competitive funding & application sources, unlikely to finish in required timeline
6. Last-mile fiber builds at 512 FCC-designated unserved addresses (previously Line No. 46): moved to Appendix, Line No. 10, alternative competitive funding & application sources, unlikely to finish in required timeline
7. Fiber Master Plan Fiber Network Hardware (previously Line No. 49): moved to Appendix, Line No. 11, alternative competitive funding & application sources, unlikely to finish in required timeline

CATEGORY	# OF PROPOSED PROJECTS	\$ AMOUNT OF PROPOSED PROJECTS
Support Public Health Response	11	\$7,836,200
Replace Public Sector Revenue Loss	9	\$12,630,000
Water and Sewer Infrastructure	13	\$4,700,000
Address Negative Economic Impacts	47	\$57,481,000
Premium Pay for Essential Workers	2	\$4,500,000
Broadband Infrastructure	2	\$692,000
Total Proposed:		\$87,839,200
Total ARPA funds available:		\$59,540,662
Variance:		(\$28,298,538)

PARKS

- During the course of the public meetings, there was a lot of support for ARPA park improvement projects
- Currently, in FY 2021-22, there is approximately \$7.3 million budgeted for playground equipment replacement and enhancements
- Additionally, another \$300,000 is budgeted for park repairs

- Staff is currently prioritizing the parks that will receive repairs based on the limited budget, staff constraints, safety, and need
- Park related ARPA projects total approximately \$35M, of which \$11.3M is included as a final recommendation by staff
- Another consideration with park-related projects, and the associated budget, is the discussion surrounding “All-Inclusive Play Areas” - costs associated with inclusive play areas are greater than the current parks budgets and the costs listed on the ARPA investment list
- Staff will be bringing a policy discussion to the Council Committee this Fall on the topic

INTERIM FINAL RULE

- At the time of publishing this agenda, US Treasury had not yet released the **final** rule on the ARPA program
- In the event projects selected by City Council do not align with US Treasury’s **final** rule, staff will come back before City Council with project options

- The City has been allocated \$59,540,662 in ARPA funding from the US Treasury, of which half, \$29,770,331, was received in May 2021 - the remaining \$29,770,331 is expected in May 2022.
- ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.
- A project number will be assigned to each specific project selected for investment for tracking and federal reporting purposes.
- Staff will then return to City Council for budget appropriations for investment projects

RECOMMENDATION

20

That the City Council begins making final decisions on American Rescue Plan Act (ARPA) investments. Staff recommends that the City Council makes tranche 1 investment decisions and as many tranche 2 investment decisions as the City Council deems appropriate. If the City Council does not decide on investment decisions totaling \$59,540,662, the City Council can decide on the balance at a later date.

ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.



THE END



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.2

DATE: September 21, 2021

TO: City Council

FROM: Alexander Hamilton, Fire Chief, (805) 385-7700, alexander.hamilton@oxnard.org

SUBJECT: Purchase Order for Bauer Compressors Inc. in the amount of \$1,255,173 for replacement Self Contained Breathing Apparatus (SCBA)

RECOMMENDATION

That the City Council authorize the Mayor to execute a Purchase Order with Bauer Compressors, Inc. in the amount of \$1,255,173 for the purchase of 118 Self-Contained Breathing Apparatus (SCBAs) and related accessories and training. (Presentation will be live upon consultant's request).

BACKGROUND

Self-Contained Breathing Apparatus (SCBA) is a critical piece of personal protective equipment for all firefighters. A SCBA consists of an air bottle, backpack, regulators, face piece, batteries, air pressure gauge, personal alert safety system, voice amplification system, speaker, and mask interface to portable radios. The SCBA is worn while responding to incidents that have contaminated air space. This includes, but is not limited to all fires (vehicle, structure, dumpster, etc.), gas leaks and hazardous material calls. It is a legal requirement that SCBAs be worn in atmospheres that present immediate danger to life or health.

The Oxnard Fire Department currently uses Titan SCBA manufactured by Honeywell. The manufacturer has discontinued production of SCBAs and will no longer provide support or replacement parts. Parts are no longer available and several SCBAs require repairs to the communication system. The voice amplification has started to fail on several units resulting in reduced safety of fire personnel. It is imperative that a reliable SCBA with clear communication capabilities be issued immediately.

The Department identified two suitable replacement options for the Honeywell Titan SCBA. A safety committee was convened and the two options were evaluated under realistic work conditions including: donning and doffing from a compartment, live-fire training, fire ground survival prop manipulation, window bailouts, throwing of ladders, simulated interior support functions and tower climbs. Presentations from representatives of both manufacturers were attended. The pros and cons of each SCBA were discussed among the committee and technician group. The conclusion is that the MSA G1 is a superior SCBA. The MSA G1 is also the SCBA used by Ventura County Fire Department and Ventura City Fire Department, adding to the interoperability between Oxnard Fire and our regional partners.

The MSA G1 is the best SCBA available for Oxnard. Not only is the G1 the most comfortable SCBA tested to work in, the facepiece field of vision was superior, offering greater situational awareness. The voice amplification system is connected to a shoulder mounted speaker, not connected to the facepiece. This ergonomic design reduces weight on the head and neck, decreasing fatigue. Additionally, the communication system is extremely clear and uses Bluetooth technology to connect with portable radios, providing constant streaming of radio traffic. The regulator connects to the face piece in a near identical manner to the Honeywell Titan SCBA that has been in use by the Oxnard firefighters since 2008 compared to the competitor, Scott, which will reduce potential operator error when the new units are put in service. All electronics on the G1 are powered by a single rechargeable battery pack, adding to the convenience of the SCBA.

DISCUSSION

The Fire Department requires complete replacement of SCBAs. The purchase includes packs, cylinders, face pieces, battery bank charges, spare rechargeable batteries, and other accessories. The purchase will include training of committee personnel for proper use and maintenance of the MSA G1 SCBA.

There is currently no funding within the current Fire Department budget to purchase the requested equipment. Additionally, the current, antiquated SCBA's are not eligible for any known grant funding sources. The Department requests to use funds allocated to the City of Oxnard under the American Rescue Plan Act (ARPA), contingent on City Council approval (September 21, 2021 City Council meeting). The purchase order is being presented in tandem with the approval of the use of ARPA funds as a cost-saving measure. The seller is increasing prices for SCBA by 5% on October 1, 2021. Placing the order for SCBAs in September 2021 will save approximately \$83,000.

Cooperative pricing for MSA G1 SCBAs is available through Bauer Compressors, Inc. utilizing a Houston-Galveston Area Council cooperative purchasing program known as HGACBUY. HGAC Contract EE08-19 guarantees a minimum discount of 15%. The agreement is valid from August 1, 2019 to July 31, 2023.

STRATEGIC PRIORITIES

This agenda item supports Public Safety strategy. The purpose of the Public Safety strategy is to restore and modernize the delivery of public safety services to provide for the safety of our neighborhoods and health of our community.

FINANCIAL IMPACT

There is currently no funding within the current Fire Department budget to purchase the requested equipment. Additionally, the current, antiquated SCBA's are not eligible for any known grant funding sources. Contingent on approval by City Council on September 21, 2021, ARPA funds will be utilized for this purchase. The total fiscal impact is \$1,255,173.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Amy Van Atta, Management Analyst II

ATTACHMENTS

None



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. N.3

DATE: September 21, 2021

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Joint Use Agreement with Southern California Edison Company. (0/10/10)

RECOMMENDATION

That City Council approve and authorize the Mayor to execute the attached Joint Use Agreement with Southern California Edison Company, denoted as JUA203904272, pertaining to the Rice Avenue right of way adjacent to the westerly boundary of the Sakioka Farms Specific Plan area.
(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/T7BG3Kjv_xY

BACKGROUND

Southern California Edison Company (SCE) is currently in possession of easements for the operation and maintenance of high voltage transmission lines on the eastern edge of Rice Avenue, adjacent to the Sakioka Farms Specific Plan development project (Project). Phase 1 of the Project infrastructure is expected to be completed in the next few months in support of the Amazon Fulfillment Center and the Arctic Cold Storage building projects. Due to road widening, traffic signal installation, and other improvements necessary for the Project, the SCE transmission lines will be relocated eastward as part of the Project. This Joint Use Agreement (JUA) is a necessary component of the transmission line relocation work in that it re-establishes the easements and associated rights that SCE currently owns to the new location.

DISCUSSION

As described above, the relocation of the SCE high voltage transmission lines is a necessary component of the Phase 1 buildout of the Sakioka Farms Project infrastructure. Both the old location and new location of the SCE easements associated with the high voltage transmission lines are within the Rice Avenue right of way easement. The proposed easement is approximately 2,000 feet in length by 20 feet in width at the eastern edge of the Rice Avenue right of way, adjacent to the westerly boundary of the Sakioka Farms Specific Plan Area. In August of this year, city staff received a draft of the proposed JUA from SCE, which began a negotiation and refinement process between the City and SCE. The end result of those negotiations is the attached JUA, identified as JUA203904272. The JUA establishes and clarifies easement rights, addresses payment for the relocation, and memorializes the cooperative intent between the City and SCE in exercising their individual easement rights. This JUA will be recorded on the land and does not have a fixed term or expiration date. The main stipulations of this JUA are summarized as follows:

1. Preserves the City's right to construct, reconstruct, use, and maintain the public roadway within the boundaries of SCE's easement, and similarly preserves SCE's rights to operate and maintain their utility equipment at the new location within the City's right of way easement.
2. Preserves the SCE easement's title priority over that of the City's right of way in their new location. SCE currently

has easement rights that have title priority to those of the City's right of way related to the high voltage transmission lines in this location, since their current easement overlaps with and predates the City's right of way easements for Rice Avenue.

3. Clarifies that the costs for the utility relocation will be paid for by the Sakioka Farms Project developer. The JUA language specifically states the relocation of the high voltage lines will be paid "At City's cost, or at the cost of party obligated by the conditions of approval for the Sakioka Farms project to pay for such work". The Sakioka Farms project has been conditioned under City Council Resolution 15,352 to construct all necessary infrastructure improvements related to their project, which includes the relocation of these utility lines. The Sakioka Farms project developers have accordingly included this work as a part of the Phase 1 infrastructure that they are currently constructing and funding. Additionally, the Sakioka Farms project developers have bonded for the costs of this utility relocation work as part of their Subdivision Improvement Agreement as required by the project conditions.

4. Provides for the City to indemnify, defend, and reimburse SCE against claims caused by title defects in the new location of the SCE equipment. In the unlikely event that a title defect requires SCE to relocate their equipment or acquire additional right of way for their equipment, the City would have to reimburse SCE for any costs incurred by SCE to remedy the situation.

5. Obligates the City to pay for future relocation costs of the SCE equipment should the City require SCE to relocate the equipment again in the future. However, any private development project that requires these utilities to be relocated in the future would be conditioned by the City to pay for such a relocation.

STRATEGIC PRIORITIES

This agenda item supports the Economic Development strategy. The purpose of the Economic Development strategy is to develop and enhance Oxnard's business climate, promote the City's fiscal health, and support economic growth in a manner consistent with the City's unique character.

By executing this Joint Use Agreement, the timely relocation of the electrical transmission lines can occur which facilitates the completion of the Phase 1 infrastructure for the Sakioka Farms Specific Plan development project. The Sakioka Farms project has already attracted two large new businesses to the City which are currently under construction - the Amazon Fulfillment Center and the Arctic Cold Storage project. This agenda item is an important step in the timely completion of the Phase 1 project infrastructure which will allow these new businesses to operate at full capacity once their construction is completed.

FINANCIAL IMPACT

There are no anticipated financial impacts associated with this agenda item.

COMMITTEE OUTCOME

This item did not originate in Committee, as this is a routine operational item that supports the Sakioka Farms Specific Plan development project, and there are no anticipated fiscal impacts.

Prepared by: Vyto Adomaitis, Community Development Director

ATTACHMENTS

1. SCE Joint Use Agreement (Final)
2. SCE Joint Use Agreement - Exhibit A
3. 09.21.21 City Council Staff Presentation (So Cal Edison Joint Use Agreement)

RECORDING REQUESTED BY
SOUTHERN CALIFORNIA EDISON COMPANY

WHEN RECORDED MAIL TO
SOUTHERN CALIFORNIA EDISON COMPANY
2 INNOVATION WAY, 2ND FLOOR
POMONA, CA 91768
ATTN: TITLE & REAL ESTATE SERVICES

SPACE ABOVE THIS LINE FOR RECORDER'S USE

V&LM File No. JUA203904272
Serial No. 73011A
Affects SCE DOC. 216429 & 500503
Service Order: 802028829

JOINT USE AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20__, by and between SOUTHERN CALIFORNIA EDISON COMPANY, a corporation, hereinafter called "Company", and the CITY OF OXNARD, a municipal corporation of the State of California, hereinafter called "City",

W I T N E S S E T H:

THAT WHEREAS Company is the owner in possession of certain rights of way and easement(s) for electrical facilities by virtue of the following easement rights:

That certain Grant of Easement recorded July 31, 1964 as Instrument No. 52910, in Book 2594, Page 209 and Assignment of Easement recorded July 12, 2011 as Instrument No. 20110712-00101329, both of Official Records, hereinafter referred to as "Company's Easement"; and

WHEREAS City subsequently acquired easement rights for street and highway purposes for the construction and/or improvement of Rice Avenue in said City, County of Ventura, State of California, hereinafter referred to as "highway right of way", as shown on the print attached hereto, marked "Exhibit A" and hereby made a part hereof which said highway right of way is subject to Company's easement; and

WHEREAS Company's facilities as now installed and located on said highway right of way will interfere with or obstruct the construction, reconstruction, maintenance or use of said street or highway, and City desires to eliminate such interference or obstruction;

NOW THEREFORE, in consideration of the premises and the mutual covenants herein contained, Company and City do hereby agree as follows:

The location of Company's easement insofar as it now lies within the said highway right of way, be, and it hereby is, changed to the strip of land within said highway right of way, hereinafter referred to as "new location", and shown and designated as "area in Joint Use Agreement" on said print marked "Exhibit A".

At City's cost, or at the cost of party obligated by the conditions of approval for the Sakioka Farms project to pay for such work, Company agrees to rearrange, relocate and reconstruct within

JOINT USE AGREEMENT
S.C.E. Co., a corp., to
The City of Oxnard
Serial 73011A
V&LM FILE No.: JUA203904272

said new location, any of its facilities heretofore or now installed pursuant to Company's easement within said highway right of way. Company hereby consents to the construction, reconstruction, maintenance or use by City of a street or highway over, along and upon Company's easement, both in the old location and in the new location within said highway right of way, upon and subject to the terms and conditions herein contained.

City acknowledges Company's title to Company's easement in said new location and the priority of Company's title over the title of City in said new location. Company has and reserves the right and easement to use, in common with the public's use of said street or highway, said new location for all of the purposes for which Company's easement was acquired, without need for any further permit or permission from City. Except in emergencies, Company shall give reasonable notice and apply for applicable ministerial permits to and from City before performing any work on Company's facilities in said new location where such work will obstruct traffic. City shall not unreasonably withhold, condition, or delay approval of such permits. In all cases, Company shall exercise due care for the protection of the traveling public adjacent to area(s) in which SCE personnel or contractors are working and/or have blocked off a portion of a public street.

In the event that the future use of said highway right of way shall at any time or times necessitate a rearrangement, relocation, reconstruction or removal of any of Company's facilities then existing in said new location, and City shall notify Company in writing of such necessity and agree to reimburse Company on demand for its costs (inclusive of permitting costs) incurred in complying with such notice, Company will provide City with plans of its proposed rearrangement and an estimate of the cost thereof, and upon approval of such plans and issuance of applicable permits by City, Company will promptly proceed to effect such rearrangement, relocation, reconstruction or removal. Company shall exercise due care for the protection of the traveling public. No further permit (beyond ministerial permits as may be applicable) or permission from City for such rearrangement, relocation or reconstruction shall be required and City will (1) enter into a Joint Use Agreement on the same terms and conditions as are herein set forth covering any such subsequent relocation of Company's facilities within said highway rights of way, (2) provide executed document(s) granting to Company a good and sufficient easement or easements over private property if necessary to replace Company's easement or any part thereof, and (3) reimburse Company for any costs which it may be required to expend to acquire such easement or easements, provided it is mutually agreed in writing that Company shall acquire such easement or easements.

City agrees to indemnify, defend and reimburse Company for any loss or claim Company may suffer because of any lack of or defect in City's title to said new location or any subsequent location within said highway right of way, or in the title to any easement provided by City over private property, to which Company relocates its facilities pursuant to the provisions hereof, and City agrees that if Company is ever required to relocate its facilities because of any such lack of or defect in title, City shall reimburse Company for the cost of relocating its facilities and any other reasonable costs arising therefrom, such as, but not limited to, costs to acquire any right of way required for such relocation. City shall not reimburse Company for any loss caused by Company's own fault or negligence.

Except as expressly set forth herein, this agreement shall not in any way alter, modify or terminate any provision of Company's easement. Both City and Company shall use said new location in such a manner as not to interfere unduly with the rights of the other. Nothing herein contained shall be construed as a release or waiver of any claim for compensation or damages which Company or City may now have or may hereafter acquire resulting from the construction of additional facilities or the alteration of existing facilities by either City or Company in such a manner as to cause an unreasonable interference with the use of said new location by the other party. City agrees that

JOINT USE AGREEMENT
S.C.E. Co., a corp., to
The City of Oxnard
Serial 73011A
V&LM FILE No.: JUA203904272

Company's facilities shall not be damaged by reason of the construction, reconstruction or maintenance of said street or highway, by the City or its contractors, and that, if necessary, City will protect Company's facilities against any such damage, at City's expense.

Company shall have the right to remove, trim or top any vegetation, brush, tree or trees which may grow in said new location in said highway right of way, and which in the opinion of Company may endanger or interfere with the proper operation or maintenance of Company's facilities, to the extent necessary to prevent any such interference or danger.

This agreement shall inure to the benefit of and be binding upon the Company and the City and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their respective officers thereunto duly authorized, as of the day and year herein first above written.

SOUTHERN CALIFORNIA EDISON COMPANY,
a corporation

By _____
Amy Biamonte
Real Estate & Facilities Sr. Specialist
Land Management – Northern Region
Vegetation & Land Management

CITY OF OXNARD, a municipal corporation

By: _____
Name: _____
Title: _____

Attest: _____
Name: _____
Title: _____

JOINT USE AGREEMENT
S.C.E. Co., a corp., to
The City of Oxnard
Serial 73011A
V&LM FILE No.: JUA203904272

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

JOINT USE AGREEMENT
S.C.E. Co., a corp., to
The City of Oxnard
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County of _____)

On _____ before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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State of California)

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

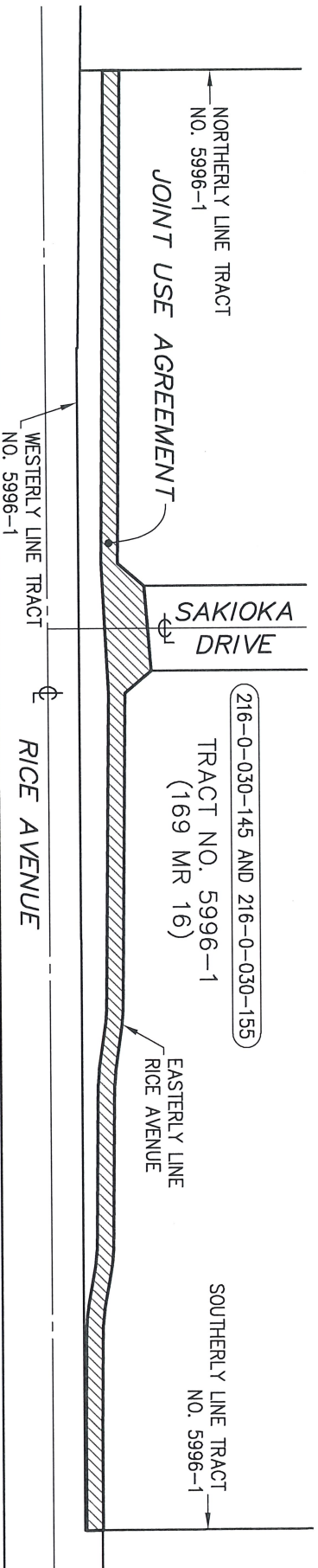
Signature _____

NOTE:

SEE SHEET 2 OF 2 FOR BOUNDARY DIMENSIONS.

JOINT USE AGREEMENT

BEING A PORTION OF TRACT NO. 5996-1 PER BOOK 169, PAGES 16 THROUGH 28, INCLUSIVE, OF MISCELLANEOUS RECORDS (MAPS) OF VENTURA COUNTY, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA



BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED ON THE EASTERLY LINE OF RICE AVENUE, BEING NO.42°57"E, AS SHOWN ON TRACT NO 5996-1, FILED IN BOOK 169, PAGES 16-28, INCLUSIVE OF MISCELLANEOUS RECORDS (MAPS) OF VENTURA COUNTY.

LEGEND:

- APN ASSESSOR PARCEL NUMBER
- MR MISCELLANEOUS RECORDS (MAPS)
- (typ) TYPICAL
- CL CENTERLINE
- APN ASSESSOR PARCEL NUMBER
- JOINT USE AGREEMENT

LINE/CURVE DATA:

1	N89°58'20"E 20.00'	12	S0°01'15"E 122.16'
2	S49°26'06"E 42.13'	13	S89°47'40"W 20.00'
3	S4°30'10"E 102.31'±	14	N0°01'15"W 122.35'
4	S50°15'14"W 41.60'	15	N0°42'57"E 124.50'
5	Δ=7°42'53" R=128.00' L=17.24'	16	Δ=9°48'34" R=132.00' L=22.60'
6	S8°25'50"W 58.31'	17	N10°31'31"E 49.84'
7	Δ=7°42'53" R=112.00' L=15.08'	18	Δ=9°48'34" R=108.00' L=18.49'
8	Δ=9°48'34" R=128.00' L=21.91'	19	Δ=7°42'53" R=132.00' L=17.77'
9	S10°31'31"W 49.84'	20	N8°25'50"E 58.31'
10	Δ=9°48'34" R=112.00' L=19.18'	21	Δ=7°42'53" R=108.00' L=14.54'
11	S0°42'57"W 124.37'	22	N2°57'17"W 156.20'±
		23	N89°17'03"W 20.00'

PREPARED UNDER THE SUPERVISION OF:

LARRY J. FRAGER, PLS 7998

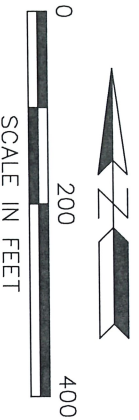
DATE



EXHIBIT "A" (SHEET 1 OF 3)

AREA:

39,230± SQUARE FEET OR 0.90± ACRES

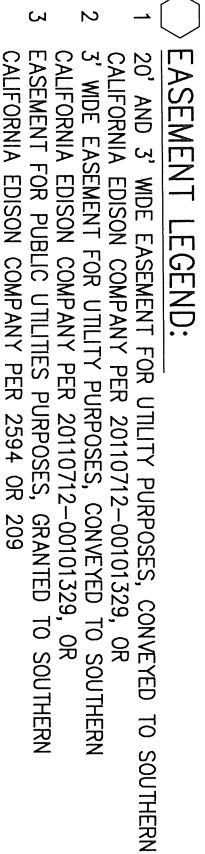


PROJECT NAME: SAKIOKA/SANTA CLARA-LEVY-PROCGEN 66KV		CITY: OXNARD		COUNTY: VENTURA		STATE: CA	
W.O. NO.: 802028829	NOT. NO.: 203904272	SCE F.B. REF.: N/A		DATE: 08-23-2021			
SURVEYED BY: BENNER AND CARPENTER, INC.		MAP REF.: N/A					
DRAWN BY: T. LOVELESS							
CHECKED BY: L. FRAGER		TRES: S. FLORES		SERIAL NO.: 73011A		FILE NAME:	
						18108LD15.DWG	



SEE SHEET 1 OF 3 FOR BASIS OF BEARINGS,
LEGEND AND LINE/CURVE DATA.

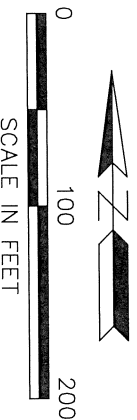
BEING A PORTION OF TRACT NO. 5996-1 PER BOOK 169,
PAGES 16 THROUGH 28, INCLUSIVE, OF MISCELLANEOUS
RECORDS (MAPS) OF VENTURA COUNTY, IN THE CITY OF
OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA



39,230± SQUARE FEET OR 0.90± ACRES

PROJECT NAME: SAKIOKA/SANTA CLARA-LEVY-PROCGEN 66KV

W.O. NO.: 802028829		NOT. NO.: 203904272		CITY: OXNARD		COUNTY: VENTURA		STATE: CA	
SURVEYED BY: BENNER AND CARPENTER, INC.				SCE F.B. REF.: N/A		DATE: 08-23-2021		 SOUTHERN CALIFORNIA EDISON An Edison International Company	
DRAWN BY: T. LOVELESS				MAP REF.: N/A					
CHECKED BY: L. FRAGER		TRES: S. FLORES		SERIAL NO.: 73011A		FILE NAME:		18108LD15.DWG	



NOTE:

SEE SHEET 1 OF 3 FOR BASIS OF BEARINGS,
LEGEND AND LINE/CURVE DATA. SEE SHEET
2 OF 3 FOR EASEMENT LEGEND.

JOINT USE AGREEMENT

BEING A PORTION OF TRACT NO. 5996-1 PER BOOK 169,
PAGES 16 THROUGH 28, INCLUSIVE, OF MISCELLANEOUS
RECORDS (MAPS) OF VENTURA COUNTY, IN THE CITY OF
OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA

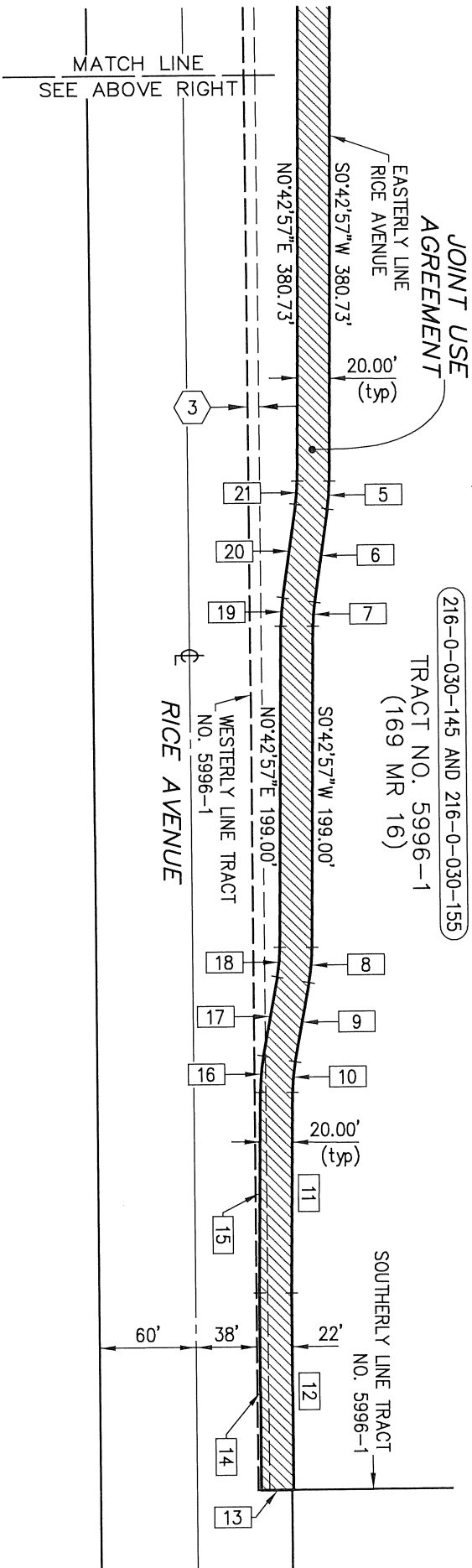
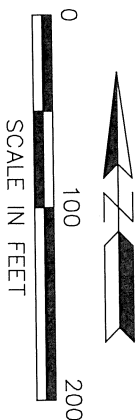


EXHIBIT "A" (SHEET 3 OF 3)

AREA:

39,230± SQUARE FEET OR 0.90± ACRES

PROJECT NAME: SAKIOKA/SANTA CLARA-LEVY-PROCGEN 66KV				M.S.: 059-068	
W.O. NO.: 802028829	NOT. NO.: 203904272	CITY: OXNARD	COUNTY: VENTURA	STATE: CA	
SURVEYED BY: BENNER AND CARPENTER, INC.			SCE F.B. REF.: N/A	DATE: 08-23-2021	
DRAWN BY: T. LOVELESS			MAP REF.: N/A		
CHECKED BY: L. FRAGER		TRES: S. FLORES	SERIAL NO.: 73011A	FILE NAME:	
				18108LD15.DWG	



Joint Use Agreement

Between the City of Oxnard and Southern California Edison

Jeff Pengilley, P.E., Assistant Director
Vyto Adomaitis, Community Development Director
Community Development Department

City Council
September 21, 2021

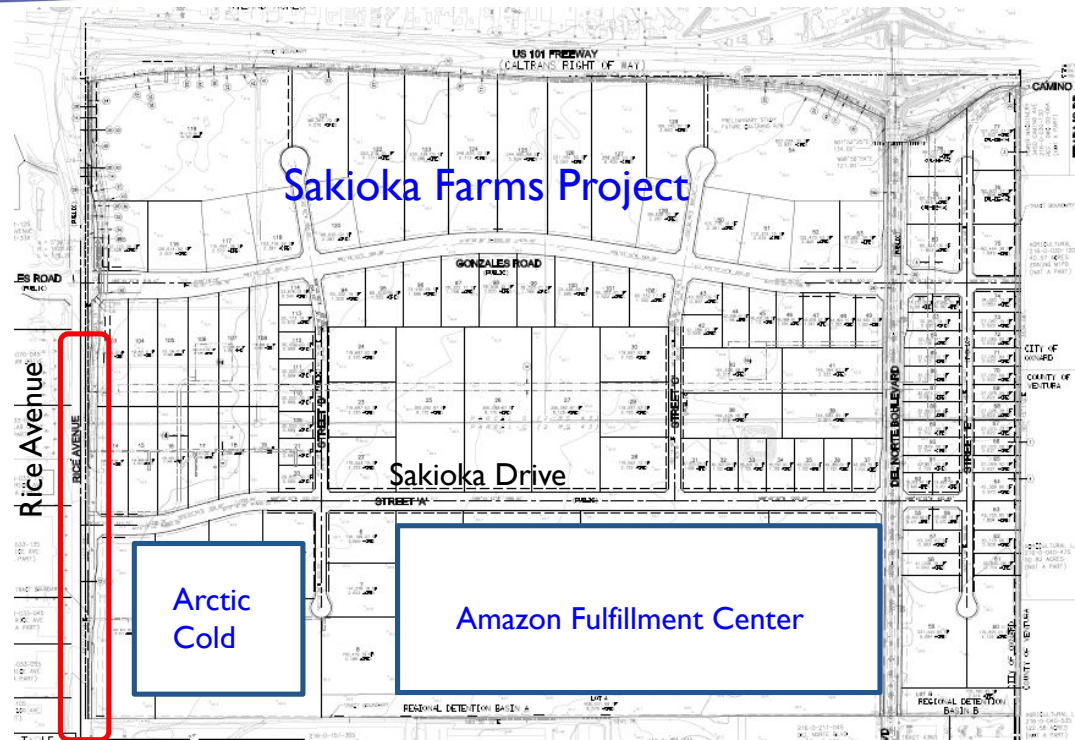


Background

2

Sakioka Farms Project:

- The Sakioka Farms development requires the relocation of high voltage transmission lines at the eastern edge of Rice Avenue
- These SCE lines are to be relocated eastward due to the widening of Rice Avenue and other traffic improvements conditioned on the project.

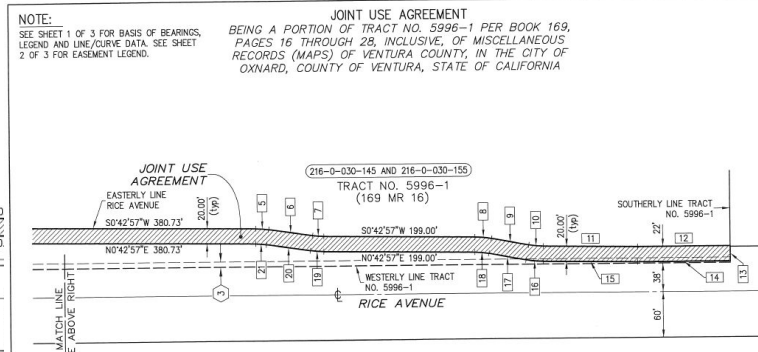
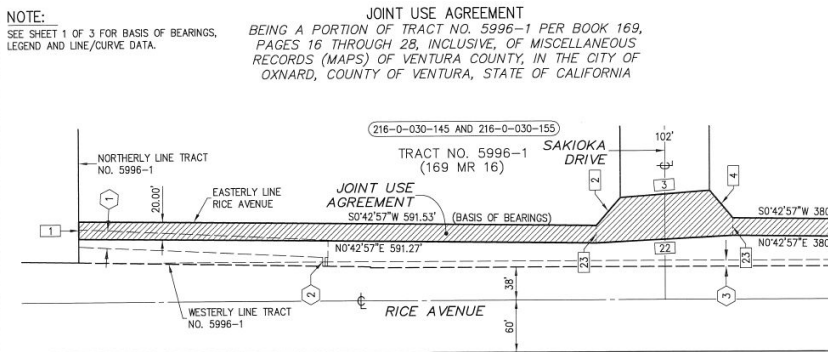


- The current SCE power lines and easements exist within the Rice Avenue right of way. The new power lines and easements will occur within the Rice Avenue right of way in a new location so the roadway improvements can be completed.
- This Joint Use Agreement relocates easements and other associated rights to the new location of the SCE power lines.

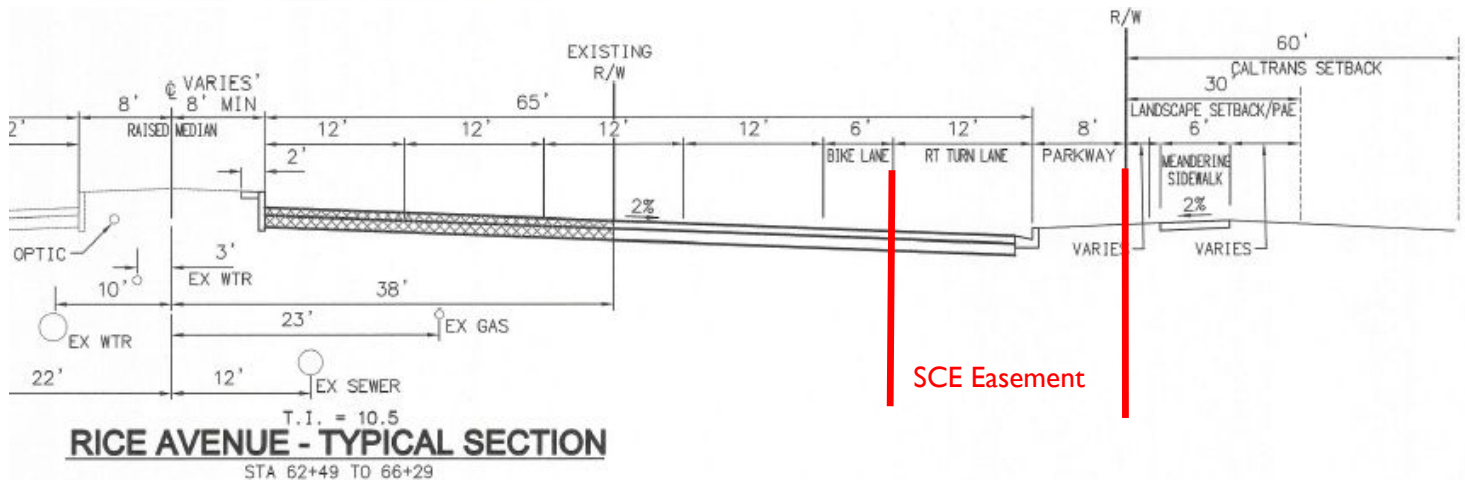


Current power line location (adjoining N/B Rice Ave. adjacent to Sakioka Farms)

Purpose of the Joint Use Agreement



- The Joint Use Agreement establishes the easement area for SCE's power lines as per the exhibit above.
- The new easement area will be within the enlarged Rice Avenue right of way easement.
- The previous easement(s) were within the Rice Avenue right of way easement.



- The section above illustrates the approximate SCE easement location relative to Rice Avenue.
- The power poles will be installed within this easement, a minimum of 18" away from the curb face per SCE standards.

Major provisions of the Joint Use Agreement

- Spells out the cooperative joint use of a public roadway and the power line easement.
- Preserves the SCE easement title priority over that of the City's right of way in the new location.
- Clarifies that the costs for the utility relocation will be paid for by the Sakioka farms project developer and not SCE.
- Provides for the City to indemnify SCE against claims caused by title defects in the new location of the SCE equipment.
- Obligates the City to pay for future relocation costs of the SCE equipment should the City require SCE to relocate the equipment in the future. The City would require any private development project causing a future relocation of these power lines to pay for the relocation.

Financial Impacts:

There are no anticipated financial impacts associated with this agenda item.

Recommendation

That City Council approve and authorize the Mayor to execute the attached Joint Use Agreement with Southern California Edison Company, denoted as JUA203904272, pertaining to the Rice Avenue right of way adjacent to the westerly boundary of the Sakioka Farms Specific Plan area.



End of Presentation