

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.



AGENDA
OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY

Meeting Location: Council Chambers, 305 West Third Street

March 29, 2022

Closed Session - 5:00 PM

Regular Meeting - 6:00 PM

Zoom details to call-in for public comment during a meeting:

- 1. Dial Phone Number: (888) 475-4499**
- 2. Enter Meeting ID: 841 4224 5205**
- 3. Passcode: 589530**

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom calling in steps listed above. Once the Mayor calls for public speakers, press *9 to raise your hand to inform the City Clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room.

The public may view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at [Youtube.com/oxnardnews](https://www.youtube.com/oxnardnews). Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

*Please see the link for the Measure M pre-recorded presentation video for each item listed on this agenda.

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.
2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING
 - a. Submit a request to speak by no later than 3 p.m. on the day of the meeting by using the form available at www.oxnard.org/citymeetings.
 - b. Submit an email to cityclerk@oxnard.org no later than 3 p.m. on the day of the meeting (indicate the agenda item number in the subject line). All email correspondence will be forwarded to the City Council prior to the start of the meeting and made part of the legislative record.
 - c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.
3. PROVIDING PUBLIC COMMENTS REMOTELY DURING THE MEETING
 - a. To provide public comment during the meeting dial (888) 475-4499 and enter the Meeting ID and Passcode listed above as the Zoom details for this meeting. When the Mayor announces the particular item on the agenda you want to speak on, press *9 to raise your hand while in the zoom waiting room. Once called on, press *6 to unmute your phone.
 - b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public shall have three minutes to register or otherwise be recognized for the purpose of

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)

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providing public comment. During this three-minute time period, public comments may be taken and the City Council or staff may discuss the item being considered or briefly respond to public comments.

Detailed participation instructions can be found at www.oxnard.org/city-meetings.

* The City has filed pre-election and post-election lawsuits regarding the validity of Measure M.

A. ROLL CALL, POSTING OF AGENDA

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

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 (5:00 PM)

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

Name of case: F G v. City of Oxnard

Ventura County Superior Court, Case No. 56-2022-00562807-CU-OE-VTA

Legislative Body: City Council

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

Name of case: Adair; et al. v. City of Oxnard; et al.

Ventura County Superior Court, Case No. 56-2022-00563192-CU-MC-VTA

Legislative Body: City Council

D. OPENING CEREMONIES (6:00 PM)

Pledge of allegiance to the flag of the United States.

E. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

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. After 30 minutes, if all speakers have not 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.

F. 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:

1. Receive and file an update from the Director of Emergency Services ("Director") on the COVID19 Local Emergency ("Emergency"); and

2. Ratify orders issued by the Director pertaining to the Emergency, including an order addressing freight container shipping congestion and an order rescinding or modifying previously issued orders.

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

G. 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.

1. City Manager Department

SUBJECT: Appointment of Members to Serve on the City's Commission on Homelessness and Measure O Citizen Oversight Committee. (0/5/5)

RECOMMENDATION: That the Mayor, with the approval of the City Council, make the following appointments:

1. To Commission on Homelessness: Rafael Ochoa (D5); and
2. To Measure O Citizen Oversight Committee: Nathan Castillo (D5).

(This item did not originate in Committee).

Legislative Body: City Council

Contact: Shiri Klima, (805) 385-7487

H. 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.

I. 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.

J. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the March 1, 2022 regular meeting as presented.

Legislative Body: City Council

Contact: Rose Chaparro, (805) 385-7805

2. Fire Department

SUBJECT: Purchase Order with Stryker Medical for \$335,137.99.

RECOMMENDATION: That City Council authorize the Mayor to sign a Purchase Order with Stryker Medical for \$335,137.99 to purchase seven (7) Lifepak 15 monitors/defibrillators and twelve (12) Lifepak 1000 defibrillators.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0 on March 8, 2022.)

Legislative Body: City Council

Contact: Alexander Hamilton, (805) 385-7700

3. Finance Department

SUBJECT: Annual Accounts Receivable Write-Off Report.

RECOMMENDATION: That the City Council receive the Annual Accounts Receivable Write-Off Report.

(The Finance and Governance Committee approved 3-0 on February 22, 2022)

Legislative Body: City Council

Contact: Betsy George, (805) 200-5400

4. Police Department

SUBJECT: Second Amendment to Enterprise Lease Agreement.

RECOMMENDATION: That City Council approve and authorize the Mayor to execute a second amendment to Agreement A-8136 with Enterprise Fleet Management, Inc. (Enterprise), for vehicle leases, increasing the value of the agreement from \$4,100,000 to not exceed \$6,795,000 for the term of the agreement, which expires on December 1, 2025.

(The Public Safety Committee reviewed the item on February 22, 2022 and forwarded the item to City Council for review and approval.)

Legislative Body: City Council

Contact: Jason Benites, (805) 385-7624

5. Housing Department

SUBJECT: Accessibility Remodel Project at Palm Vista. (0/5/5)

RECOMMENDATION: That the Board of Commissioners of the Oxnard Housing Authority approve and authorize the Chairman to execute a firm-fixed price contract in the amount of \$379,560.11 with MDJ Management (Agreement number A-8426) using funds previously appropriated from the 2019 Capital Fund grant for Section 504 compliance with the Americans with Disabilities Act.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0)

Legislative Body: City Council and Housing Authority

Contact: Emilio Ramirez, (805) 385-8094

K. REPORTS

1. Finance Department

SUBJECT: Banc of America Master Equipment Lease/Purchase Agreement (A-7667) for 2022 Equipment Lease Reimbursement to the City for Purchase of Fire Engines. (10/5/5)

RECOMMENDATION: That the City Council adopt a resolution authorizing the execution and delivery of Schedules of Property to the Master Equipment Lease/Purchase Agreement not to exceed \$3.3 million for the acquisition, financing, and leasing of certain equipment for the public benefit within the terms provided therein; authorizing the execution and delivery of other

documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by the resolution.

(Presentation will be live at the Consultant's request.)

Legislative Body: City Council

Contact: Betsy George, (805) 200-5400

2. City Manager Department

SUBJECT: Recategorization of American Rescue Plan Act (ARPA) Projects According to Final Rule Issued by US Treasury. (0/25/10)

RECOMMENDATION: That the City Council:

1. Recategorize \$15,670,000 of ARPA projects into the Replacing Lost Public Sector Revenue category according to the Final Rule issued by the U.S. Department of the Treasury;
2. Make final decisions on remaining ARPA projects tabled in 2021 and newly proposed ARPA projects; and
3. Authorize the City Manager or designee to approve budget appropriations necessary to recognize revenue and appropriate funding for all ARPA projects.

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

Legislative Body: City Council

Contact: Alexander Nguyen, (805) 385-7430

3. Community Development Department

SUBJECT: Update on the City of Oxnard's Participation in Clean Power Alliance. (0/5/5)

RECOMMENDATION: That the City Council receive and file this report.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/OwP9wwMa9WU>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

4. Community Development Department

SUBJECT: City of Oxnard 2021 General Plan Annual Progress Report. (0/5/5)

RECOMMENDATION: That the Oxnard City Council receive and file the City of Oxnard 2021 General Plan and Housing Element Annual Progress Report.
(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/Ywm00iALgCg>

Legislative Body: City Council

Contact: Vyto Adomaitis, (805) 385-7882

5. Housing Department

SUBJECT: Participation in the Middle-Income Housing Program for The Vines at Riverpark, 3040 Oxnard Blvd. (0/10/10)

RECOMMENDATION: That City Council adopts a resolution that:

1. Authorizes the Mayor to execute a joint exercise of powers agreement relating to the California Municipal Finance Authority ("CMFA") Special Finance Agency issuing bonds for the preservation and protection of middle-income rental housing ("Middle-Income Housing Program");
2. Authorizes CMFA Special Finance Agency's issuance of bonds in a not to exceed the amount of \$136,000,000 for the preservation and protection of middle-income housing in the City of Oxnard pursuant to the Middle-Income Housing Program, provided that such bond funding is used solely for the Vines at RiverPark project; and
3. Authorizes the Mayor to execute a Public Benefit Agreement relating to The Vines at Riverpark, located at 3040 Oxnard Blvd, that includes annual host fee revenue that would likely offset the loss of City property tax revenues during the term of the agreement.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/lixOmng578>

Legislative Body: City Council

Contact: Emilio Ramirez, (805) 385-8094

6. Housing Department

SUBJECT: Downtown Improvement Program Settlement Funds Update. (0/10/10)

RECOMMENDATION: That the City Council:

1. Receive an update on the implementation of the approved program priorities funded with the Downtown Improvement Program Settlement Funds; and
2. Appropriate \$85,716 per fiscal year in FYs 22-23 and 23-24, for a total of \$171,432, for homeless outreach coordinator contract services as part of the annual budget process.
(Community Services, Public Safety, Housing & Development Committee approved 3-0)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/eCIC8ByP5Qo>

Legislative Body: City Council

Contact: Emilio Ramirez, (805) 385-8094

7. Public Works Department

SUBJECT: FY 2021 American Rescue Plan Act Economic Adjustment Assistance Grant Application Resolution (0/5/5)

RECOMMENDATION: That the City Council:

1. Adopt a resolution authorizing the City Manager to submit an application for an amount not to exceed \$5,000,000 in FY 2021 American Rescue Plan Act Economic Adjustment Assistance grant funds for needed equipment, improvements and renovations for the Oxnard Performing Arts & Convention Center; and
2. Approve and authorize the City Manager or designee to execute grant agreements; the Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the use of the FY 2021 American Rescue Plan Act

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Economic Adjustment Assistance grant funds if awarded; and the Director of Public Works or designee to submit non-financial reports.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/5p7Y-BEtAak>

Legislative Body: City Council

Contact: Michael Wolfe, (805) 385-8055

L. ADJOURNMENT

**CITY COUNCIL OF THE CITY OF OXNARD
RESOLUTION NO. _____**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
RATIFYING AN ORDER ISSUED BY THE DIRECTOR OF EMERGENCY
SERVICES**

WHEREAS, Government Code section 8630 and Chapter 6 of the Oxnard City Code empower the City Manager of the City of Oxnard (“City”), acting in the capacity of the Director of Emergency Services (the “Director”), to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, on March 13, 2020, in response to the rapidly evolving public health crisis resulting from the COVID-19 pandemic, the Director proclaimed the existence of a local emergency (the “Local Emergency”); and

WHEREAS, on March 17, 2020, the City Council adopted Resolution No. 15,304, proclaiming the Local Emergency and ratifying the Director’s March 13, 2020 proclamation; and

WHEREAS, pursuant to Government Code section 8634, Resolution No. 15,304 and Chapter 6 of the City Code, the Director may promulgate orders and regulations necessary to provide for the protection of life and property and shall request the City Council to ratify such orders and regulations; and

WHEREAS, the Director has issued Order No. 22-01, attached as an exhibit hereto in response to the Local Emergency.

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NOW, THEREFORE, the City Council of the City of Oxnard resolves that Order 22-01 issued by the Director and attached as Exhibit A hereto is necessary to provide for the protection of life and property in response to the Local Emergency and is hereby ratified.

PASSED AND ADOPTED THIS ____ day of _____ 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

John C. Zaragoza, Mayor

ATTEST:

Rose Chaparro, City Clerk

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney

EXHIBIT A
[Director of Emergency Services Order 22-01]

CITY OF OXNARD

DIRECTOR ORDER NO. 22-01

ORDER OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF OXNARD TEMPORARILY ALLOWING THE STORAGE OF EMPTY STORAGE CONTAINERS IN THE M-1 AND M-2 ZONES

WHEREAS, Government Code section 8630 and Chapter 6 of the Oxnard City Code empower the City Manager of the City of Oxnard (“City”), acting in the capacity of the Director of Emergency Services (the “Director”), to proclaim the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, on March 4, 2020, the Governor of the State of California (the “Governor”) declared a state of emergency in response to the spread of COVID-19; and

WHEREAS, on March 13, 2020, in response to the rapidly evolving public health crisis resulting from the COVID-19 pandemic, the Director proclaimed the existence of a local emergency (the “Local Emergency”); and

WHEREAS, on March 17, 2020, the City Council adopted Resolution No. 15,304, proclaiming the Local Emergency and ratifying the Director’s March 13, 2020 proclamation; and

WHEREAS, since the Director proclaimed the existence of the Local Emergency, the Director has issued a number of Director Orders, and the Governor has issued a number of Executive Orders, in response to COVID-19; and

WHEREAS, although the spread of COVID-19 is decreasing in Ventura County, and many of the Governor’s Executive Orders have been rescinded, the negative impacts of COVID-19 persist; and

WHEREAS, starting in March 2020, due to COVID-19, factories, agriculture, and transportation (trucking, trains, air, and vessels) slowed down or completely stopped operating leading to massive disruptions to the global supply chain; and

WHEREAS, after the initial disruption to the global supply chain, in the third and fourth quarters of 2021, consumer demand began to rapidly exceed the supply for many products, creating backlogs at ports throughout the world; and

WHEREAS, there are not enough trained workers to operate the equipment needed to handle the shipping containers necessary to meet consumer demands, resulting in a shortage of chassis, which are used to transport shipping containers; and

WHEREAS, in June 2021, President Biden launched a *Supply Chain Disruption Task Force*, focusing on transportation and logistics bottlenecks occurring at ports throughout the country; and

*DES Order No. 22-01
March 11, 2022*

WHEREAS, in October 2021, President Biden announced that the ports of Los Angeles and Long Beach would move toward 24/7 operations to help unsnarl massive supply chain backlogs; and

WHEREAS, the ports of Los Angeles and Long Beach handle five times more cargo by weight than the next busiest port in the United States; and

WHEREAS, due to the vast backup of vessels off the ports of Los Angeles and Long Beach, some vessels have been redirected to the Port of Hueneme; and

WHEREAS, with an increased volume of shipping containers and limited space at the Port of Hueneme for the storage of shipping containers, there is a need to temporarily store shipping containers somewhere other than at the Port of Hueneme.

NOW, THEREFORE, THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF OXNARD DOES HEREBY ORDER AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that all the recitals, facts, findings, and conclusions set forth above in the preamble of this Order are true and correct, and are incorporated herein by this reference.

SECTION 2. Empty storage shipping containers ("Containers"), on or off chassis, may be stored in the M-1 or M-2 zones in the City.

SECTION 3. If a property owner wishes to place Containers on specific M-1 or M-2 properties pursuant to this Order, the property owner must obtain a Temporary Use Permit ("TUP") subject to the conditions established by the Director. These conditions shall include (but are not limited to) that upon termination of this Order, the TUP shall automatically terminate 12 months thereafter and all Containers on the property shall be removed on or before the date of the termination of the TUP.

SECTION 4. This Order may be modified or rescinded by further Order by the Director or by the City Council.

SECTION 5. This Order shall become effective on March 11, 2022.

SECTION 6. This Order shall be given publicity and notice as required by Government Code section 8634.

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*DES Order No. 22-01
March 11, 2022*

SECTION 7. The City Clerk shall certify to the adoption of this Order and shall cause a certified Order to be filed in the Office of the City Clerk.

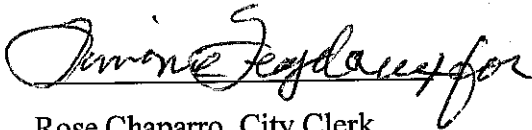
Dated: 3/14/2022

By: 

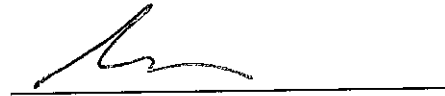
Alexander Nguyen
City Manager/Director of Emergency Services
City of Oxnard

ATTEST:

APPROVED AS TO FORM:



Rose Chaparro, City Clerk



Stephen M. Fischer, City Attorney

*DES Order No. 22-01
March 11, 2022*



CITY COUNCIL AGENDA REPORT
CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR
AGENCY/FINANCING AUTHORITY
BUSINESS/COMMITTEE REPORTS
AGENDA ITEM NO. G.1

DATE: March 29, 2022

TO: City Council

FROM: Shiri Klima, Deputy City Manager, (805) 385-7487, shiri.klima@oxnard.org

SUBJECT: Appointment of Members to Serve on the City's Commission on Homelessness and Measure O Citizen Oversight Committee. (0/5/5)

RECOMMENDATION

That the Mayor, with the approval of the City Council, make the following appointments:

1. To Commission on Homelessness: Rafael Ochoa (D5); and
2. To Measure O Citizen Oversight Committee: Nathan Castillo (D5).

(This item did not originate in Committee).

BACKGROUND

Oxnard City Code section 2-36 states that the Mayor, with the approval of the City Council, shall appoint the members of each Citizen Advisory Group (CAG). The process is outlined in that provision, including nomination by each Council member congruent with his or her term in office. Section 2-37 states that each commissioner shall undergo the City's formal background check procedures before appointment. The Measure O Citizen Oversight Committee is not a CAG, but its establishing resolution has similar language, except that there is no requirement for Committee members to undergo a background check before appointment.

DISCUSSION

The following are two of the City's commissions and committees:

1. Commission on Homelessness (COH)

The COH advises regarding all matters pertaining to homelessness in the City. The COH is composed of seven members, all of whom must reside in the City and be over the age of 18. For this purpose, Councilwoman Basua nominates Rafael Ochoa, who has passed the City's formal background check procedures, to represent District 5.

2. Measure O Citizen Oversight Committee

The Measure O Citizen Oversight Committee is appointed to review the use of Measure O revenues approved by the City Council. The Committee is made up of nine members with one member appointed by the Mayor to represent the City at large, six members appointed by Council District, one member active in a business organization representing the business community located in the City, and one member active in a Neighborhood Council or Neighborhood Association located in the City. Commissioners must reside in the City and be over the age of 18. For this purpose, Councilwoman Basua nominates Nathan Castillo to represent D5.

Staff will return on a rolling basis with additional Council nominations to fill the remaining vacancies in the City's commissions, committees and boards.

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

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Luly Lopez, Executive Assistant I, Samantha Shapiro, Project Manager

ATTACHMENTS

1. Appointment of Members to Serve on the City's Commission on Homelessness and Measure O Citizen Oversight Committee -- Presentation

Appointment of Members to Serve on the City's Commission on Homelessness and Measure O Citizen Oversight Committee

City Council

March 29, 2022

Shiri Klima, Deputy City Manager



That the Mayor, with the approval of the City Council, make the following appointments:

1. To Commission on Homelessness: Rafael Ochoa (D5); and
2. To Measure O Citizen Oversight Committee: Nathan Castillo (5)

COMMISSION ON HOMELESSNESS

Function	Advises regarding all matters pertaining to homelessness in the City
Requirements	7 members must reside in City and be over age 18
Nomination	Councilwoman Basua nominates Rafael Ochoa

MEASURE O CITIZEN OVERSIGHT BOARD

Function	Reviewing use of Measure O funds approved by Council
Requirements	9 members must be over age 18: •7 members appointed by district •1 member active in a business organization •1 member active in a Neighborhood Council
Nomination	Councilwoman Basua nominates Nathan Castillo

That the Mayor, with the approval of the City Council, make the following appointments:

1. To Commission on Homelessness: Rafael Ochoa (D5); and
2. To Measure O Citizen Oversight Committee: Nathan Castillo (D5).





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

DATE: March 29, 2022
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 March 1, 2022 regular meeting as presented.

BACKGROUND

Approval of Minutes.

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: Rose Chaparro, City Clerk

ATTACHMENTS

1. MINUTES 03 01 2022 CC Regular Meeting

MINUTES
OXNARD CITY COUNCIL
Regular Meeting
MARCH 1, 2022

A. **ROLL CALL, POSTING OF AGENDA**

At 4:31 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 Zaragoza was present in person.

Staff members present in person were Alexander Nguyen, City Manager; Stephen M. Fischer, City Attorney; Kenneth Rozell, Chief Assistant City Attorney; Rose Chaparro, City Clerk, and Simone Seydoux, Assistant City Clerk.

Staff members Ashley Golden, Assistant City Manager; Shiri Klima, Deputy City Manager; Jason Zaragoza, Deputy City Attorney; Jason Benites, Police Chief; Denise Shadinger, Assistant Chief of Police; Alexander Hamilton, Fire Chief; Michael Wolfe, Public Works Director; Brian Yanez, Assistant Public Works Director; Steve Howlett, Assistant Public Works Director; Omar Castro, Water Division Manager; Kevin Thompson, Parks Manager; Todd Vasquez-Housley, Environmental Resources Division Manager; Emilio Ramirez, Housing Director; Vyto Adomaitis, Community Development Director; Betsy George, Chief Financial Officer; Helen Miller, IT Director; Eden Alomeri, Revenue & Licensing Director & Assistant City Treasurer; and Steve Naveau, Human Resources Director participated via videoconference.

Debbie Gohlke with Soroptimist International of Oxnard; Betsy Patterson with the League of Women Voters; Craig Hill and Mike Meyer with NHA Advisors; Eden Casareno and Mary L. Maxion, Auditors with Eadie + Payne LLP; and Russ Trice, Counsel with Norton, Rose, & Fulbright also participated via videoconference.

THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council

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 March 5, 2022, as "Soroptimist STOP Human Trafficking and Sexual Slavery Awareness Day".

Mayor Zaragoza read the proclamation and presented it to Debbie Gohlke with Soroptimist International of Oxnard, who made some remarks.

2. SUBJECT: Presentation of a Proclamation Designating the Month of March as "Women's History Month."

Mayor Zaragoza read the proclamation and presented it to Betsy Patterson with the League of Women Voters,

who made some remarks.

D. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Ray Blattel (street sweeper) and Douglas Partello (new housing development with proposed location on Doris Avenue, Teal Club Road, and Patterson Road, parking concerns).

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:

1. Receive and file an update from the Director of Emergency Services on the COVID19 Local Emergency; and
2. Re-authorize remote teleconference meetings of the legislative bodies of the City of Oxnard in accordance with Assembly Bill 361 based on the following findings: (i) The City's COVID-19 Comprehensive Policy and Protocol imposes measures to promote social distancing; (ii) The Governor's proclaimed state of emergency remains in effect; (iii) Although the City's facilities re-opened to the public on February 14, 2022, to slow the spread of community transmission, the City Manager still requires meetings to be held virtually as often as possible; and (iv) As a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Alexander Nguyen, City Manager, presented and answered questions from Council. No public comments were received.

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

F. CITY COUNCIL REPORTS

Councilmember Teran selected Esplanade Mini Storage, as his recommendation for a local business. He announced that even though the Covid-19 pandemic numbers are improving, he reminded the public to continue to practice good hand hygiene and social distancing practices. He attended the Carriage Square Neighborhood Council meeting, their first virtual meeting since the pandemic. He announced that this Saturday will be the first of four bulky item drop-off events throughout the City and plans to volunteer this event.

Mayor Pro Tem MacDonald selected the Standard Plumbing Supply as his recommendation for a local family owned business. He announced that there will be help available for residents that may need assistance moving bulky items to the drop-off locations.

Councilmember Madrigal selected Tacos El Diablo as his recommendation for a local family owned business. He expressed his condolences to the Flynn family on the passing of former Ventura County Supervisor John Flynn. He shared that he met with local students at Rio Mesa High School to discuss different topics and current issues such as the cost of housing and college education. He also thanked the Santa Paula Hospital and he received excellent medical service. He thanked the County and Santa Paula Hospital staff for assisting his father during his recent work injury.

Councilmember Perello selected The Restore Facility as his recommendation for a local business. He also expressed his condolences to the Flynn family on the passing of former Ventura County Supervisor John Flynn. He addressed concerns about parking, parking signs, and street sweeper concerns. He recognized the volunteers that have been working to clean-up the Patterson Road neighborhood area. He asked that we keep the country and the people of Ukrain in our thoughts.

Mayor Zaragoza selected In & Out as his recommendation for a local business. He also thanked Mr. Marvin Boos and the many volunteers in the community for their efforts in cleaning-up the streets in the many neighborhoods throughout the City. He also thanked all the city employees for all the hard work and services that they provide to our residents on a daily basis.

Councilmember Lopez selected Spudnuts Donuts as her recommendation for a local business. She attended the RDP-21 Committee meeting to discuss the local military facilities and different issues that affect the County of Ventura. She is happy and thankful that she has been selected to serve on this important committee. She recently met with a Food Share of Ventura County staff member. Food Share thanked the Parks and Recreation Department for their participation in the program and working with Food Share throughout the pandemic to distribute food to residents.

Councilmember Basua selected L & L Hawaiian BBQ as her recommendation for a local business. She will be participating in a food giveaway event at Pleasant Valley Park this Saturday. The food is being provided by the Port of Hueneme. Thanked Chief Benites and the Oxnard Police Department for volunteering to assist in the National Association of Mental Illness fundraiser this year.

G. REVIEW OF INFORMATION/CONSENT AGENDA

Items I-1 through I-10 were discussed among the Council and staff. Consent agenda item I.7 was pulled from this meeting agenda and will be brought back to Council at the March 15, 2022 Council meeting.

H. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA (None received.)

I. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the minutes of the February 1, 2022 regular meeting as presented.

2. Public Works Department

SUBJECT: Agreement A-8439 to Venco Electric, Inc. for Blending Station No. 3 Variable Frequency Drive Replacement Project, Specification No. PW 22-26.

RECOMMENDATION: That the City Council approve and authorize the following for a total \$528,000 in Project funds for the Blending Station No. 3 Variable Frequency Drive Replacement Project, Specification No. PW 22-26 (Project No. 226505):

1. The Mayor to execute Agreement A-8439 with Venco Electric, Inc. in the amount of \$440,000 for the Project;

2. A Project contingency amount of \$44,000;
 3. A Project allocation of \$44,000 for engineering, inspection, survey and project management; and
 4. A budget appropriation in the amount of \$228,000 from the available fund balance in the Water Operating Fund (601).
3. Public Works Department
SUBJECT: Caltrans Master Agreement Administering Agency-State Agreement and **Resolution #15,541**, and Caltrans Freeway Maintenance Agreement.
RECOMMENDATION: That the City Council:
1. Approve and Authorize the Mayor to execute Master Agreement Administering Agency-State Agreement No. 07-5129S21 for State-Aid Projects (Agreement No. 9550-22-PW);
 2. Adopt **Resolution #15,541** authorizing the Mayor or his or her designee to execute all future project or grant program supplemental agreements and related documents that fall under this Master Agreement; and
 3. Approve and Authorize the Mayor to execute Freeway Maintenance Agreement No. VEN-134101 (Agreement No. 9552-22-PW).
4. Public Works Department
SUBJECT: Agreement A-8422 with Pestmaster Services, L.P. to Provide Gopher Abatement Services.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute Agreement A-8422 with Pestmaster Services, L.P. to provide gopher abatement at multiple City properties for a term of one year beginning April 1, 2022, with a maximum of two (2) one-year extensions ending March 31, 2025, and for a total contract not-to-exceed amount of \$375,000. (Public Works and Transportation Committee approved 3-0.)
5. Public Works Department
SUBJECT: Agreements for On-Call Professional Engineering Services.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the following on-call professional engineering agreements:
1. Agreement A-8432 with Huitt-Zollars, Inc. in the amount not to exceed \$250,000 for a three year term;
 2. Agreement A-8399 with Brown and Caldwell in the amount not to exceed \$750,000 for a three year term;
 3. Agreement A-8410 with Dudek in the amount not to exceed \$1,000,000 for a three year term;
 4. Agreement A-8415 with AECOM Technical Services, Inc. in the amount not to exceed \$500,000 for a three year term;
 5. Agreement A-8417 with Hamner, Jewell & Associates in the amount not to exceed \$500,000 for a three year term;
 6. Agreement A-8435 with Kier & Wright Civil Engineers and Surveyors, Inc. in the amount not to exceed \$500,000 for a three year term;
 7. Agreement A-8423 with Wallace Group in the amount not to exceed \$500,000 for a three year term;
 8. Agreement A-8416 with Pacific Coast Land Design, Inc. in the amount not to exceed \$1,000,000

for a three year term;

9. Agreement A-8419 with KTU&A in the amount not to exceed \$1,000,000 for a three year term;

10. Agreement A-8420 with Cumming Management Group, Inc. in the amount not to exceed \$750,000 for a three year term;

11. Agreement A-8424 with CSG Consultants, Inc. in the amount not to exceed \$500,000 for a three year term; and

12. Agreement A-8421 with Transtech Engineers, Inc. in the amount not to exceed \$500,000 for a three year term.

(Public Works and Transportation Committee approved 3-0)

6. Public Works Department

SUBJECT: State of California Senate Bill 619 **Resolution #15,542** - Notification of Intent to Comply.

RECOMMENDATION: That the City Council adopt **Resolution #15,542** to notify the California Department of Resources Recycling and Recovery (CalRecycle) of the City of Oxnard's intent to comply with Senate Bill 1383 (SB 1383), per the requirements of Senate Bill 619 (SB 619).

(Public Works and Transportation Committee approved 3-0)

7. Housing Department

SUBJECT: Purchase and Sale Agreement between the City of Oxnard and the Oxnard Housing Authority for the sale, in the amount of \$1, of a single-family home located at 3139 J Street.

RECOMMENDATION: 1. That the City Council adopt a resolution authorizing the City Manager or designee to execute and take all needed actions in consultation with the City Attorney relative to entering into a purchase and sale agreement, a regulatory agreement, and a declaration of restrictive covenants by and between the City of Oxnard and the Oxnard Housing Authority for the sale of residential real property located at 3139 J Street.

2. That the Board of Commissioners of the Oxnard Housing Authority adopt a resolution approving and authorizing its Executive Director or designee to execute and take all needed actions in consultation with the Authority's General Counsel relative to entering into a purchase and sale agreement, a regulatory agreement, and a declaration of restrictive covenants by and between the City of Oxnard and the Oxnard Housing Authority for the purchase of residential real properties located at 3139 J Street.

8. Public Works Department

SUBJECT: Aquifer Storage and Recovery (ASR) Completion Project Easement Deed.

RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Grant of Easement to Southern California Edison Company for the property identified by the County Assessor as APN 202-0-010-720, as particularly described in the Easement Deed.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the Capital Improvement Program budget, which was previously approved by the City Council.)

9. Finance Department

SUBJECT: Purchase Order (PO 8173) Increase Request for Tri-County Office Furniture.

RECOMMENDATION: That the City Council authorize the Mayor to execute an amendment for Purchase Order 8173 with Tri-County Office Furniture to increase the Purchase Order by \$300,000 for a total amount not to exceed \$500,000 for the purchase and installation of office furniture.

10. Public Works Department

SUBJECT: Adoption of an Ordinance Repealing and Replacing Chapter 19, Article II, Solid Waste and Recycling.

RECOMMENDATION: That the City Council:

1. Determine that this Ordinance is exempt from California Environmental Quality Act (CEQA) under CEQA Guideline Section 15061 (b)(3), because the enhanced solid waste regulations, as provided for the proposed ordinance, will not have a significant effect on the environment, and the new State mandatory requirements strengthen the City's handling of solid waste, recyclable materials and organic materials for the protection of the environment; and
2. Adopt **Ordinance #3007** repealing and replacing Chapter 19 of the Oxnard City Code relating to solid waste and recycling.

Consent Agenda Item I.7: (Purchase and Sale Agreement between the City of Oxnard and the Oxnard Housing Authority for the sale, in the amount of \$1, of a single-family home located at 3139 J Street.)

This agenda item was pulled from this meeting agenda and will be brought back to Council at the March 15, 2022 Council meeting.

Consent Agenda Item: I.8:

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve Consent Item I.8 as presented. VOTE: Basua, Madrigal, Teran, Lopez, Perello, and Zaragoza voted in favor; motion passed 6-0-1. Mayor Pro Tem MacDonald abstained due to owning property near the location of this project.

Consent Agenda Items: I.1 – I.6 and I.9 – I.10:

It was moved by Councilmember Lopez, seconded by Councilmember Teran, to approve the Information/Consent items I.1 – I.6 and I.9 – I.10 as presented. VOTE: Basua, Madrigal, MacDonald, Teran, Lopez, Perello, and Zaragoza voted in favor, motion passed 7-0.

J. REPORTS

1. Finance Department

SUBJECT: CalPERS Pension Liability Update – Presentation on Unfunded Accrued Liability (UAL), Concept of Restructuring UAL for a Lower Interest Rate and Recommendation to Initiate a Validation Process. (10/20/10)

RECOMMENDATION: That the City Council:

1. Receive a presentation from the City's municipal advisor on the current status and projections for the CalPERS pension program, and discuss the concept of restructuring the City's UAL; and
2. Approve **Resolution #15,543** authorizing the initiation of a validation process and form of Trust Agreement. (Presentation will be live upon consultant's request).

Betsy George, Chief Financial Officer introduced Craig Hill and Mike Meyer with NHA Advisors which presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

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

2. Finance Department

SUBJECT: FY 20-21 Annual Comprehensive Financial Report and Summary Presentation.
(15/15/10)

RECOMMENDATION: That City Council receive the Fiscal Year 2020-21 Annual Comprehensive Financial Report (ACFR) and summary presentation from the City's external financial auditors, Eadie + Payne, LLP.

(Finance and Governance Committee approved 2-0.)

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

Betsy George, Chief Financial Officer introduced Mary L. Maxion, Audit Supervisor and Eden Casareno, Client Service Executive, Auditors with Eadie + Payne LLP, which presented and answered questions. Public comments were received from Ray Blattel. Report was received and filed, no formal action was required.

3. Finance Department

SUBJECT: FY 2021-22 Budget Mid-Year Review. (0/10/5)

RECOMMENDATION: That City Council:

1. Receive an update on the FY 2021-22 revenue and expenditure projections for major funds;
2. Approve a budget appropriation request in the amount of \$1,000,000 to Public Liability Fund (701) and \$162,947 to Workers' Compensation Fund (702) for an overall total appropriation of \$1,162,947;
3. Adopt **Resolution #15,544** approving amendments to the Position Control Resolution; and
4. Adopt **Resolution #15,545** approving amendments to the Classification and Salary Schedule Resolution.

Betsy George, Chief Financial Officer and Steve Naveau, Human Resources Director presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

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

4. City Manager Department

SUBJECT: Update on Status and Accomplishments of Current Measure O Projects and Opening the Conversation regarding the Weaning Schedule. (0/10/10)

RECOMMENDATION: That the City Council:

1. Receive and file the annual update; and
2. Open the conversation regarding the Measure O weaning schedule.

Shiri Klima, Deputy City Manager gave a report and answered Council's questions. No public comments were

received. Discussion ensued among the Council and staff. Report was received and filed, no formal action was required.

5. City Attorney Department

SUBJECT: Introduction of **Ordinance #3008** Amending Oxnard City Code Section 2-2.5. Regarding the Boundaries and Identifying Number of Each City Council District. (5/10/10)

RECOMMENDATION: That the City Council introduce **Ordinance #3008** for first reading (by title only, waiving further reading) that amends Oxnard City Code Section 2-2.5. regarding the boundaries and identifying number of each City Council district.

Kenneth Rozell, Chief Assistant City Attorney presented and answered questions. No public comments were received. Discussion ensued among the Council and staff.

It was moved by Councilmember Perello, seconded by Councilmember Lopez, to approve the recommended action as presented. VOTE: Perello, Teran, Zaragoza, Basua, Lopez, MacDonald voted in favor; Madrigal voted against; motion passed 6-1.

K. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Zaragoza adjourned the meeting at 9:01 p.m.

ROSE CHAPARRO

City Clerk

JOHN C. ZARAGOZA

Mayor



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

DATE: March 29, 2022

TO: City Council

FROM: Alexander Hamilton, Fire Chief, (805) 385-7700, alexander.hamilton@oxnard.org

SUBJECT: Purchase Order with Stryker Medical for \$335,137.99.

RECOMMENDATION

That City Council authorize the Mayor to sign a Purchase Order with Stryker Medical for \$335,137.99 to purchase seven (7) Lifepak 15 monitors/defibrillators and twelve (12) Lifepak 1000 defibrillators.
(The Community Services, Public Safety, Housing & Development Committee approved 3-0 on March 8, 2022.)

BACKGROUND

On February 16, 2021 City Council authorized the submission of six (6) applications to Federal Emergency Management Assistance (FEMA) Assistance to Firefighters Grant (AFG). The Council approved application for the purpose of procuring seven (7) medic monitors and twelve (12) automatic external defibrillators (AED) was funded on August 10, 2021. The medic monitors are electrocardiography (EKG) monitors with defibrillators that are used by paramedics. The addition of seven (7) monitors will allow the Department to place a monitor on every frontline engine improving public safety with advanced lifesaving technology available for all responses. The AEDs will be placed on staff and auxiliary vehicles that are not currently equipped with defibrillators.

DISCUSSION:

FEMA has awarded the City of Oxnard \$335,000 for the purchase of monitors and AEDs. The City currently has six (6) Lifepak 15 monitors/defibrillator units in service as part of the First Responder ALS Program. As part of the anticipated ambulance program the city purchased an additional eight (8) Lifepak 15 (LP15) units. The City has also purchased, and placed into service twenty-three (23) Lifepak 1000 (LP1000) AEDs for use on all fire department vehicles to support its basic life support mission.

Utilization of the LP15 and LP1000 devices has distinct benefits. Both devices utilize the same disposable components such as defibrillator pads. This allows for rapid transition and minimum interruption to CPR when transitioning from basic to advanced life support during a cardiac arrest. The standardization of disposable medical equipment also results in easier logistical support and cost savings through the reduced cost of battery replacements and improved pricing via bulk purchasing of defibrillator pads.

Standardization of both devices also enhances the continuous quality improvement of EMS care. Prior to standardization, all post-incident case data from basic and advanced life support providers was sent to different databases. This created additional workflow issues and difficulty in case review by forcing staff to reconcile or merge cases by hand. This data log jam also resulted in issues with distribution of case info to local regulatory oversight agencies. Both the LP15 and LP1000 transmit post incident data to the same data base, allowing for easier case merge, reconciliation and case review. This data is also reconciled with other intervention data such as the LUCAS automatic CPR device.

For interoperability and standardization purposes, the Fire Department would like to use regional grant funds allocated to the purchase of additional AED and monitors to purchase Lifepak 15 monitors and Lifepak 1000 AED. Stryker Medical

is the sole reseller of Lifepak products for the Oxnard area. The quote provided by Stryker Medical is less than the General Services Administration (GSA) price.

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

The grant award is \$335,000, including a local match requirement of 10%. The balance of \$137.99 will be paid with Fire Department General Fund Operating Budget, account 101-2201-802.81-04

COMMITTEE OUTCOME

The Community Services, Public Safety, Housing & Development Committee approved 3-0 on March 8, 2022 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Amy Van Atta, Management Analyst II, Jaime Villa, EMS Coordinator

ATTACHMENTS

1. Stryker Medical Quote
2. Purchase Order Stryker Medical



AFG- Lifepak 15 and Lifepak 1000

Quote Number: 10439655

Remit to:

Stryker Medical

P.O. Box 93308

Chicago, IL 60673-3308

Version: 1

Prepared For: CITY OF OXNARD FIRE

Rep:

Shereen Setaghaian

Attn:

Email:

shereen.setaghaian@stryker.com

Phone Number:

Quote Date: 10/07/2021

Expiration Date: 4/04/2022

Delivery Address

Name: CITY OF OXNARD FIRE

Account #: 1061456

Address: 360 W SECOND ST

OXNARD

California 93030-5650

End User - Shipping - Billing

Name: CITY OF OXNARD FIRE

Account #: 1061456

Address: 360 W SECOND ST

OXNARD

California 93030-5650

Bill To Account

Name: CITY OF OXNARD FIRE

Account #: 1061456

Address: 360 W SECOND ST

OXNARD

California 93030-5650

Equipment Products:

#	Product	Description	Qty	Sell Price	Total
1.0	99577-001957	LIFEPAK 15 V4 Monitor/Defib - Manual & AED, Trending, Noninvasive Pacing, SpO2, SpCO, NIBP, 12-Lead ECG, EtCO2, BT. Incl at N/C: 2 pr QC Electrodes (11996-000091) & 1 Test Load (21330-001365) per device, 1 Svc Manual CD (26500-003612) per order	7	\$27,551.17	\$192,858.19
2.0	41577-000288	Ship Kit -QUIK-COMBO Therapy Cable; 2 rolls100mm Paper; RC-4, Patient Cable, 4ft.; NIBP Hose, Coiled; NIBP Cuff, Reusable, adult; 12-Lead ECG Cable, 4-Wire Limb Leads, 5ft; 12-Lead ECG Cable, 6-Wire Precordial attachment	7	\$0.00	\$0.00
3.0	21330-001176	LP 15 Lithium-ion Battery 5.7 amp hrs	14	\$321.10	\$4,495.40
4.0	11171-000049	Masimo™Rainbow™ DCI Adult Reusable SpO2, SpCO, SpMet Sensor, 3 FT. For use with RC Patient Cable.	7	\$416.00	\$2,912.00
5.0	11171-000046	Masimo™M-LNCS® DCI, Adult Reusable SpO2 only Sensor. For use with RC Patient Cable.	7	\$195.65	\$1,369.55
6.0	11160-000013	NIBP Cuff-Reusable, Child	7	\$16.90	\$118.30
7.0	11160-000017	NIBP Cuff -Reusable, Large Adult	7	\$23.40	\$163.80
8.0	11160-000019	NIBP Cuff-Reusable, Adult X Large	7	\$33.15	\$232.05
9.0	11577-000002	LIFEPAK 15 Basic carry case w/right & left pouches; shoulder strap (11577-000001) included at no additional charge when case ordered with a LIFEPAK 15 device	7	\$219.05	\$1,533.35
10.0	11220-000028	LIFEPAK 15 Carry case top pouch	7	\$39.65	\$277.55
11.0	11260-000039	LIFEPAK 15 Carry case back pouch	7	\$56.55	\$395.85



AFG- Lifepak 15 and Lifepak 1000

Quote Number: 10439655

Remit to:

Stryker Medical

P.O. Box 93308

Chicago, IL 60673-3308

Version: 1

Prepared For: CITY OF OXNARD FIRE

Rep:

Shereen Setaghaian

Attn:

Email:

shereen.setaghaian@stryker.com

Phone Number:

Quote Date: 10/07/2021

Expiration Date: 4/04/2022

#	Product	Description	Qty	Sell Price	Total
12.0	11996-000480	4G Titan III Trio Modem: Verizon or AT&T WiFi/Cellular/Audio (audio on/off configurable by customer), for use with customer data plan. Customer will obtain SIM card to configure for Verizon or AT&T	7	\$2,295.00	\$16,065.00
13.0	99425-000025	LIFEPAK 1000 ECG Display w/Carry Case. Incl at N/C: Battery 11141-000156, Carry Case Strap 11425-000012, 2 pr/unit QC REDI-PAK Electrodes 11996-000017, 3 Wire Monitor Cable 11111-000016, Acc Pouch 11111-000016 & LIFEPATCH ECG electrodes 3/pk 11100-000001	12	\$3,082.50	\$36,990.00
14.0	41425-000034	Ship Kit - Literature, LP1000, W RCHG, English	12	\$0.00	\$0.00
15.0	11996-000017	Electrode QUIK-COMBO w/REDI-PAK preconnect	12	\$27.95	\$335.40
Equipment Total:					\$257,746.44

ProCare Products:

#	Product	Description	Qty	Sell Price	Total
18.1	78000008	ProCare LIFEPAK 15 Prevent Service: Annual onsite preventive maintenance inspection and unlimited repairs including parts, labor and travel with battery coverage for LIFEPAK 15 V4 Monitor/Defib - Manual & AED, Trending, Noninvasive Pacing, SpO2, SpCO, NIBP, 12-Lead ECG, EtCO2, BT. Incl at N/C: 2 pr QC Electrodes (11996-000091) & 1 Test Load (21330-001365) per device, 1 Svc Manual CD (26500-003612) per order	7	\$7,650.00	\$53,550.00
ProCare Total:					\$53,550.00



AFG- Lifepak 15 and Lifepak 1000

Quote Number: 10439655

Version: 1

Prepared For: CITY OF OXNARD FIRE

Attn:

Remit to: **Stryker Medical**

P.O. Box 93308

Chicago, IL 60673-3308

Rep: Shereen Setaghaian

Email: shereen.setaghaian@stryker.com

Phone Number:

Quote Date: 10/07/2021

Expiration Date: 4/04/2022

Price Totals:

Estimated Sales Tax (0.000%):	\$23,841.55
Freight/Shipping:	\$0.00
Grand Total:	\$335,137.99

Comments:

Meets Federal Supply Schedule Price

Prices: In effect for 90 days

Terms: Net 30 Days

Contact your local Sales Representative for more information about our flexible payment options.

Capital Terms and Conditions:

Deal Consummation: This is a quote and not a commitment. This quote is subject to final credit, pricing, and documentation approval. Legal documentation must be signed before your equipment can be delivered. Documentation will be provided upon completion of our review process and your selection of a payment schedule. Confidentiality Notice: Recipient will not disclose to any third party the terms of this quote or any other information, including any pricing or discounts, offered to be provided by Stryker to Recipient in connection with this quote, without Stryker's prior written approval, except as may be requested by law or by lawful order of any applicable government agency. A copy of Stryker Medical's Acute Care capital terms and conditions can be found at https://techweb.stryker.com/Terms_Conditions/index.html. A copy of Stryker Medical's Emergency Care capital terms and conditions can be found at <https://www.strykeremergencycare.com/terms>.

PENDING APPROVAL



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

**PURCHASE
ORDER NO.
008530**

DATE: 2/24/2022

VENDOR PHONE: (800)733-2383
VENDOR FAX: (369)389-5550
VENDOR #: 10579
VENDOR ADDRESS: STRYKER FLEX FINANCIAL
3800 EAST CENTRE AVE
PORTAGE, MI 49002

SHIP TO: FIRE DEPT
360 W. 2ND ST.
OXNARD, CA 93030

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
02/10/2022		0000005934	02/10/2022	ANTONIO CORTEZ	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		Multiple Accounts		PATRICIA GARCIA	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

1	287,000.00 / DL	7 LIFEPAK 15 & ACCESSORIES	1.0000	287,000.00
2	48,000.00 / DL	12 LIFEPAK 1000 WITH ACC AND CASE	1.0000	48,000.00
3	137.99 / DL	COST NOT COVERED BY GRANT	1.0000	137.99

DELIVERY BY COMMON CARRIER
CONFIRM REMIT ADDRESS IS PO BOX 93308, CHICAGO
IL 60673-3308
COMMITTEE DATE 3/8/22 COUNCIL DATE 3/29/22

By acceptance of this purchase order, you agree 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.
008530**

DATE: 2/24/2022

VENDOR PHONE: (800)733-2383

VENDOR FAX: (369)389-5550

VENDOR #: 10579

VENDOR ADDRESS: STRYKER FLEX FINANCIAL
3800 EAST CENTRE AVE
PORTAGE, MI 49002

SHIP TO: FIRE DEPT
360 W. 2ND ST.
OXNARD, CA 93030

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
02/10/2022		0000005934	02/10/2022	ANTONIO CORTEZ	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		Multiple Accounts		PATRICIA GARCIA	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

NO BTC RQRD*AM

CIVIC CLERK 2022-1799

NSS 21-183 NTE \$335,137.99 ONE TIME PURCHASE.

TOTAL PURCHASE AMOUNT

\$335,137.99

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

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

AUTHORIZED SIGNATURE. _____
John C. Zaragoza, Mayor

By acceptance of this purchase order, you agree 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.
008530**

DATE: 2/24/2022

VENDOR PHONE: (800)733-2383

VENDOR FAX: (369)389-5550

VENDOR #: 10579

VENDOR ADDRESS: STRYKER FLEX FINANCIAL
3800 EAST CENTRE AVE
PORTAGE, MI 49002

SHIP TO: FIRE DEPT
360 W. 2ND ST.
OXNARD, CA 93030

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

DELIVER BY		REQUISITION #	REQUISITION DATE	CONFIRMED BY	
02/10/2022		0000005934	02/10/2022	ANTONIO CORTEZ	
FOB		ACCOUNT NUMBER		AUTHORIZED BY	
		Multiple Accounts		PATRICIA GARCIA	
ITEM #	QUANTITY/ UNIT	DESCRIPTION ARTICLE OR SERVICE		UNIT COST	EXTENDED COST

Account	Project	Amount
23822218028606	772294	287,000.00
23822218028105	772294	48,000.00
10422088028104	MO2209	137.99

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. J.3

DATE: March 29, 2022
TO: City Council
FROM: Betsy George, Chief Financial Officer, (805) 200-5400, betsy.george@oxnard.org
SUBJECT: Annual Accounts Receivable Write-Off Report.

RECOMMENDATION

That the City Council receive the Annual Accounts Receivable Write-Off Report.
(The Finance and Governance Committee approved 3-0 on February 22, 2022)

BACKGROUND

It is the policy of the City of Oxnard to actively pursue collection of past-due accounts receivable, regularly review the status of past-due accounts, and write off (on an annual basis at fiscal year end, unless definitively deemed uncollectible during the year) amounts determined to be uncollectible. After exhausting reasonable efforts to collect past due accounts, the department providing the services for which the debt is owed sends a ten-day collection notice. Debts that remain uncollected after the ten-day response period are submitted to the City's debt collection vendor. Collection efforts continue to be performed until the statute of limitations expires. Collection efforts may end prior to the statute of limitations expiring if bankruptcy has been discharged for the account, a business no longer exists, or an individual is deceased.

Acceptable reasons for writing off a receivable account include:

- **Discharged Bankruptcy.** The account has been discharged through bankruptcy court, and the file has been noted with the date filed, number, court district, and date of discharge.
- **Deceased.** The debtor is deceased with no estate.
- **Invalid Referral.** The account was assigned in error. A billing should not have been generated.
- **No Judgment.** The debt was reviewed by a court, and the court determined that the debt could not be substantiated.
- **Statute of Limitations.** The statute of limitations has expired (usually after four years for General Billing and two years for Utility Billing) without payment or promise of payment since the last transaction date.
- **Amount Does Not Warrant Further Effort.** No response to demand for payment. Further pursuit would not be cost effective.

Resolution No. 15,281, which was adopted on November 19, 2019, established that writing off accounts receivable must be approved by the City Council, except when the amount of any individual account is less than \$25,000, in which case the City Manager may approve the charge off.

DISCUSSION

During a detailed review by the Finance Department of the City's accounts receivable aging, 1,019 customer accounts totaling \$419,645.73 were identified that are deemed uncollectible as the statute of limitations has expired. 529

individual Utility Billing accounts (Water, Wastewater, and Environmental Resource) represent \$246,491.36 of the total, and 490 individual General Billing accounts (such as DUIs, false alarms, and property damage) represent the remaining \$173,154.37.

Extensive collection efforts were made on these accounts by the Finance Department, Billing & Licensing Department, City Attorney's Office, and FEDChex (the City's collection vendor). Examples of the City's collection efforts include mailing notices, deploying door hangers, terminating services, sending out 10-days-to-pay notices, pursuing unpaid amounts in small claims court, and referring accounts to the City's collection vendor.

On December 27, 2021, the City Manager approved the write-off of uncollectible receivables from General Billing, representing 490 individual accounts each below \$3,800 that are past due by four years. The total value of these General Billing accounts is \$173,154.37.

On June 28, 2021, the City Manager approved the write-off of up to 541 accounts totaling \$248,094.55 in uncollectible Water, Wastewater and Environmental Resources receivables with individual balances below \$25,000. The actual amount of utility accounts written-off was \$246,491.36, representing 529 accounts with individual balances below \$25,000 that are past due by two years. The write-off amount decreased by 12 accounts totaling \$1,603.19 as additional payments were collected after the list and memo were presented to the City Manager for approval.

A write-off of uncollectible accounts receivable from the City's accounting records does not constitute forgiveness of the debt or a gift of public funds. For any account written off, customer information will be retained in the accounts receivable module in order to have continued enforcement of service denied on credit until previously written-off balances have been paid in full. If an account was mistakenly written off or a previously uncollectible amount is received after being written off, the account may be reactivated.

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 in Fiscal Year 2021-22 as an allowance for doubtful accounts has been established in prior fiscal years for these delinquent accounts.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on February 22, 2022, to approve the staff recommendation and to present the report to Council.

Prepared by: Betsy George, Chief Financial Officer, Eden Alomeri, Billing and Licensing Director

ATTACHMENTS

1. CM Authorized Billing & Licensing Write-Offs_Jun 28 2021
2. CM Authorized Finance Department Write-Offs_Dec 27 2021

MEMO



June 28, 2021

TO: Alexander Nguyen, City Manager

VIA: Shiri Klima, Deputy City Manager

FROM: Eden Alomeri, Assistant City Treasurer/Dir. Of Revenue and Licensing *Edomeri*

SUBJECT: Bad Debts Write Off for Fiscal Year Ending June 30, 2021

This is to request your approval to write off the amounts deemed uncollectible from Water, Wastewater and Environmental Resources customer accounts. Each year, accounts that remain dormant and unpaid for the past 2 years after actively pursuing collections are written off in accordance with Resolution No. 15,281. Collection efforts include the following actions (Item D-23 in Administrative Manual):

1. Mailing 3 notices to customer of record.
2. Leaving a door hanger at the service location.
3. Terminating water supply and/or removing refuse containers after 60 days of being past due.
4. Terminating the account and sending a final notice.
5. Sending a letter signed by City Attorney informing customer of potential legal action.
6. Submitting the account to a third party collection agency contracted by the city to perform the final attempt to collect (FEDChex Recovery LLC).

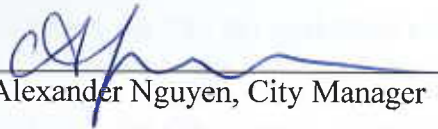
The attached two lists have a combined 541 accounts with balances below the \$25,000 threshold, in which case, City Manager is delegated the authority to approve the charge off. The total amount recommended for write off is **\$248,094.55**. However, this amount can be reduced if more payments are collected for any of the accounts on the list.

For reference, the table below shows the amount written off in the past 3 years:

Fiscal Year End	Amount Written Off
6/30/2020	\$ 193,439.71
6/30/2019	\$ 187,787.50
6/30/2018	\$ 142,132.51

A charge off of uncollectible accounts receivable from the City's accounting records does not constitute forgiveness of the debt or a gift of public funds.

Approved:


Alexander Nguyen, City Manager

Attachment: Resolution 15,281
Administrative Manual D-23 Debt Collection Policy

WRITE OFF (Accounts Terminated Through 6/30/19)

CODE	REVENUE ACCOUNT #	RECEIVABLE ACCT #	WRITE OFF ACCOUNT #	DESCRIPTION	AMOUNT
CI	10115045717482	10100001011300	10100001011300	CITY ATTORNEY INTERESTS	-
AS	10115048018209	10100001011300	10100001011300	CITY ATTORNEY SVCS	-
BC	10112015517312	10100001011300	10100001017100	RETURNED CHECK FEE	402.00
CI	10115045717482	10100001011300	10100001011300	CITY ATTY INTERESTS	-
CC	10115048018209	10100001011300	10160108468378	COURT COSTS	-
VC	10115048018209	10100002015600	10100002015600	VENTURA CO COURT FEE	60.00
Subtotal General Fund					462.00
AW	60160106117603	60100001011300	60160108468378	WATER- AGRICULTURAL	-
BF	60860156117615	60800001011300	60860158468378	BACKFLOW DEVICE	728.00
BL	60160106117612	60100001011300	60160108468378	BROKEN LOCK FEE	-
CA	60160106117612	60100001011300	60160108468378	CALLEGUAS ANNEX FEE	-
CF	60160106117612	60100001011300	60160108468378	TURN OFF NOTICE	11,078.77
CW	60160106117603	60100001011300	60160108468378	WATER - COMMERCIAL	-
ES	60160106117601	60100001011300	60160108468378	EL RIO SURCHARGE	-
CW	60160106117603	60100001011300	60160108468378	WATER- COMMERCIAL	11,767.84
FH	60160106117603	60100001011300	60160108468378	WATER - FIRE HYDRANT	-
FL	60160106117604	60100001011300	60160108468378	WATER - FIRE LINE	574.54
FW	60160106117612	60100001011300	60160108468378	WATER-FLAT RATE	-
MR	60160106117612	60100001011300	60160108468378	METER INSTALL FEE	960.00
MW	60160106117602	60100001011300	60160108468378	WATER - MULTI FAMILY RES	1,640.55
PF	60860156117614	60800001011300	60860158468378	SECURITY PREVENTION	-
RW	60160106117601	60100001011300	60160108468378	WATER - SINGLE FAM RES	53,528.76
TA	60160106117635	60100001011300	60160108468378	TURN ON AFTER HOURS	260.00
TO	60160106117612	60100001011300	60160108468378	TURN ON FEE	13,403.14
UD	60100002011600	60100001011300	60160108468378	UTILITY DEPOSIT	-
UT	60160106117612	60100001011300	60160108468378	UNAUTHORIZED T/ON	-
WA	60160106117601	60100001011300	60160108468378	WATER- METERED	4,878.66
WC	60100001012900	60100001011300	60160108468378	WATER WRITE OFFS	-
WP	60160106117612	60100001011300	60160108468378	PENALTY - WATER	5,204.95
Subtotal Water					104,025.21
CS	61161066127654	61100001011300	61161068468378	SEWER - COMMERCIAL	1,328.04
CL	61161066127656	61100001011300	61161068468378	SEWER - COMMERCIAL LDR	4,399.59
FS	61161066127655	61100001011300	61161068468378	SEWER - RESTAURANT	1,071.99
IS	61161066127653	61100001011300	61161068468378	SEWER - IND. FORMULA	-
MS	61161066127652	61100001011300	61161068468378	SEWER - MULTIPLE UNIT	1,218.58
OS	61161066127651	61100001011300	61161068468378	SEWER- OUTSIDE CITY	692.57
RS	61161066127651	61100001011300	61161068468378	SEWER- RESIDENTIAL	68,508.00
SC	61100001012900	61100001011300	61161068468378	SEWER - WRITE OFFS	-
SP	61161066917461	61100001011300	61161068468378	PENALTY - SEWER	5,534.98
Subtotal Wastewater					82,753.75
2R	63163086147701	63100001011300	63163088468378	2 CU YD RECYCLE CONT	172.64
4R	63163086147702	63100001011300	63163088468378	4 CU YD RECYCLE CONT	-
20	63163096147706	63100001011300	63163098468378	20 YD COMPACTOR	-
40	63163096147707	63100001011300	63163098468378	40 CU YD CONTAINER	2,688.37
D1	63163086147701	63100001011300	63163088468378	2 CU YD CONTAINER	5,347.58
D2	63163086147702	63100001011300	63163088468378	4 CU YD CONTAINER	3,167.82
D3	63163096147707	63100001011300	63163098468378	10 CU YD CONTAINER	115.71
D8	63163096147706	63100001011300	63163098468378	30 CU YD CONTAINER	-
D9	63163096147707	63100001011300	63163098468378	13.4 CU YD CONTAINER	-
EC	63163076147718	63100001011300	63163078468378	EXTRA CONTAINER FEE	1,181.07
EP	63163076147723	63100001011300	63163098468378	AUTO EXTRA PICK UP	206.55
H3	63163086147704	63100001011300	63163088468378	HAND LOAD TO 35 GAL	2,416.10
RP	63163076917461	63100001011300	63163078468378	PENALTY - REFUSE	4,609.36
RQ	63163086917461	63100001011300	63163088468378	REFUSE-CONT REMOVAL	320.00
C1	63163076917523	63100001011300	63163078468378	CHANGE OF SERVICE - RES	-
C2	63163086917523	63100001011300	63163098468378	CHANGE OF SERVICE - COM	-
RC	63100001012900	63100001011300	63163098468378	REFUSE - WRITE OFF	-
RT	63163076147726	63100001011300	63163078468378	REFUSE - RESIDENTIAL	25,812.58
R2	63163096147732	63100001011300	63163098468378	CONT RENT 13.4 CU YD	-
R3	63163096147732	63100001011300	63163098468378	CONT RENT 30 CU YD	-
T1	63163096147724	63100001011300	63163098468378	ROLL-OFF TONNAGE	7,088.50
T2	63163096147708	63100001011300	63163098468378	30-40 YD TONNAGE	-
T3	63163096147709	63100001011300	63163098468378	10-13 YD TONNAGE	-
X1	63163086147721	63100001011300	63163088468378	SPC PU 2 - 8 CU YD	-
X2	63163096147722	63100001011300	63163098468378	SPC PU 13.4 - 30 YD	5,936.00
X3	63163076147723	63100001011300	63163078468378	SPECIAL PICKUP - RES	188.00
RF	63863156117614	63800001011300	63863158468378	SEC PREVENTION REFUSE	0.12
Subtotal Environmental Res					59,250.40

*****Posted to GL on 6/29/2021*****

GRAND TOTAL 246,491.36

MEMO



December 27, 2021

TO: Alexander Nguyen, City Manager
VIA: Betsy George, Chief Financial Officer
Jennifer Hiraoka, Controller
FROM: Ruben Cabrera, Accountant

SUBJECT: Delinquent Accounts Over Four Years Old – Write Off Proposal

In accordance with Resolution No. 15,281, this memo is to request your approval to write-off General Billing accounts deemed uncollectible. Resolution No. 15,281, which was adopted on November 19, 2019, established that writing-off Accounts Receivable must be approved by the City Council, except when the amount of any individual account is less than \$25,000, in which case the City Manager may approve the charge off.

All accounts included in this request are all less than \$25,000 and deemed acceptable for write-off, per the City's Accounts Receivable and Bad Debt Policy and Procedures (Administrative Manual, Section D-23). Each remains unpaid after 4 years of actively pursuing collections, therefore, the statute of limitations has expired.

Conforming to the City's Accounts Receivable and Bad Debt Policy and Procedures substantial collection efforts have been undertaken by staff and the City's contracted collection agency. A write-off of an uncollectible accounts receivable from the City's accounting records does not constitute forgiveness of the debt or a gift of public funds. Payments may be collected for any payments on the list.

The attached list of accounts deemed uncollectable contains 490 delinquent accounts. The total amount recommended for write-off is \$173,154.37 and consists of 458 invoices between \$0.01 - \$999.99 and 32 invoices between \$1,000.00 - \$3,758.40.

Invoice Category	Count	Amount
Catering Fees	6	\$1,344.00
Code Enforcement	344	\$99,130.88
Emergency Response	93	\$67,177.32
Property Damage	6	\$1,602.17
Waste Water (Permits and Other One-Time Fees)	41	\$3,900.00

☒ Approved
☐ Disapproved

X 

Alexander Nguyen
City Manager

Attachment: List of invoices sorted from highest dollar value to lowest dollar value



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

DATE: March 29, 2022
TO: City Council
FROM: Jason Benites, Police Chief, (805) 385-7624, jason.benites@oxnardpd.org
SUBJECT: Second Amendment to Enterprise Lease Agreement.

RECOMMENDATION

That City Council approve and authorize the Mayor to execute a second amendment to Agreement A-8136 with Enterprise Fleet Management, Inc. (Enterprise), for vehicle leases, increasing the value of the agreement from \$4,100,000 to not exceed \$6,795,000 for the term of the agreement, which expires on December 1, 2025. (The Public Safety Committee reviewed the item on February 22, 2022 and forwarded the item to City Council for review and approval.)

BACKGROUND

On June 18, 2019, City Council approved an agreement (A-8136) with Enterprise Fleet Management, Inc. to lease vehicles for the Police Department's Investigative and Administrative Services Bureaus. Currently, thirty-seven (37) of the Police Department's vehicles are leased through this agreement. The budgeted amount for the lease agreement was \$225,000 annually for three (3) years, not to exceed \$675,000, and is valid through June 30, 2022.

On March 17, 2020, the City Council approved the first amendment to Agreement A-8136, which increased the agreement's value from \$675,000 to \$4,100,000. In addition, the first amendment authorized all City departments to utilize current vehicle replacement funds for leasing or future leasing of vehicles and extended the agreement's term to December 1, 2025.

This second amendment to Agreement A-8136 will increase the value of the agreement by \$2,695,000, from \$4,100,000 to not exceed \$6,795,000 for the term of the agreement. The increase of \$2,695,000 will be used to lease all Police Department vehicles through the Enterprise Agreement. This will expand to include patrol cruisers and other support vehicles. The funds would be used and dispersed as follows:

Field Services Bureau	Investigative/Administrative Services Bureau	FY Total
FY 21-22 - \$505,000	FY 21-22 - \$225,000* *Already in PD Budget	\$505,000
FY 22-23 - \$505,000	FY 22-23 - \$225,000	\$730,000
FY 23-24 - \$505,000	FY 23-24 - \$225,000	\$730,000
FY 24-25 - \$505,000	FY 24-25 - \$225,000	\$730,000
	Total	\$2,695,000

For the last ten years, the Police Department has been leasing vehicles through Enterprise Fleet Management, Inc. The Police Department has a fleet of thirty-seven (37) leased vehicles assigned to the Investigative and Administrative Services Bureaus. The Enterprise lease agreement has allowed the Police Department to lease vehicles on a two to four-year cycle instead of purchasing the vehicles. The ability to lease these vehicles has created a healthy fleet of vehicles and provided flexibility in exchanging vehicles. The current lease budget for the Investigative and Administrative Services Bureaus is \$225,000 (annually), not to exceed \$675,000 for three (3) years.

Based on the Police Department's success in leasing police vehicles for the Investigative and Administrative Services Bureaus, the Police Department intends to use the Enterprise agreement to lease patrol vehicles for the Field Services Bureau. The Police Department currently has a fleet of approximately 40 vehicles that are primarily used for patrol duties. Of these 40 vehicles, eight (8) have over 100,000 miles, and another (12) vehicles have over 90,000 miles. A majority of the vehicles designated for patrol duties are 3-5 years old. The City's vehicle purchasing guidelines recommended service life for vehicles is 100,000 miles or four years.

Once a patrol vehicle has met the threshold of 100,000 miles or four years, the vehicle's reliability comes into question, and the repair costs generally increase. In addition, vehicle parts have become scarce and expensive. For older vehicles, the cost of repairing the vehicle can far exceed its worth. As a result, the current status of the Police Department's patrol fleet can be described as in need of rehabilitation.

It is essential for the Police Department to have a comprehensive vehicle replacement plan to maintain a safe, healthy, and reliable patrol fleet. This proposed vehicle replacement plan includes leasing vehicles from Enterprise Fleet Management. The following is a vehicle replacement plan for the next three (3) fiscal years:

- FY 21-22 - Twelve (12) patrol vehicles, three (3) supervisor patrol vehicles, and one (1) patrol support truck.
- FY 22-23 - Twelve (12) patrol vehicles, two (2) supervisor patrol vehicles, and two (2) patrol support vehicles.
- FY 23-24 - Ten (10) patrol vehicles and five (5) patrol support vehicles.

Vehicles leased in FY 22-23 and FY 23-24 are subject to change based on the availability of vehicles and the Department's needs. Vehicles leased through Enterprise will replace vehicles with high mileage and vehicles that are deemed a "total loss" due to major mechanical issues or inoperable due to traffic collisions.

The chart below is based on a 48-month Enterprise lease agreement of twelve (12) patrol vehicles, three (3) supervisor vehicles, and one (1) patrol support truck. The costs include outfitting the patrol vehicles, mobile data computer (MDC) purchases, and police radios. The last two columns show the difference in cost to lease vehicles versus the outright cost to purchase vehicles. The proposed delivery date of the vehicles is in April or May of 2022.

Vehicle Type	Year 1 total cost (includes MDC, radio and outfitting)	Year 2 lease cost	Year 3 lease cost	Year 4 lease cost	End of the lease cost	Total cost at the end of the 4-year lease	Total purchase cost (includes MDC, radio and outfitting)
Patrol vehicles (12)	\$294,614.52	\$177,238.08	\$177,238.08	\$177,238.08	\$5,700	\$832,028.76 (\$69,335.73 per vehicle)	\$863,720.76 (\$71,976.73 per vehicle)
Supervisor vehicles (3)	\$82,008.96	\$45,360.36	\$45,360.36	\$45,360.36	\$1,425.00	\$219,515.04 (\$73,171.68 per vehicle)	\$227,538.00 (\$75,846.00 per vehicle)
Patrol support truck (1)	\$9,740.16	\$5,809.56	\$5,809.56	\$5,809.56	\$450.00	\$27,618.84	\$31,117.46
Totals	\$386,363.64	\$228,408.00	\$228,408.00	\$228,408.00	\$7,575.00	\$1,079,162.64	\$1,122,376.22

Having a healthy and reliable patrol fleet is critical for the Police Department's ability to serve the community. Police officers need to respond to emergencies in our community. They need to do so in vehicles that are safe, dependable, and are able to perform at an optimum level during critical and high-risk situations. A stable and reliable patrol fleet will help the Police Department meet City Council's 2021-2025 established priorities of *Maintaining 911 safety/emergency response times*. Utilizing the Enterprise Fleet Management lease program would allow the Police Department to replace dilapidated patrol vehicles consistently and provide a healthy patrol fleet for more reliable service delivery to our community. Additional benefits include:

- Lower upfront costs and reduced monthly expenses.
- The ability to add and remove vehicles easily to meet changing needs and priorities.
- Newer vehicles require less maintenance, reduced maintenance costs, and reduced purchasing of vehicle parts.
- The ability to add modern vehicles that have the latest safety technology and safety equipment.

During the FY 21-22 budget approval process, Oxnard City Council approved \$505,000 to be used by the Police Department to lease patrol vehicles through the Enterprise Fleet Management agreement. Therefore, it is requested that the approved and encumbered \$505,000 be added to agreement A-8136 (PO 007364).

STRATEGIC PRIORITIES

This agenda item supports the 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 the health of our community.

FINANCIAL IMPACT

The second amendment to the Enterprise Lease Agreement (A-8136) will increase the current agreement by \$2,695,000 for a new contract value to not exceed \$6,795,000. This increased value of \$2,695,000 includes an estimated cost of \$2,020,000 for four years (\$505,000 annually) to be used by the Police Department to lease vehicles for the Field Services Bureau and \$675,000 (\$225,000 annually beginning in FY 22-23) to lease vehicles for the Investigative and Administrative Services Bureaus. There are sufficient funds budgeted for FY 21-22 in the General Fund for Field Services (\$505,000 in 101-2101-802-8321). Future years' funding will be included in the recommended budget for each fiscal year.

COMMITTEE OUTCOME

The Public Safety Committee reviewed the item on February 22, 2022, and forwarded the item to City Council for review and approval.

Prepared by: Alex Arnett, Police Commander

ATTACHMENTS

1. Second Amendment to Enterprise Lease Agreement Review Form
2. Second Amendment to Enterprise Lease Agreement Presentation

AGREEMENT/AMENDMENT REVIEW FORM
Please write in N/A for any section that is not applicable

Contractor/Vendor/Consultant: Enterprise Fleet Management, Inc. (EFM) **Agreement No:** A-8136
Address: P.O. Box 800089, Kansas City, MO 64180-0089
Contact Name: Kelsey L. Curran **Email:** Kelsey.L.Curran@efleets.com **Phone:** (239) 738-2017 **INS-** 1
Committee Date: 2/22/2022 **Council Date:** 3/29/2022
Committee Agenda #: **Council Agenda #:**

Department: Police **Contingency Requested:** \$ N/A
Project Manager: Alex Arnett **EISPM Funds ¹ Requested:** \$ N/A
Phone: 805-385-7619 **Value of Agreement :** \$ 4,100,000
Email: Alex.arnett@oxnardpd.org **Amendment No:** 2
Type of Agreement: PSA **Value of Amendment:** \$ 2,695,000
Business Tax Cert No. **Current Agr. Val. (w/amendments)** \$ 6,795,000
Secretary of State ID: C3012061 **P.O. No. (if existing agreement):** 7364
Agreement Term: 6 years **Req. No. (if new agreement):** N/A
Termination Date: 12/1/2025 **Funding Source:** Citywide (General Funds for Police)
Bid No.: **Account No. ²:** TBD
NSS Control #: N/A

Purpose of Agreement/Amendment: Vendor to provide citywide vehicle leasing for City of Oxnard.

Review Sequence (please write in N/A for any steps not required)

1. Project Manager
2. Division Manager
3. Assistant Department Director
4. Department Director
5. General Accounting (for Leases only)
6. Budget Management
7. Risk Management³
8. City Attorney
9. Contractor/Vendor/Consultant (signs contract; no need to initial this form)
10. Buyer⁵
11. Purchasing Manager⁶
12. City Manager/ACM⁷
13. Mayor⁸
14. City Clerk⁹

Initials	Date
<u>[Signature]</u>	<u>1/12/2022</u>
<u>[Signature]</u>	<u>1/13/2022</u>
<u>[Signature]</u>	<u>1/13/2022</u>
<u>N/A</u>	<u>-</u>
<u>[Signature]</u>	<u>Jan 24, 2022</u>
<u>[Signature]</u>	<u>1/27/22</u>
<u>[Signature]</u>	<u>2/1/22</u>
<u>[Signature]</u>	<u>1/28/22</u>
<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>
<u>[Signature]</u>	<u>[Signature]</u>

SECOND AMENDMENT TO VEHICLE LEASE AGREEMENT

This Second Amendment (“Second Amendment”) to the Vehicle Lease Agreement (“Agreement”) is made and entered into in the County of Ventura, State of California, this 29th day of March 2022, by and between the City of Oxnard, a municipal corporation (“City”), and Enterprise Fleet Management, Inc. (EFM) (“Vendor”). This Second Amendment amends the Agreement entered into on July 1, 2019, by City and Vendor. The Agreement previously has been amended on March 17, 2020, by a First Amendment.

City and Vendor agree as follows:

1. In Section 6 of the Agreement (Compensation), the amount of “\$4,100,000” is hereby replaced with “\$6,795,000”.
2. As so amended, the Agreement remains in full force and effect.

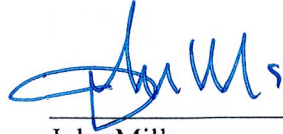
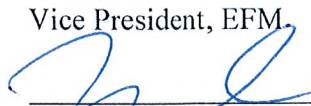
[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

ENTERPRISES FLEET MANAGEMENT, INC. (EFM)

☒ John C. Zaragoza, Mayor Date
☐ Alexander Nguyen, City Manager
☐ Daniel Willhite, Purchasing Manager
☐ Patricia Garcia, Buyer

_____
John Mills
Vice President, EFM
_____
Michael Gerges
Finance Director, EFM

1/26/22

Date

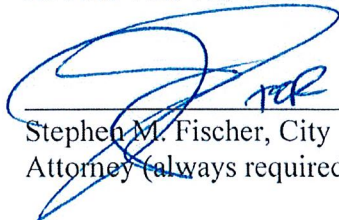
1/25/22

Date

ATTEST:

Rose Chaparro, City Clerk Date
(only if Mayor signs)

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City
Attorney (always required)

2/13/22
Date

SECOND AMENDMENT TO THE ENTERPRISE LEASE AGREEMENT

Oxnard City Council
March 29, 2022

Alex Arnett, Commander

- That City Council approve and authorize the Mayor to execute a second amendment to Agreement A-8136 with Enterprise Fleet Management, Inc. to increase the value of the agreement from \$4,100,000 to not exceed \$6,795,000 for the term of the agreement, which expires on December 1, 2025.

- June 18, 2019 – City Council approved agreement A-8136 with Enterprise Fleet Management, Inc. to lease vehicles for the Police Department's Investigative and Administrative Services Bureaus. The value of the agreement was \$225,000 over 3-years, not to exceed \$675,000, which expires on June 30, 2022.
- March 17, 2020 – City Council approved the first amendment to agreement A-8136 to increase the value from \$675,000 to \$4,100,000. It also authorized City departments to use vehicle replacement funds to lease vehicles, and extended the agreement to December 1, 2025.
- This second amendment to agreement A-8136 will increase the value of the agreement by \$2,695,000, from \$4,100,00 not to exceed \$6,795,000 for the term of the agreement, and the Police Department will lease all police vehicles through the Enterprise lease agreement.

- Police Department has been leasing vehicles through Enterprise for the past 10-years
- Currently there are 37 vehicles that are on lease:
 - Investigative Services Bureau
 - Administrative Services Bureau
- Vehicles leased through Enterprise:
 - Two to four year lease cycle
 - Flexibility in exchanging vehicles
 - Created a healthy and reliable fleet of vehicles
- Value of the agreement:
 - Three year agreement
 - \$225,000 annually, not to exceed \$675,000

- Police Department intends to lease patrol vehicles
- Approximately 40 vehicles used for patrol duties:
 - 8 patrol vehicles – over 100,000 miles
 - 12 patrol vehicles – over 90,000 miles
 - Majority of vehicles are 3-5 years old
 - City's vehicle purchasing guidelines recommended service life is 100,000 miles or four years



- Aged and high mileage patrol vehicles:
 - Reliability of the vehicles
 - Increased repair costs
 - Parts become scarce and expensive
 - Patrol vehicles consistently out of service for extended period of time
 - Cost to repair vehicle exceeds it's worth; vehicles removed from service



- 3-year vehicle replacement plan for patrol vehicles:
 - FY 21-22 – Twelve (12) patrol vehicles, three (3) supervisory patrol vehicles, one (1) patrol support truck
 - FY 22-23 – Twelve (12) patrol vehicles, two (2) supervisory patrol vehicles, two (2) patrol support vehicles
 - FY 23-24 – Ten (10) patrol vehicles, five (5) support vehicles
- Vehicles leased in FY 22-23 and FY 23-24 are subject to change based on vehicle availability and the Department's needs
 - Leased vehicles will replace high-mileage vehicles, or vehicles deemed a "total loss"

- Future funding to lease Investigative and Administrative Services Bureaus vehicles are included in the increased value
- The chart below indicates how the \$2,695,000 will be dispersed

Field Services Bureau	Investigative/Administrative Services Bureau	FY Total
FY 21-22 - \$505,000	FY 21-22 - \$225,000* *Already in PD budget	\$505,000
FY 22-23 - \$505,000	FY 22-23 - \$225,000	\$730,000
FY 23-24 - \$505,000	FY 23-24 - \$225,000	\$730,000
FY 24-25 - \$505,000	FY 24-25 - \$225,000	\$730,000
	Total	\$2,695,000

- Future years' funding will be included in the recommended budget for each fiscal year

- 48-month lease for patrol vehicles
- 12 patrol vehicles, 3 supervisory patrol vehicles, 1 patrol support truck
- Costs include outfitting, MDC purchases, and police radios.
- Anticipated delivery date: April or May 2022

Vehicle Type	Year 1 total cost (Includes MDC, radio and outfitting)	Year 2 lease cost	Year 3 lease cost	Year 4 lease cost	End of the lease cost	Total cost at the end of the 4-year lease	Total purchase cost (includes MDC, radio and outfitting)
Patrol vehicles (12)	\$294,614.52	\$177,238.08	\$177,238.08	\$177,238.08	\$5,700	\$832,028.76 (\$69,335.73 per vehicle)	\$863,720.76 (\$71,976.73 per vehicle)
Supervisor vehicles (3)	\$82,008.96	\$45,360.36	\$45,360.36	\$45,360.36	\$1,425	\$219,515.04 (\$73,171.68 per vehicle)	\$227,538.00 (\$75,846.00 per vehicle)
Patrol Support Truck	\$9,740.16	\$5,809.56	\$5,809.56	\$5,809.56	\$450	\$27,618.84	\$31,117.46
Totals	\$386,363.64	\$228,408.00	\$228,408.00	\$228,408.00	\$7,575.00	\$1,079,162.64	\$1,122,376.22

- Benefits of leased patrol vehicles
 - Helps create a comprehensive vehicle replacement plan
 - Provides for a safe, reliable and healthy patrol fleet
 - Newer vehicles require less maintenance, reduce maintenance costs, and reduce purchasing of vehicle parts
 - Patrol vehicles are serviced more quickly and less down time
 - Modern vehicles with the latest safety technology and equipment
 - Provide reliable service delivery to the Community
 - Maintain 911 safety/emergency response times





QUESTIONS



CITY COUNCIL AGENDA REPORT
INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. J.5

DATE: March 29, 2022

TO: City Council and Housing Authority

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

SUBJECT: Accessibility Remodel Project at Palm Vista. (0/5/5)

RECOMMENDATION

That the Board of Commissioners of the Oxnard Housing Authority approve and authorize the Chairman to execute a firm-fixed price contract in the amount of \$379,560.11 with MDJ Management (Agreement number A-8426) using funds previously appropriated from the 2019 Capital Fund grant for Section 504 compliance with the Americans with Disabilities Act.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0)

BACKGROUND

This project is part of a multi-phase conversion project that will bring the Oxnard Housing Authority into compliance with Section 504 of the American Disabilities Act, which establishes a minimum number of dwelling units that must be accessible for individuals with disabilities. As a result of the demolition of units at Colonia Village, the Oxnard Housing Authority lost forty-four (44) accessible units.

The Oxnard Housing Authority must convert a minimum twenty-four units to be compliant with the American Disabilities Act. The twenty-four units that will be converted have been selected from each public housing site based on ease of conversion, availability of space and cost effectiveness. Two conversions are currently underway at the Pleasant Valley public housing property. After the proposed five units are converted at Palm Vista, as identified in this staff report, the Oxnard Housing Authority will have to complete seventeen additional conversions. This project involves the accessibility remodel of five units, the parking and path of travel at 801 South C Street. This conversion project was anticipated and planned for in the Oxnard Housing Authority's Five-Year Plan originally adopted on April 2, 2019.

The City of Oxnard is a member of Sourcewell (formerly known as the National Joint Powers Alliance), which competitively bids construction tasks with pre-set unit prices and specifications for general construction services including materials, equipment, and labor costs. The California Government Code authorizes public agencies to participate in cooperative purchasing agreements like those established by Sourcewell, while still remaining within the Oxnard Housing Authority's procurement policies.

Staff communicated with Gordian, which is authorized by Sourcewell to provide consulting services, to procure a general contractor to complete the contemplated renovation work at Palm Vista. All work will be Prevailing Wage.

A description of the proposed accessibility remodel at 801 South C Street includes:

SCOPE OF WORK

1. Accessibility Remodel of 5 units per plans
 - a. Abatement and removal of popcorn ceilings and drywall

- b. Demolition & Installation of kitchen and bathrooms (Cabinets, lighting, sink, fixtures, and appliances)
- c. Installation of new wall, doors, and drywall
- d. Relocate existing fire sprinkler system
- e. New electrical and plumbing per plans
- f. Patch and Paint entire unit
- g. New Vinyl Plank flooring in entire unit with new base

- 2. ADA parking and path of travel per plans
 - a. Remove existing parking striping and patch as needed
 - b. Relocate wheel stops
 - c. New Parking Striping & Signs
 - d. Remove existing gate and install new
 - e. Remove existing exit door and skylight and install new per plans

MDJ Management submitted a proposal in the amount of \$379,560.11. Staff has reviewed this proposal and recommends award.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life Strategy. The purpose of the Quality of Life Strategy is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard.

FINANCIAL IMPACT

The funding for this item will be from Oxnard Housing Authority 2021 Capital Fund Grant. There is sufficient funding from the grant to cover the cost of the agreement. The Capital Fund allocation to the Oxnard Housing Authority was \$2,384,049. After deducting debt service, management fees and the cost of this agreement the remaining fund balance will be \$1,368,040. There is not an impact to the City General Fund.

COMMITTEE OUTCOME

The Community Services, Public Safety, Housing & Development Committee approved 3-0 on February 22, 2022, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

- 1. Agreement Number A-8426

CAPITAL IMPROVEMENT CONTRACT

Contract No: **A-8426**

Name of Contractor: MDJ Management

Address: 531 Main Street, #611, El Segundo, CA 90245

Project description: Accessibility Remodel Project at Palm Vista (CAL 31-8)

This Capital Improvement Contract (“**Contract**”) is made at Oxnard, California, as of this 18th day of January 2022 between the City of Oxnard Housing Authority, called herein the “**Authority**”, and the above-named contractor (“**Contractor**”) for the construction of the capital improvement project described herein. The parties hereto agree as follows:

I. Type of Contract

This contract is a firm-fixed price contract as defined by 2CFR Part 200 and the Department of Housing and Urban Development (HUD) Handbook 7460.8, Rev. 2.

2. Contract Price

Contractor shall perform the scope of work per the approved plans for 801 South C Street (application number 20-190210). Authority shall pay Contractor, as described in **Exhibit A**, attached hereto and incorporated herein by this reference, in full payment for said work, the following sum: **\$379,560.11**

The above sum includes all taxes and the costs of any required bonds, required certificates and permit fees.

3. Payment Schedule

Authority shall pay Contractor no later than 30 calendar days after Authority accepts Contractor’s invoices and Authority shall make final payment no later than 60 calendar days after Authority has issued and approved a certificate of completion for the work contemplated herein, provided that the Authority may withhold from progress payments an amount equal to 5 percent of the progress payment and may withhold from final payment an amount sufficient to protect the Authority from disputes equivalent to 150 percent of the value of any disputed amount of work.

4. Scope of Work

Contractor shall furnish all tools, equipment, apparatus, facilities, labor and materials necessary to, and shall perform and complete in a good, safe and workmanlike manner, the work described in the approved plans.

5. Contract Documents

The complete Contract consists of all the following, which are specifically incorporated herein by reference:

- a. Change Orders
- b. Contract Amendments –
- c. This Contract
- d. Amendments to HUD Form 5370
- e. HUD Form 5370 General Conditions for Construction Contracts – Public Housing Programs
- f. Specifications
- g. Plans
- h. Permits
- i. Contractor's bid proposal and list of subcontractors (if applicable).
- j. Performance and payment bonds as required by the specifications and applicable law. Unless otherwise specified, each such bond shall be 100 percent of the Contract price.
- k. Insurance as required by the specifications and applicable law.
- l. All applicable wage determinations, safety and health regulations, non-discrimination provisions, labor standards, and requirements if the Contract is federally assisted. This includes but is not limited to such items enumerated in the specifications and addenda thereto.

6. Indemnity

Contractor agrees to indemnify, hold harmless and defend Authority, its Commission, and each member thereof, and every officer, employee, representative or agent of Authority, 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 Contractor or its agents, employees, Subcontractors, Contractors, and other persons acting on Contractor'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 Contractor or its agents, employees, subcontractors, consultants and other persons acting on Contractor's behalf would be held strictly liable.

7. Time for Performance

The time limit for the completion of the work is **180 working days** after receipt of the Notice to Proceed.

Contractor shall not perform any work until the Authority issues a Notice to Proceed. Work will be completed within the time limit specified above and in the Notice to Proceed.

8. Acknowledgement

Contractor by signing hereunder acknowledges that he has reviewed all the foregoing documents and agrees with the requirements, conditions and covenants contained therein.

The parties agree that this Agreement may be transmitted and signed by electronic or digital means by either/any or both/all Parties and that such signatures shall have the same force and effect as original signatures, in accordance with California Government Code Section 16.5 and California Civil Code Section 1633.7.

CITY OF OXNARD
HOUSING AUTHORITY

MDJ MANAGEMENT

John C. Zaragoza
Chairman

Matthew McMillon
President

APPROVED AS TO FORM:

APPROVED AS TO INSURANCE:

Stephen M. Fischer,
Housing General Counsel

Rhonda Hodge
Housing Finance Officer

APPROVED AS TO COMPLIANCE:

Rhonda Hodge
Contract Administrator

GENERAL CONDITIONS

Work Hours:

From 8:00 AM to 5:00 PM max. Including 1-hour lunch.

No work is allowed Saturdays, Sundays and during any official holidays.

Safety and Security:

The contractors are required to secure the work area during the work hours, lunch hours, weekends, and holidays. The contractors shall secure and render safe the entire construction area at the end of each working day. Work areas must be well barricaded and flagged, and all precautions should be taken to avoid injury or damage to any person or property and shall protect and indemnify the Housing against any claim or liability arising from or based on the lack of proper safeguards or negligence whether by it or its agents, employees or Subcontractors.

Compliance with all Laws:

The contractors shall comply with all applicable federal, State and local laws, ordinances, codes and regulations in force at the time the contractors perform pursuant to the contract documents.

Project Schedule:

The contractor is expected to complete the job in not to exceed one hundred-sixty **(180) working days**.

Construction Debris:

Due to the nature of the job, the contractor is responsible for hauling away debris.

Storage Bin

The contractor shall provide bins and/or containers for temporary storage.

Warranty:

The contractor shall warranty the work for a period of **Three (3) years** against workmanship and **One (1) year** for the material by the manufacturer.

Final Walkthrough, and Sign off:

The contractor is required to call for a final walk through with the project manager and/ or the Housing Authority staff after completion of each unit at the job site. Upon approval, the contractor may partially bill the Housing Authority for that completed unit. All the payments will be pending obtaining a final sign off from the City inspector and turning in those permits.

EXHIBIT A

Work Order Signature Document

EZIQC Contract No.: CA-08-SL-B-A-030618-MDJ			
☒ New Work Order		☐ Modify an Existing Work Order	
Work Order Number.: 098302.00		Work Order Date: 11/10/2021	
Work Order Title: Palm Vista ADA upgrades			
Owner Name: City of Oxnard Housing Authority		Contractor Name: MDJ Management	
Contact: Fredi Contreras		Contact: Matt McMillon	
Phone: 805-890-8319		Phone: 310-490-1521	
Work to be Performed			
Work to be performed as per the Final Detailed Scope of Work Attached and as per the terms and conditions of Sourcewell EZIQC Contract No CA-08-SL-B-A-030618-MDJ.			
<u>Brief Work Order Description:</u>			
ADA renovations			
Time of Performance			
Estimated Start Date:			
Estimated Completion Date:			
Liquidated Damages		Will apply: ☐ Will not apply: ☒	
Work Order Firm Fixed Price: \$379,560.11			
Owner Purchase Order Number:			

Approvals

_____ City of Oxnard Housing Authority	_____ Date	_____ Contractor	_____ Date
---	---------------	---------------------	---------------

Detailed Scope of Work

To: Matt McMillon
MDJ Management
531 Main St #611
El Segundo, CA 90245
310-490-1521

From: Fredi Contreras
City of Oxnard Housing Authority
1470 E Colonia Rd
oxnard, CA 93030
805-890-8319

Date Printed: November 10, 2021

Work Order Number: 098302.00

Work Order Title: Palm Vista ADA upgrades

Brief Scope: ADA renovations

☐

Preliminary

☐

Revised

☒

Final

The following items detail the scope of work as discussed at the site. All requirements necessary to accomplish the items set forth below shall be considered part of this scope of work.

See attached.

Subject to the terms and conditions of JOC Contract **CA-08-SL-B-A-030618-MDJ**.

Contractor

Date

City of Oxnard Housing Authority

Date



MDJ Management
License # 1044711
DIR # 1000061313
531 Main St. #611 El Segundo CA 90245

Job Name: 801 South C Street Accessibility Remodel

Location: 801 South C Street Oxnard, CA 93030

Customer: Oxnard Housing Authority

Submitted: 10/29/21

Detailed Scope of Work

Accessibility Remodel

- Remodel 5 Units
 - Abatement and removal of popcorn ceilings and drywall
 - Demolition of kitchen and bathrooms per plans
 - Installation of new wall per plans
 - Relocate existing fire sprinkler system
 - New doors to bathrooms and bedrooms
 - New drywall per plan to match surrounding
 - New electrical and plumbing per plans
 - Installation of new kitchen per plans
 - Cabinets, lighting, sink, fixtures, appliances, ...
 - Installation of new bathroom per plans
 - Shower units, lighting, sinks, fixtures, ...
 - Patch and Paint entire unit
 - New Vinyl Plank flooring in entire unit with new base
- ADA parking and path of travel
 - Remove existing parking striping and patch as needed
 - Relocate wheel stops
 - New Parking Striping per plans
 - New Signs per plans
 - Remove existing gate and install new per plans
 - Remove existing exit door and skylight and install new per plans

Notes

- All Work will be Prevailing Wage Normal Working Hours
- Current plan is 1 unit first, then remaining 4 units once 1st is completed
- Any additional add on items will be at the request of the customer. Any adjustment shall be an additional cost.

Submitted by:

A handwritten signature in blue ink, appearing to read "Matt m-m", with a long horizontal flourish extending to the right.

Matthew McMillon
President MDJ
310.490.1521
matt@buildwithmdj.com

Contractor's Price Proposal - Summary

Date: November 10, 2021

Re: IQC Master Contract #: CA-08-SL-B-A-030618-MDJ
Work Order #: 098302.00
Owner PO #:
Title: Palm Vista ADA upgrades
Contractor: MDJ Management
Proposal Value: \$379,560.11

general	\$8,726.45
Parking Lot	\$9,123.59
Unit 105	\$72,342.01
Unit 106	\$72,342.01
Unit 107	\$72,342.02
Unit 108	\$72,342.01
Unit 109	\$72,342.01
Proposal Total	\$379,560.11

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

Contractor's Price Proposal - Detail

Date: November 10, 2021

Re: IQC Master Contract #: CA-08-SL-B-A-030618-MDJ
 Work Order #: 098302.00
 Owner PO #:
 Title: Palm Vista ADA upgrades
 Contractor: MDJ Management
 Proposal Value: \$379,560.11

Sect.	Item	Mod.	UOM	Description	Line Total
Labor	Equip.	Material	(Excludes)		
general					
1	01 22 16 00 0002		EA	Reimbursable FeesReimbursable Fees will be paid to the contractor for eligible costs. The base cost of the Reimbursable Fee is \$1.00. Insert the appropriate quantity to adjust the base cost to the actual Reimbursable Fee (e.g. quantity of 125 = \$125.00 Reimbursable Fee). If there are multiple Reimbursable Fees, list each one separately and add a comment in the "note" block to identify the Reimbursable Fee (e.g. sidewalk closure, road cut, various permits, extended warrantee, expedited shipping costs, etc.). A copy of each receipt shall be submitted with the Price Proposal.	\$8,726.45
			Installation	Quantity 7,416.67 x Unit Price 1.00 x Factor 1.1766 = Total 8,726.45	
			Bond = \$ x 2%		
Subtotal for general					\$8,726.45
Parking Lot					
2	08 13 13 13 0008		EA	3' x 6'-8" x 1-3/4", 20 Gauge, Unrated, Hollow Metal Door	\$508.25
			Installation	Quantity 1.00 x Unit Price 452.13 x Factor 1.0116 = Total 457.37	
			Demolition	Quantity 1.00 x Unit Price 50.29 x Factor 1.0116 = Total 50.87	
			remove and replace exit door		
3	08 71 43 00 0023		LF	7" Width, 1/2" Height, Aluminum Saddle Threshold (Pemko 176A)	\$115.63
			Installation	Quantity 3.00 x Unit Price 38.10 x Factor 1.0116 = Total 115.63	
			for new exit door		
4	10 14 53 00 0015		EA	9" x 18" Aluminum Engineer Grade Traffic Sign	\$112.63
			Installation	Quantity 2.00 x Unit Price 41.10 x Factor 1.0116 = Total 83.15	
			Demolition	Quantity 2.00 x Unit Price 14.57 x Factor 1.0116 = Total 29.48	
			fine parking sign		
5	10 14 53 00 0024		EA	18" x 24" Aluminum Engineer Grade Traffic Sign	\$237.69
			Installation	Quantity 3.00 x Unit Price 62.84 x Factor 1.0116 = Total 190.71	
			Demolition	Quantity 3.00 x Unit Price 15.48 x Factor 1.0116 = Total 46.98	
			handicap parking signs and warning sign		
6	10 14 53 00 0024 0209		MOD	For Hi-Intensity Grade, Add	\$29.01
			Installation	Quantity 3.00 x Unit Price 9.56 x Factor 1.0116 = Total 29.01	
7	10 14 53 00 0200		EA	6', 2-3/8" Diameter, Galvanized Steel Tubular Sign Post	\$178.26
			Installation	Quantity 2.00 x Unit Price 69.54 x Factor 1.0116 = Total 140.69	
			Demolition	Quantity 2.00 x Unit Price 18.57 x Factor 1.0116 = Total 37.57	
			parking sign posts		

Contractor's Price Proposal - Detail Continues..

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Parking Lot

8	31 23 16 36 0009	CY	Excavation For Building Foundations And Other Structures By Hand in Soil						\$663.16
			Quantity	Unit Price	Factor	=	Total		
		Installation	6.00 x	109.26 x	1.0116	=	663.16		
			to remove existing post footings						
9	32 12 33 00 0002	SY	Single Course Bituminous Treatment, Prepare And Clean Surface Roadway						\$789.05
			Quantity	Unit Price	Factor	=	Total		
		Installation	300.00 x	2.60 x	1.0116	=	789.05		
			to repair existing asphalt						
10	32 17 13 33 0001	EA	Removal And Relocation Of Precast Concrete Wheel Stop						\$118.03
			Quantity	Unit Price	Factor	=	Total		
		Installation	4.00 x	29.17 x	1.0116	=	118.03		
			remove and relocate wheel stops per plans						
11	32 17 23 13 0070	LF	Single 4" Wide Solid Line, Painted Pavement Striping for Parking Areas						\$82.95
			Quantity	Unit Price	Factor	=	Total		
		Installation	100.00 x	0.82 x	1.0116	=	82.95		
			striping per plans						
12	32 17 23 13 0074	SF	Solid Area, Painted Pavement Marking For Parking AreasUse task for lines >12" wide, stop bars, transverse lines, diagonal lines, crossing lanes, etc.						\$3,894.66
			Quantity	Unit Price	Factor	=	Total		
		Installation	1,000.00 x	3.85 x	1.0116	=	3,894.66		
			for removal of existing painted parking spaces						
13	32 17 23 13 0076	EA	12" High, Letter/Number, Painted Pavement Marking For Parking Areas						\$42.24
			Quantity	Unit Price	Factor	=	Total		
		Installation	9.00 x	4.64 x	1.0116	=	42.24		
			for "No Parking"						
14	32 17 23 13 0076 0067	MOD	For Up To 10, Add						\$5.10
			Quantity	Unit Price	Factor	=	Total		
		Installation	9.00 x	0.56 x	1.0116	=	5.10		
15	32 17 23 13 0088	EA	Handicap Symbol For Van Parking Stalls, Painted Pavement Marking For Parking AreasApproximate overall dimensions: 4-1/3' width x 5' height. White or blue symbol. Excludes striping.						\$68.93
			Quantity	Unit Price	Factor	=	Total		
		Installation	2.00 x	34.07 x	1.0116	=	68.93		
			2 new handicap markers on concrete						
16	32 17 23 13 0088 0333	MOD	For Blue Background With White Symbol, Add						\$73.12
			Quantity	Unit Price	Factor	=	Total		
		Installation	2.00 x	36.14 x	1.0116	=	73.12		
17	32 17 26 00 0002	SF	Surface Applied VPC Truncated Dome Detectable Warning SurfaceIncludes surface preparation, adhesive, fasteners and sealant at perimeter. Also raised strips or directional bars. All colors.						\$1,056.11
			Quantity	Unit Price	Factor	=	Total		
		Installation	20.00 x	52.20 x	1.0116	=	1,056.11		
			truncated domes per plan						
18	32 31 13 13 0006	VLF	4" Diameter Hole, Auger By Machine Fence Post Hole In Soil						\$246.43
			Quantity	Unit Price	Factor	=	Total		
		Installation	21.00 x	11.60 x	1.0116	=	246.43		
			for new fence, gate posts, and sign posts						

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
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Parking Lot

19	32	31	13	13	0023	VLF	4" Diameter, Concrete Fill For Post Hole										\$150.83
							Installation	Quantity	Unit Price	Factor	=	Total					
								21.00	7.10	1.0116		150.83					
							for new fence, gate posts, and sign posts										
20	32	31	13	13	0144	LF	3'-6" Galvanized Chain Link Fence, 9 Gauge Coiled Spring Mesh, Top And Bottom Rails, 2-1/2" Line Post At 10' On Center, 3" Corner Post										\$474.95
							Installation	Quantity	Unit Price	Factor	=	Total					
								20.00	21.24	1.0116		429.73					
							Demolition	15.00	2.98	1.0116	=	45.22					
							to remove existing fence										
21	32	31	13	13	0144	0170	MOD	For Up To 100, Add									\$88.41
							Installation	Quantity	Unit Price	Factor	=	Total					
								20.00	4.37	1.0116		88.41					
22	32	31	13	13	0266	EA	3' Wide x 4' High Single Gate Galvanized Steel Without Barbed Wire										\$188.14
							Installation	Quantity	Unit Price	Factor	=	Total					
								1.00	166.66	1.0116		168.59					
							Demolition	1.00	19.32	1.0116	=	19.54					
							to remove existing gate and install new										

Subtotal for Parking Lot \$9,123.59

Unit 105

23	01	66	19	00	0056	EA	Handling Material For Over 125' Per 9" x 48" x 48" Container Per 125' Segment										\$339.90
							Installation	Quantity	Unit Price	Factor	=	Total					
								200.00	1.68	1.0116		339.90					
							for handling of debris and material from parking lot to unit										
24	01	74	19	00	0016	EA	40 CY Dumpster (5 Ton) "Construction Debris" Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.										\$2,033.23
							Installation	Quantity	Unit Price	Factor	=	Total					
								3.00	669.97	1.0116		2,033.22					
							for debris										
25	01	95	06	00	0014	LF	20" Wide Wood Shelving For Closets										\$309.63
							Installation	Quantity	Unit Price	Factor	=	Total					
								8.00	38.26	1.0116		309.63					
							removal of existing and installation of new per plans										
26	01	95	06	00	0095	LF	11/16" x 3-1/4" Pine Casing										\$3,995.82
							Installation	Quantity	Unit Price	Factor	=	Total					
								1,000.00	3.95	1.0116		3,995.82					
							baseboard and door casing for entire unit										
27	01	95	08	00	0054	EA	3'-0", Prehung 1-3/8" Primed, High Density Fiberboard Hardboard, Hollow Core, Six Panel Door And Frame										\$403.67
							Installation	Quantity	Unit Price	Factor	=	Total					
								2.00	199.52	1.0116		403.67					
							removal of existing and installation of 2 new doors										
28	01	95	08	00	0063	PR	Interior Residential Grade Door Hinges										\$78.72
							Installation	Quantity	Unit Price	Factor	=	Total					
								2.00	38.91	1.0116		78.72					
							removal of existing and installation of 2 new for doors										

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 105

29	01	95	09	00	0003	GSF	Paint Entire Unit Complete Including DoorsIncludes doors, walls, moldings, kitchen, ceilings, etc. Includes preparation. Per SF of floor area. Combination semi-gloss and eggshell. Two coats paint or one coat primer and one coat paint.									\$2,603.86
						Installation	Quantity 600.00	x	Unit Price 4.29	x	Factor 1.0116	=	Total 2,603.86			
							prime and 2 coats paint entire unit									
30	01	95	09	00	0003	0059	MOD	For Each Additional Coat, Add								\$2,804.16
						Installation	Quantity 1,800.00	x	Unit Price 1.54	x	Factor 1.0116	=	Total 2,804.16			
31	01	95	11	00	0003	EA	11.9 CF Top Freezer Refrigerator									\$780.96
						Installation	Quantity 1.00	x	Unit Price 772.00	x	Factor 1.0116	=	Total 780.96			
							remove and replace existing fridge removed material for LI									
32	01	95	22	00	0004	EA	2 Piece Tank Type, Gravity Flush System, Floor Mounted, Floor Outlet, Elongated Vitreous China Water Closet (Kohler Highline® K-3999)Includes seat, wax ring, escutcheon, supply valve and line.									\$548.88
						Installation	Quantity 1.00	x	Unit Price 398.16	x	Factor 1.0116	=	Total 402.78			
						Demolition	Quantity 1.00	x	Unit Price 144.43	x	Factor 1.0116	=	Total 146.11			
							remove existing and replace with new toilet									
33	01	95	22	00	0008	EA	Faucet, Kohler (K-15182-P)									\$175.15
						Installation	Quantity 1.00	x	Unit Price 146.51	x	Factor 1.0116	=	Total 148.21			
						Demolition	Quantity 1.00	x	Unit Price 26.63	x	Factor 1.0116	=	Total 26.94			
							remove existing and replace with new bathroom faucet									
34	01	95	22	00	0015	EA	Pressure Balancing Shower Valve (Symmons BP-46-2-X)									\$184.68
						Installation	Quantity 1.00	x	Unit Price 144.03	x	Factor 1.0116	=	Total 145.70			
						Demolition	Quantity 1.00	x	Unit Price 38.53	x	Factor 1.0116	=	Total 38.98			
							remove existing and replace with new									
35	01	95	22	00	0023	EA	Wall Mount, Hand Shower Unit With Hose (Delta Faucet 62001 DS)									\$200.12
						Installation	Quantity 1.00	x	Unit Price 175.63	x	Factor 1.0116	=	Total 177.67			
						Demolition	Quantity 1.00	x	Unit Price 22.20	x	Factor 1.0116	=	Total 22.46			
							remove existing and replace with new									
36	01	95	22	00	0039	EA	25" x 22" x 6" Stainless Steel Kitchen Sink, Single Bowl, 22 Gauge (Elkay K125224)									\$532.30
						Installation	Quantity 1.00	x	Unit Price 449.39	x	Factor 1.0116	=	Total 454.60			
						Demolition	Quantity 1.00	x	Unit Price 76.81	x	Factor 1.0116	=	Total 77.70			
							remove existing and replace with new									
37	01	95	22	00	0043	EA	Kitchen Faucet, Polished Chrome (Kohler K-15171-P)									\$193.26
						Installation	Quantity 1.00	x	Unit Price 146.66	x	Factor 1.0116	=	Total 148.36			
						Demolition	Quantity 1.00	x	Unit Price 44.38	x	Factor 1.0116	=	Total 44.89			
							remove existing and replace with new									
38	01	95	26	00	0003	LF	10 AWG, 2 Conductor, Solid, Romex Copper Wire									\$3,706.50
						Installation	Quantity 800.00	x	Unit Price 3.19	x	Factor 1.0116	=	Total 2,581.60			
						Demolition	Quantity 800.00	x	Unit Price 1.39	x	Factor 1.0116	=	Total 1,124.90			
							for new outlets and electrical runs per palms									

Contractor's Price Proposal - Detail Continues..

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Work Order Title: Palm Vista ADA upgrades

Unit 105

39	01 95 26 00 0042	EA	AC Powered, Carbon Monoxide and Fire Alarm (Kidde 900-0114)					\$258.18
		Installation	Quantity	Unit Price	Factor	=	Total	
			2.00	105.92	x	1.0116	214.30	
		Demolition per plans	2.00	21.69	x	1.0116	43.88	
40	02 82 33 00 0047	SF	>10 To 500 SF, Gypsum Wall Board, Asbestos Abatement And Disposal					\$2,913.41
		Installation	Quantity	Unit Price	Factor	=	Total	
			240.00	12.00	x	1.0116	2,913.41	
		drywall abatement						
41	02 82 33 00 0067	SF	>10 To 500 SF, Spray On Acoustical Ceiling, Asbestos Abatement And Disposal					\$5,550.04
		Installation	Quantity	Unit Price	Factor	=	Total	
			540.00	10.16	x	1.0116	5,550.04	
		ceiling abatement						
42	02 89 00 00 0005	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, For Separation Barrier					\$246.83
		Installation	Quantity	Unit Price	Factor	=	Total	
			400.00	0.61	x	1.0116	246.83	
		protection as part of abatement						
43	02 89 00 00 0006	EA	7' Zipper Door For Plastic Sheeting					\$32.17
		Installation	Quantity	Unit Price	Factor	=	Total	
			2.00	15.90	x	1.0116	32.17	
		zippers for access through abatement protection						
44	02 89 00 00 0019	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, Applied To Floors, Hazmat Containment Construction					\$791.07
		Installation	Quantity	Unit Price	Factor	=	Total	
			1,700.00	0.46	x	1.0116	791.07	
		protection as part of abatement						
45	02 89 00 00 0020	SF	6 Mil Plastic Fire Retardant, Anti Static Retardant Sheeting, Applied To Walls, Hazmat Containment Construction					\$895.27
		Installation	Quantity	Unit Price	Factor	=	Total	
			1,500.00	0.59	x	1.0116	895.27	
		protection as part of abatement						
46	02 89 00 00 0023	EA	Portable Personnel Decontamination Wash Facility (3 Stage)Includes connection to negative air system.					\$596.14
		Installation	Quantity	Unit Price	Factor	=	Total	
			1.00	589.30	x	1.0116	596.14	
		protection as part of abatement						
47	03 54 16 00 0002	SF	1/8" Thick Self Leveling Cementitious Underlayment For Floors Including Surface Preparation					\$1,294.85
		Installation	Quantity	Unit Price	Factor	=	Total	
			800.00	1.60	x	1.0116	1,294.85	
		level existing flooring						
48	06 11 16 00 0061	SF	2" x 4" Wood Wall Framing At 16" On Center					\$1,097.59
		Installation	Quantity	Unit Price	Factor	=	Total	
			500.00	1.51	x	1.0116	763.76	
		Demolition for new walls installed	500.00	0.66	x	1.0116	333.83	
49	06 11 16 00 0061 0004	MOD	For >200 To 500, Add					\$126.45
		Installation	Quantity	Unit Price	Factor	=	Total	
			500.00	0.25	x	1.0116	126.45	

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Contractor's Price Proposal - Detail Continues..

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Work Order Title: Palm Vista ADA upgrades

Unit 105

63	06	41	13	00	0215	0067	MOD	For Deluxe Grade, Add										\$75.85
							Installation	Quantity	1.00	x	Unit Price	74.98	x	Factor	1.0116	=	Total	75.85
64	06	41	13	00	0298		EA	27" x 12" x 84" Broom Cabinet										\$367.62
							Installation	Quantity	1.00	x	Unit Price	363.40	x	Factor	1.0116	=	Total	367.62
								installation of new										
65	06	41	13	00	0298	0068	MOD	For Custom Deluxe Grade, Add										\$125.46
							Installation	Quantity	1.00	x	Unit Price	124.02	x	Factor	1.0116	=	Total	125.46
66	06	41	13	00	0307		EA	33" x 24" x 84" Universal Oven Cabinet										\$38.99
							Installation	Quantity	0.00	x	Unit Price	496.33	x	Factor	1.0116	=	Total	0.00
							Demolition	Quantity	1.00	x	Unit Price	38.54	x	Factor	1.0116	=	Total	38.99
								removal of existing										
67	06	41	13	00	0307	0067	MOD	For Deluxe Grade, Add										\$169.66
							Installation	Quantity	1.00	x	Unit Price	167.71	x	Factor	1.0116	=	Total	169.66
68	08	71	23	00	0008		PR	3-1/2" x 3-1/2" Standard Duty, Full Mortise, Ball Bearing, Brass/Bronze, Satin Chrome Finish Hinge										\$148.26
							Installation	Quantity	2.00	x	Unit Price	67.41	x	Factor	1.0116	=	Total	136.38
							Demolition	Quantity	2.00	x	Unit Price	5.87	x	Factor	1.0116	=	Total	11.88
								hinges for doors										
69	08	71	23	00	2298		EA	Bath/Bedroom Privacy F37 Pre-Assembled LocksetLocked with push button inside.										\$1,260.07
							Installation	Quantity	2.00	x	Unit Price	601.86	x	Factor	1.0116	=	Total	1,217.68
							Demolition	Quantity	2.00	x	Unit Price	20.95	x	Factor	1.0116	=	Total	42.39
								for new doors										
70	09	23	13	00	0022		SF	Smooth Finish Three Coats Gypsum Plaster On Walls										\$4,404.51
							Installation	Quantity	700.00	x	Unit Price	6.22	x	Factor	1.0116	=	Total	4,404.51
								finish drywall										
71	09	29	00	00	0006		SF	5/8" Gypsum Board										\$970.12
							Installation	Quantity	700.00	x	Unit Price	1.37	x	Factor	1.0116	=	Total	970.12
								New drywall per plans										
72	09	29	00	00	0070		SF	Spray Applied Orange Peel Finish On Existing Gypsum Board Wall										\$226.60
							Installation	Quantity	700.00	x	Unit Price	0.32	x	Factor	1.0116	=	Total	226.60
								texture to match surrounding										
73	09	29	00	00	0074		LF	Corner Bead, Galvanized Steel For Gypsum Board										\$233.07
							Installation	Quantity	80.00	x	Unit Price	2.88	x	Factor	1.0116	=	Total	233.07
								corner beads for drywall										
74	09	29	00	00	0074	0012	MOD	For Up To 100, Add										\$15.38
							Installation	Quantity	80.00	x	Unit Price	0.19	x	Factor	1.0116	=	Total	15.38

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 105

75	09 65 23 00 0004	SF	0.16" Overall Thickness, 0.020" Wear Layer, Vinyl Plank Flooring (Armstrong® Luxe Plank™)						\$5,147.02
			Installation	Quantity		Unit Price		Factor	Total
				800.00	x	6.36	x	1.0116	= 5,147.02
			new vinyl plank flooring in entire unit						
76	10 28 13 13 0131	EA	24" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x24)						\$287.03
			Installation	Quantity		Unit Price		Factor	Total
				3.00	x	77.82	x	1.0116	= 236.17
			Demolition	Quantity		Unit Price		Factor	Total
				3.00	x	16.76	x	1.0116	= 50.86
			grab bars for rear of toilet and in shower						
77	10 28 13 13 0135	EA	48" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x48)						\$102.36
			Installation	Quantity		Unit Price		Factor	Total
				1.00	x	84.43	x	1.0116	= 85.41
			Demolition	Quantity		Unit Price		Factor	Total
				1.00	x	16.76	x	1.0116	= 16.95
			grab bar for side of toilet						
78	10 28 13 13 0189	EA	Stainless Steel Shower Curtain Hook (Bobrick B-204-1)						\$47.34
			Installation	Quantity		Unit Price		Factor	Total
				15.00	x	2.29	x	1.0116	= 34.75
			Demolition	Quantity		Unit Price		Factor	Total
				15.00	x	0.83	x	1.0116	= 12.59
			Shower curtain hooks						
79	10 28 16 13 0017	EA	20" x 30" Recessed Steel Medicine Cabinet With Mirror, Nutone 495						\$359.24
			Installation	Quantity		Unit Price		Factor	Total
				1.00	x	208.47	x	1.0116	= 210.89
			Demolition	Quantity		Unit Price		Factor	Total
				5.00	x	29.33	x	1.0116	= 148.35
			remove existing and replace with new						
80	10 28 16 13 0026	EA	Shower Curtain Rod, Polished Chrome						\$221.19
			Installation	Quantity		Unit Price		Factor	Total
				1.00	x	82.50	x	1.0116	= 83.46
			Demolition	Quantity		Unit Price		Factor	Total
				5.00	x	27.23	x	1.0116	= 137.73
			remove existing and replace with new						
81	11 30 13 13 0087	EA	Removal And Reinstallation Of Stove/Range						\$221.08
			Installation	Quantity		Unit Price		Factor	Total
				1.00	x	218.54	x	1.0116	= 221.08
			remove, store and reinstall existing oven						
82	12 36 61 16 0003	SF	1/4" Solid Polyester (Corian) Backsplash, Group B ColorsQuantity based on area of backsplash. Excludes backing material such as cement or water resistant gypsum board.						\$583.29
			Installation	Quantity		Unit Price		Factor	Total
				20.00	x	28.83	x	1.0116	= 583.29
			backsplash for kitchen countertops						
83	12 36 61 16 0003 0021	MOD	For Up To 50, Add						\$189.78
			Installation	Quantity		Unit Price		Factor	Total
				20.00	x	9.38	x	1.0116	= 189.78
84	12 36 61 16 0004	SF	1/2" Solid Polyester (Corian) Countertop, Group B ColorsQuantity based on area of counter, backsplash and apron. Includes drilling holes for fixtures and 1-1/2" drop edge with 1/8" radius edges (when apron not used).						\$1,898.57
			Installation	Quantity		Unit Price		Factor	Total
				40.00	x	46.92	x	1.0116	= 1,898.57
			new countertops for kitchen						

Contractor's Price Proposal - Detail Continues..

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Unit 105

85	12	36	61	16	0004	0021	MOD	For Up To 50, Add										\$606.96	
							Installation	Quantity	40.00	x	Unit Price	15.00	x	Factor	1.0116	=	Total	606.96	
86	12	36	61	16	0004	0026	MOD	For Each LF Of Half Round Edge, Add										\$323.71	
							Installation	Quantity	40.00	x	Unit Price	8.00	x	Factor	1.0116	=	Total	323.71	
87	12	36	61	16	0004	0029	MOD	For Each Sink, Range Or Vanity Cutout, Add										\$15.17	
							Installation	Quantity	1.00	x	Unit Price	15.00	x	Factor	1.0116	=	Total	15.17	
88	12	36	61	16	0004	0040	MOD	For >2.25 To 3 SF Integral Single Basin Kitchen Sink, AddSingle or double bowl.										\$344.39	
							Installation	Quantity	1.00	x	Unit Price	340.44	x	Factor	1.0116	=	Total	344.39	
89	21	13	13	00	0003		EA	Exposed Piping, Light Hazard, Complete Wet-Pipe Sprinkler System, Per HeadIncludes branch pipe and fittings, supports and sprinkler heads.										\$916.84	
							Installation	Quantity	3.00	x	Unit Price	302.11	x	Factor	1.0116	=	Total	916.84	
								new sprinkler system installed as needed											
90	21	13	13	00	0003	0004	MOD	For Up To 5, Add										\$431.00	
							Installation	Quantity	3.00	x	Unit Price	142.02	x	Factor	1.0116	=	Total	431.00	
91	22	01	40	81	0005		EA	Single Bowl Sink/Lavatory Drain Line Replacement										\$65.11	
							Installation	Quantity	2.00	x	Unit Price	32.18	x	Factor	1.0116	=	Total	65.11	
								for kitchen and bathroom sinks											
92	22	11	16	00	0878		LF	3/4" Inside Diameter Copper Pipe/Tubing Type L AssemblyIncludes all hangers and couplings, elbow, tee, reducer fittings. All hangers are complete assemblies. Not for use where detail is available.										\$1,951.38	
							Installation	Quantity	100.00	x	Unit Price	19.29	x	Factor	1.0116	=	Total	1,951.38	
								for all water lines. Additional length due to inflated costs											
93	22	13	13	00	0062		EA	Countertop Kitchen Sink, Double Fixture Rough-In, Polyvinyl Chloride (PVC) Waste And Vent PipeIncludes polyvinyl chloride (PVC) waste and vent pipe and copper domestic supply. Excludes fixtures and faucets.										\$697.54	
							Installation	Quantity	2.00	x	Unit Price	344.77	x	Factor	1.0116	=	Total	697.54	
								one for kitchen sink and one for bathroom sink											
94	22	13	16	00	0508		LF	3" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.										\$1,218.47	
							Installation	Quantity	50.00	x	Unit Price	24.09	x	Factor	1.0116	=	Total	1,218.47	
								vent piping Additional length due to inflated costs											
95	22	13	16	00	0509		LF	4" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.										\$1,372.24	
							Installation	Quantity	50.00	x	Unit Price	27.13	x	Factor	1.0116	=	Total	1,372.24	
								drain piping Additional length due to inflated costs											

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 105

96	22	41	39	00	0013	EA	Single Lever Handle, Chrome Bath And Shower, Pressure Balanced/Anti-Scald Valve (American Standard T675.502)					\$215.72
							Quantity	Unit Price	Factor	=	Total	
						Installation	1.00 x	177.79 x	1.0116	=	179.85	
						Demolition	1.00 x	35.46 x	1.0116	=	35.87	
						remove existing and replace with new shower/batg valve						
97	22	42	23	00	0011	EA	40" x 48" x 82" Handicapped, Solid Plastic Shower Enclosure (General Partitions)					\$5,062.44
							Quantity	Unit Price	Factor	=	Total	
						Installation	2.00 x	2,436.30 x	1.0116	=	4,929.12	
						Demolition	1.00 x	131.79 x	1.0116	=	133.32	
						remove existing and install new shower. additional quantities due to added costs currently						
98	22	42	23	00	0081	SF	Polyvinyl Chloride (PVC) Shower Pan Liner					\$96.14
							Quantity	Unit Price	Factor	=	Total	
						Installation	32.00 x	2.97 x	1.0116	=	96.14	
						pan liner for new shower						
99	26	01	20	91	0002	EA	Lock Out/Tag Out Local Disconnect					\$175.78
							Quantity	Unit Price	Factor	=	Total	
						Installation	8.00 x	21.72 x	1.0116	=	175.78	
						LOTO of existing circuits						
100	26	09	23	00	0109	EA	Wall Switch Replacement Occupancy Sensor, Single GangIncludes integral occupancy sensor and relay.					\$167.30
							Quantity	Unit Price	Factor	=	Total	
						Installation	2.00 x	82.69 x	1.0116	=	167.30	
						per plans						
101	26	27	26	00	0009	EA	1 Gang, 20 Amp, GFI, Duplex Receptacle Assembly					\$1,181.85
							Quantity	Unit Price	Factor	=	Total	
						Installation	10.00 x	83.87 x	1.0116	=	848.43	
						Demolition	10.00 x	32.96 x	1.0116	=	333.42	
						New outlets for bathroom and kitchen						
102	26	27	26	00	0038	EA	50 Amp, NEMA 15-50, Single Receptacle, 250 Volt, 3 Phase					\$106.16
							Quantity	Unit Price	Factor	=	Total	
						Installation	1.00 x	85.43 x	1.0116	=	86.42	
						Demolition	1.00 x	19.51 x	1.0116	=	19.74	
						for stove						
103	26	27	26	00	0138	EA	1 Gang, 20 Amp, 120/277 Volt, SPST, Switch Assembly					\$882.60
							Quantity	Unit Price	Factor	=	Total	
						Installation	8.00 x	76.10 x	1.0116	=	615.86	
						Demolition	8.00 x	32.96 x	1.0116	=	266.74	
						switches in bathroom and kitchen						
104	26	51	13	00	0421	EA	1,500 Lumens, 6" Diameter, Recessed LED Downlight With Open Trim (Lightolier C6L1520DL)					\$4,476.43
							Quantity	Unit Price	Factor	=	Total	
						Installation	10.00 x	404.35 x	1.0116	=	4,090.40	
						Demolition	10.00 x	38.16 x	1.0116	=	386.03	
						new LED recessed lighting per plans						
105	26	51	13	00	0458	EA	2,200 Lumens, 9" Diameter, Wall Mount LED Cylinder Downlight With Semi-Specular Trim (Gotham® EVO® CLED9)					\$488.20
							Quantity	Unit Price	Factor	=	Total	
						Installation	1.00 x	445.65 x	1.0116	=	450.82	
						Demolition	1.00 x	36.95 x	1.0116	=	37.38	
						for bathroom						

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Subtotal for Unit 105 **\$72,342.01**

Unit 106

106	01 66 19 00 0056	EA	Handling Material For Over 125' Per 9" x 48" x 48" Container Per 125' Segment						\$339.90
			Quantity	Unit Price	Factor	=	Total		
		Installation	200.00 x	1.68 x	1.0116	=	339.90		
			for handling of debris and material from parking lot to unit						
107	01 74 19 00 0016	EA	40 CY Dumpster (5 Ton) "Construction Debris" Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.						\$2,033.23
			Quantity	Unit Price	Factor	=	Total		
		Installation	3.00 x	669.97 x	1.0116	=	2,033.22		
			for debris						
108	01 95 06 00 0014	LF	20" Wide Wood Shelving For Closets						\$309.63
			Quantity	Unit Price	Factor	=	Total		
		Installation	8.00 x	38.26 x	1.0116	=	309.63		
			removal of existing and installation of new per plans						
109	01 95 06 00 0095	LF	11/16" x 3-1/4" Pine Casing						\$3,995.82
			Quantity	Unit Price	Factor	=	Total		
		Installation	1,000.00 x	3.95 x	1.0116	=	3,995.82		
			baseboard and door casing for entire unit						
110	01 95 08 00 0054	EA	3'-0", Prehung 1-3/8" Primed, High Density Fiberboard Hardboard, Hollow Core, Six Panel Door And Frame						\$403.67
			Quantity	Unit Price	Factor	=	Total		
		Installation	2.00 x	199.52 x	1.0116	=	403.67		
			removal of existing and installation of 2 new doors						
111	01 95 08 00 0063	PR	Interior Residential Grade Door Hinges						\$78.72
			Quantity	Unit Price	Factor	=	Total		
		Installation	2.00 x	38.91 x	1.0116	=	78.72		
			removal of existing and installation of 2 new for doors						
112	01 95 09 00 0003	GSF	Paint Entire Unit Complete Including Doors Includes doors, walls, moldings, kitchen, ceilings, etc. Includes preparation. Per SF of floor area. Combination semi-gloss and eggshell. Two coats paint or one coat primer and one coat paint.						\$2,603.86
			Quantity	Unit Price	Factor	=	Total		
		Installation	600.00 x	4.29 x	1.0116	=	2,603.86		
			prime and 2 coats paint entire unit						
113	01 95 09 00 0003 0059	MOD	For Each Additional Coat, Add						\$2,804.16
			Quantity	Unit Price	Factor	=	Total		
		Installation	1,800.00 x	1.54 x	1.0116	=	2,804.16		
114	01 95 11 00 0003	EA	11.9 CF Top Freezer Refrigerator						\$780.96
			Quantity	Unit Price	Factor	=	Total		
		Installation	1.00 x	772.00 x	1.0116	=	780.96		
			remove and replace existing fridge removed material for LI						
115	01 95 22 00 0004	EA	2 Piece Tank Type, Gravity Flush System, Floor Mounted, Floor Outlet, Elongated Vitreous China Water Closet (Kohler Highline® K-3999) Includes seat, wax ring, escutcheon, supply valve and line.						\$548.88
			Quantity	Unit Price	Factor	=	Total		
		Installation	1.00 x	398.16 x	1.0116	=	402.78		
		Demolition	1.00 x	144.43 x	1.0116	=	146.11		
			remove existing and replace with new toilet						

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 106

116	01	95	22	00	0008	EA	Faucet, Kohler (K-15182-P)									\$175.15
							Quantity		Unit Price		Factor	=		Total		
						Installation	1.00	x	146.51	x	1.0116	=	148.21			
						Demolition	1.00	x	26.63	x	1.0116	=	26.94			
						remove existing and replace with new bathroom faucet										
117	01	95	22	00	0015	EA	Pressure Balancing Shower Valve (Symmons BP-46-2-X)									\$184.68
							Quantity		Unit Price		Factor	=	Total			
						Installation	1.00	x	144.03	x	1.0116	=	145.70			
						Demolition	1.00	x	38.53	x	1.0116	=	38.98			
						remove existing and replace with new										
118	01	95	22	00	0023	EA	Wall Mount, Hand Shower Unit With Hose (Delta Faucet 62001 DS)									\$200.12
							Quantity		Unit Price		Factor	=	Total			
						Installation	1.00	x	175.63	x	1.0116	=	177.67			
						Demolition	1.00	x	22.20	x	1.0116	=	22.46			
						remove existing and replace with new										
119	01	95	22	00	0039	EA	25" x 22" x 6" Stainless Steel Kitchen Sink, Single Bowl, 22 Gauge (Elkay K125224)									\$532.30
							Quantity		Unit Price		Factor	=	Total			
						Installation	1.00	x	449.39	x	1.0116	=	454.60			
						Demolition	1.00	x	76.81	x	1.0116	=	77.70			
						remove existing and replace with new										
120	01	95	22	00	0043	EA	Kitchen Faucet, Polished Chrome (Kohler K-15171-P)									\$193.26
							Quantity		Unit Price		Factor	=	Total			
						Installation	1.00	x	146.66	x	1.0116	=	148.36			
						Demolition	1.00	x	44.38	x	1.0116	=	44.89			
						remove existing and replace with new										
121	01	95	26	00	0003	LF	10 AWG, 2 Conductor, Solid, Romex Copper Wire									\$3,706.50
							Quantity		Unit Price		Factor	=	Total			
						Installation	800.00	x	3.19	x	1.0116	=	2,581.60			
						Demolition	800.00	x	1.39	x	1.0116	=	1,124.90			
						for new outlets and electrical runs per plans										
122	01	95	26	00	0042	EA	AC Powered, Carbon Monoxide and Fire Alarm (Kidde 900-0114)									\$258.18
							Quantity		Unit Price		Factor	=	Total			
						Installation	2.00	x	105.92	x	1.0116	=	214.30			
						Demolition	2.00	x	21.69	x	1.0116	=	43.88			
						per plans										
123	02	82	33	00	0047	SF	>10 To 500 SF, Gypsum Wall Board, Asbestos Abatement And Disposal									\$2,913.41
							Quantity		Unit Price		Factor	=	Total			
						Installation	240.00	x	12.00	x	1.0116	=	2,913.41			
						drywall abatement										
124	02	82	33	00	0067	SF	>10 To 500 SF, Spray On Acoustical Ceiling, Asbestos Abatement And Disposal									\$5,550.04
							Quantity		Unit Price		Factor	=	Total			
						Installation	540.00	x	10.16	x	1.0116	=	5,550.04			
						ceiling abatement										
125	02	89	00	00	0005	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, For Separation Barrier									\$246.83
							Quantity		Unit Price		Factor	=	Total			
						Installation	400.00	x	0.61	x	1.0116	=	246.83			
						protection as part of abatement										

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 106

126	02	89	00	00	0006	EA	7" Zipper Door For Plastic Sheeting									\$32.17
							Installation	Quantity	Unit Price	Factor	=	Total				
								2.00	15.90	1.0116	=	32.17				
							zippers for access through abatement protection									
127	02	89	00	00	0019	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, Applied To Floors, Hazmat Containment Construction									\$791.07
							Installation	Quantity	Unit Price	Factor	=	Total				
								1,700.00	0.46	1.0116	=	791.07				
							protection as part of abatement									
128	02	89	00	00	0020	SF	6 Mil Plastic Fire Retardant, Anti Static Retardant Sheeting, Applied To Walls, Hazmat Containment Construction									\$895.27
							Installation	Quantity	Unit Price	Factor	=	Total				
								1,500.00	0.59	1.0116	=	895.27				
							protection as part of abatement									
129	02	89	00	00	0023	EA	Portable Personnel Decontamination Wash Facility (3 Stage)Includes connection to negative air system.									\$596.14
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	589.30	1.0116	=	596.14				
							protection as part of abatement									
130	03	54	16	00	0002	SF	1/8" Thick Self Leveling Cementitious Underlayment For Floors Including Surface Preparation									\$1,294.85
							Installation	Quantity	Unit Price	Factor	=	Total				
								800.00	1.60	1.0116	=	1,294.85				
							level existing flooring									
131	06	11	16	00	0061	SF	2" x 4" Wood Wall Framing At 16" On Center									\$1,097.59
							Installation	Quantity	Unit Price	Factor	=	Total				
								500.00	1.51	1.0116	=	763.76				
							Demolition	Quantity	Unit Price	Factor	=	Total				
								500.00	0.66	1.0116	=	333.83				
							for new walls installed									
132	06	11	16	00	0061 0004	MOD	For >200 To 500, Add									\$126.45
							Installation	Quantity	Unit Price	Factor	=	Total				
								500.00	0.25	1.0116	=	126.45				
133	06	41	13	00	0112	EA	15" x 30" Wall Cabinet									\$127.69
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	126.23	1.0116	=	127.69				
							installation of new									
134	06	41	13	00	0112 0068	MOD	For Custom Deluxe Grade, Add									\$37.10
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	36.67	1.0116	=	37.10				
135	06	41	13	00	0115	EA	24" x 30" Wall Cabinet									\$105.13
							Installation	Quantity	Unit Price	Factor	=	Total				
								0.00	150.60	1.0116	=	0.00				
							Demolition	Quantity	Unit Price	Factor	=	Total				
								4.00	25.98	1.0116	=	105.13				
							removal of existing									
136	06	41	13	00	0115 0067	MOD	For Deluxe Grade, Add									\$159.67
							Installation	Quantity	Unit Price	Factor	=	Total				
								4.00	39.46	1.0116	=	159.67				

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Contractor's Price Proposal - Detail Continues..

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Unit 106

150	06	41	13	00	0307	0067	MOD	For Deluxe Grade, Add										\$169.66
							Installation	Quantity	1.00	x	Unit Price	167.71	x	Factor	1.0116	=	Total	169.66
151	08	71	23	00	0008		PR	3-1/2" x 3-1/2" Standard Duty, Full Mortise, Ball Bearing, Brass/Bronze, Satin Chrome Finish Hinge										\$148.26
							Installation	Quantity	2.00	x	Unit Price	67.41	x	Factor	1.0116	=	Total	136.38
							Demolition hinges for doors	2.00	x		5.87	x		1.0116	=		11.88	
152	08	71	23	00	2298		EA	Bath/Bedroom Privacy F37 Pre-Assembled LocksetLocked with push button inside.										\$1,260.07
							Installation	Quantity	2.00	x	Unit Price	601.86	x	Factor	1.0116	=	Total	1,217.68
							Demolition for new doors	2.00	x		20.95	x		1.0116	=		42.39	
153	09	23	13	00	0022		SF	Smooth Finish Three Coats Gypsum Plaster On Walls										\$4,404.51
							Installation	Quantity	700.00	x	Unit Price	6.22	x	Factor	1.0116	=	Total	4,404.51
							finish drywall											
154	09	29	00	00	0006		SF	5/8" Gypsum Board										\$970.12
							Installation	Quantity	700.00	x	Unit Price	1.37	x	Factor	1.0116	=	Total	970.12
							New drywall per plans											
155	09	29	00	00	0070		SF	Spray Applied Orange Peel Finish On Existing Gypsum Board Wall										\$226.60
							Installation	Quantity	700.00	x	Unit Price	0.32	x	Factor	1.0116	=	Total	226.60
							texture to match surrounding											
156	09	29	00	00	0074		LF	Corner Bead, Galvanized Steel For Gypsum Board										\$233.07
							Installation	Quantity	80.00	x	Unit Price	2.88	x	Factor	1.0116	=	Total	233.07
							corner beads for drywall											
157	09	29	00	00	0074	0012	MOD	For Up To 100, Add										\$15.38
							Installation	Quantity	80.00	x	Unit Price	0.19	x	Factor	1.0116	=	Total	15.38
158	09	65	23	00	0004		SF	0.16" Overall Thickness, 0.020" Wear Layer, Vinyl Plank Flooring (Armstrong® Luxe Plank™)										\$5,147.02
							Installation	Quantity	800.00	x	Unit Price	6.36	x	Factor	1.0116	=	Total	5,147.02
							new vinyl plank flooring in entire unit											
159	10	28	13	13	0131		EA	24" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x24)										\$287.03
							Installation	Quantity	3.00	x	Unit Price	77.82	x	Factor	1.0116	=	Total	236.17
							Demolition grab bars for rear of toilet and in shower	3.00	x		16.76	x		1.0116	=		50.86	
160	10	28	13	13	0135		EA	48" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x48)										\$102.36
							Installation	Quantity	1.00	x	Unit Price	84.43	x	Factor	1.0116	=	Total	85.41
							Demolition grab bar for side of toilet	1.00	x		16.76	x		1.0116	=		16.95	

Contractor's Price Proposal - Detail Continues..

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Unit 106

161	10	28	13	13	0189	EA	Stainless Steel Shower Curtain Hook (Bobrick B-204-1)						\$47.34
							Quantity	Unit Price	Factor	=	Total		
						Installation	15.00 x	2.29 x	1.0116	=	34.75		
						Demolition	15.00 x	0.83 x	1.0116	=	12.59		
							Shower curtain hooks						
162	10	28	16	13	0017	EA	20" x 30" Recessed Steel Medicine Cabinet With Mirror, Nutone 495						\$359.24
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00 x	208.47 x	1.0116	=	210.89		
						Demolition	5.00 x	29.33 x	1.0116	=	148.35		
							remove existng and replace with new						
163	10	28	16	13	0026	EA	Shower Curtain Rod, Polished Chrome						\$221.19
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00 x	82.50 x	1.0116	=	83.46		
						Demolition	5.00 x	27.23 x	1.0116	=	137.73		
							remove existing and replace with new						
164	11	30	13	13	0087	EA	Removal And Reinstallation Of Stove/Range						\$221.08
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00 x	218.54 x	1.0116	=	221.08		
							remove, store and reinstall existing oven						
165	12	36	61	16	0003	SF	1/4" Solid Polyester (Corian) Backsplash, Group B ColorsQuantity based on area of backsplash. Excludes backing material such as cement or water resistant gypsum board.						\$583.29
							Quantity	Unit Price	Factor	=	Total		
						Installation	20.00 x	28.83 x	1.0116	=	583.29		
							backsplash for kitchen countertops						
166	12	36	61	16	0003 0021	MOD	For Up To 50, Add						\$189.78
							Quantity	Unit Price	Factor	=	Total		
						Installation	20.00 x	9.38 x	1.0116	=	189.78		
167	12	36	61	16	0004	SF	1/2" Solid Polyester (Corian) Countertop, Group B ColorsQuantity based on area of counter, backsplash and apron. Includes drilling holes for fixtures and 1-1/2" drop edge with 1/8" radius edges (when apron not used).						\$1,898.57
							Quantity	Unit Price	Factor	=	Total		
						Installation	40.00 x	46.92 x	1.0116	=	1,898.57		
							new countertops for kitchen						
168	12	36	61	16	0004 0021	MOD	For Up To 50, Add						\$606.96
							Quantity	Unit Price	Factor	=	Total		
						Installation	40.00 x	15.00 x	1.0116	=	606.96		
169	12	36	61	16	0004 0026	MOD	For Each LF Of Half Round Edge, Add						\$323.71
							Quantity	Unit Price	Factor	=	Total		
						Installation	40.00 x	8.00 x	1.0116	=	323.71		
170	12	36	61	16	0004 0029	MOD	For Each Sink, Range Or Vanity Cutout, Add						\$15.17
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00 x	15.00 x	1.0116	=	15.17		
171	12	36	61	16	0004 0040	MOD	For >2.25 To 3 SF Integral Single Basin Kitchen Sink, AddSingle or double bowl.						\$344.39
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00 x	340.44 x	1.0116	=	344.39		

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
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Unit 106

172	21	13	13	00	0003	EA	Exposed Piping, Light Hazard, Complete Wet-Pipe Sprinkler System, Per HeadIncludes branch pipe and fittings, supports and sprinkler heads.							\$916.84
							Quantity	Unit Price	Factor	=		Total		
						Installation	3.00	x	302.11	x	1.0116	=	916.84	
							new sprinkler system installed as needed							
173	21	13	13	00	0003 0004	MOD	For Up To 5, Add							\$431.00
							Quantity	Unit Price	Factor	=		Total		
						Installation	3.00	x	142.02	x	1.0116	=	431.00	
174	22	01	40	81	0005	EA	Single Bowl Sink/Lavatory Drain Line Replacement							\$65.11
							Quantity	Unit Price	Factor	=		Total		
						Installation	2.00	x	32.18	x	1.0116	=	65.11	
							for kitchen and bathroom sinks							
175	22	11	16	00	0878	LF	3/4" Inside Diameter Copper Pipe/Tubing Type L AssemblyIncludes all hangers and couplings, elbow, tee, reducer fittings. All hangers are complete assemblies. Not for use where detail is available.							\$1,951.38
							Quantity	Unit Price	Factor	=		Total		
						Installation	100.00	x	19.29	x	1.0116	=	1,951.38	
							for all water lines. Additional length due to inflated costs							
176	22	13	13	00	0062	EA	Countertop Kitchen Sink, Double Fixture Rough-In, Polyvinyl Chloride (PVC) Waste And Vent PipeIncludes polyvinyl chloride (PVC) waste and vent pipe and copper domestic supply. Excludes fixtures and faucets.							\$697.54
							Quantity	Unit Price	Factor	=		Total		
						Installation	2.00	x	344.77	x	1.0116	=	697.54	
							one for kitchen sink and one for bathroom sink							
177	22	13	16	00	0508	LF	3" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.							\$1,218.47
							Quantity	Unit Price	Factor	=		Total		
						Installation	50.00	x	24.09	x	1.0116	=	1,218.47	
							vent piping Additional length due to inflated costs							
178	22	13	16	00	0509	LF	4" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.							\$1,372.24
							Quantity	Unit Price	Factor	=		Total		
						Installation	50.00	x	27.13	x	1.0116	=	1,372.24	
							drain piping Additional length due to inflated costs							
179	22	41	39	00	0013	EA	Single Lever Handle, Chrome Bath And Shower, Pressure Balanced/Anti-Scald Valve (American Standard T675.502)							\$215.72
							Quantity	Unit Price	Factor	=		Total		
						Installation	1.00	x	177.79	x	1.0116	=	179.85	
						Demolition	1.00	x	35.46	x	1.0116	=	35.87	
							remove existing and replace with new shower/batg valve							
180	22	42	23	00	0011	EA	40" x 48" x 82" Handicapped, Solid Plastic Shower Enclosure (General Partitions)							\$5,062.44
							Quantity	Unit Price	Factor	=		Total		
						Installation	2.00	x	2,436.30	x	1.0116	=	4,929.12	
						Demolition	1.00	x	131.79	x	1.0116	=	133.32	
							remove existing and install new shower. additional quantities due to added costs currently							
181	22	42	23	00	0081	SF	Polyvinyl Chloride (PVC) Shower Pan Liner							\$96.14
							Quantity	Unit Price	Factor	=		Total		
						Installation	32.00	x	2.97	x	1.0116	=	96.14	
							pan liner for new shower							

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 106

182	26	01	20	91	0002	EA	Lock Out/Tag Out Local Disconnect									\$175.78
							Installation	Quantity	Unit Price	Factor	=	Total				
								8.00	21.72	x		175.78				
							LOTO of existing circuits									
183	26	09	23	00	0109	EA	Wall Switch Replacement Occupancy Sensor, Single GangIncludes integral occupancy sensor and relay.									\$167.30
							Installation	Quantity	Unit Price	Factor	=	Total				
								2.00	82.69	x		167.30				
							per plans									
184	26	27	26	00	0009	EA	1 Gang, 20 Amp, GFI, Duplex Receptacle Assembly									\$1,181.85
							Installation	Quantity	Unit Price	Factor	=	Total				
								10.00	83.87	x		848.43				
							Demolition	10.00	32.96	x		333.42				
							New outlets for bathroom and kitchen									
185	26	27	26	00	0038	EA	50 Amp, NEMA 15-50, Single Receptacle, 250 Volt, 3 Phase									\$106.16
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	85.43	x		86.42				
							Demolition	1.00	19.51	x		19.74				
							for stove									
186	26	27	26	00	0138	EA	1 Gang, 20 Amp, 120/277 Volt, SPST, Switch Assembly									\$882.60
							Installation	Quantity	Unit Price	Factor	=	Total				
								8.00	76.10	x		615.86				
							Demolition	8.00	32.96	x		266.74				
							switches in bathroom and kitchen									
187	26	51	13	00	0421	EA	1,500 Lumens, 6" Diameter, Recessed LED Downlight With Open Trim (Lightolier C6L1520DL)									\$4,476.43
							Installation	Quantity	Unit Price	Factor	=	Total				
								10.00	404.35	x		4,090.40				
							Demolition	10.00	38.16	x		386.03				
							new LED recessed lighting per plans									
188	26	51	13	00	0458	EA	2,200 Lumens, 9" Diameter, Wall Mount LED Cylinder Downlight With Semi-Specular Trim (Gotham® EVO® CLED9)									\$488.20
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	445.65	x		450.82				
							Demolition	1.00	36.95	x		37.38				
							for bathroom									

Subtotal for Unit 106 **\$72,342.01**

Unit 107

189	01	66	19	00	0056	EA	Handling Material For Over 125' Per 9" x 48" x 48" Container Per 125' Segment									\$339.90
							Installation	Quantity	Unit Price	Factor	=	Total				
								200.00	1.68	x		339.90				
							for handling of debris and material from parking lot to unit									
190	01	74	19	00	0016	EA	40 CY Dumpster (5 Ton) "Construction Debris"Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.									\$2,033.23
							Installation	Quantity	Unit Price	Factor	=	Total				
								3.00	669.97	x		2,033.22				
							for debris									

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 107

191	01	95	06	00	0014	LF	20" Wide Wood Shelving For Closets										\$309.63
							Installation	Quantity	Unit Price	Factor	=	Total					
								8.00	38.26	1.0116		309.63					
							removal of existing and installation of new per plans										
192	01	95	06	00	0095	LF	11/16" x 3-1/4" Pine Casing										\$3,995.82
							Installation	Quantity	Unit Price	Factor	=	Total					
								1,000.00	3.95	1.0116		3,995.82					
							baseboard and door casing for entire unit										
193	01	95	08	00	0054	EA	3'-0", Prehung 1-3/8" Primed, High Density Fiberboard Hardboard, Hollow Core, Six Panel Door And Frame										\$403.67
							Installation	Quantity	Unit Price	Factor	=	Total					
								2.00	199.52	1.0116		403.67					
							removal of existing and installation of 2 new doors										
194	01	95	08	00	0063	PR	Interior Residential Grade Door Hinges										\$78.72
							Installation	Quantity	Unit Price	Factor	=	Total					
								2.00	38.91	1.0116		78.72					
							removal of existing and installation of 2 new for doors										
195	01	95	09	00	0003	GSF	Paint Entire Unit Complete Including DoorsIncludes doors, walls, moldings, kitchen, ceilings, etc. Includes preparation. Per SF of floor area. Combination semi-gloss and eggshell. Two coats paint or one coat primer and one coat paint.										\$2,603.86
							Installation	Quantity	Unit Price	Factor	=	Total					
								600.00	4.29	1.0116		2,603.86					
							prime and 2 coats paint entire unit										
196	01	95	09	00	0003	0059	MOD	For Each Additional Coat, Add									\$2,804.16
							Installation	Quantity	Unit Price	Factor	=	Total					
								1,800.00	1.54	1.0116		2,804.16					
197	01	95	11	00	0003	EA	11.9 CF Top Freezer Refrigerator										\$780.96
							Installation	Quantity	Unit Price	Factor	=	Total					
								1.00	772.00	1.0116		780.96					
							remove and replace existing fridge removed material for LI										
198	01	95	22	00	0004	EA	2 Piece Tank Type, Gravity Flush System, Floor Mounted, Floor Outlet, Elongated Vitreous China Water Closet (Kohler Highline® K-3999)Includes seat, wax ring, escutcheon, supply valve and line.										\$548.88
							Installation	Quantity	Unit Price	Factor	=	Total					
								1.00	398.16	1.0116		402.78					
							Demolition	Quantity	Unit Price	Factor	=	Total					
								1.00	144.43	1.0116		146.11					
							remove existing and replace with new toilet										
199	01	95	22	00	0008	EA	Faucet, Kohler (K-15182-P)										\$175.15
							Installation	Quantity	Unit Price	Factor	=	Total					
								1.00	146.51	1.0116		148.21					
							Demolition	Quantity	Unit Price	Factor	=	Total					
								1.00	26.63	1.0116		26.94					
							remove existing and replace with new bathroom faucet										
200	01	95	22	00	0015	EA	Pressure Balancing Shower Valve (Symmons BP-46-2-X)										\$184.68
							Installation	Quantity	Unit Price	Factor	=	Total					
								1.00	144.03	1.0116		145.70					
							Demolition	Quantity	Unit Price	Factor	=	Total					
								1.00	38.53	1.0116		38.98					
							remove existing and replace with new										

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 107

201	01	95	22	00	0023	EA	Wall Mount, Hand Shower Unit With Hose (Delta Faucet 62001 DS)									\$200.12
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	x	175.63	x	1.0116	=	177.67		
							Demolition	1.00	x	22.20	x	1.0116	=	22.46		
							remove existing and replace with new									
202	01	95	22	00	0039	EA	25" x 22" x 6" Stainless Steel Kitchen Sink, Single Bowl, 22 Gauge (Elkay K125224)									\$532.30
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	x	449.39	x	1.0116	=	454.60		
							Demolition	1.00	x	76.81	x	1.0116	=	77.70		
							remove existing and replace with new									
203	01	95	22	00	0043	EA	Kitchen Faucet, Polished Chrome (Kohler K-15171-P)									\$193.26
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	x	146.66	x	1.0116	=	148.36		
							Demolition	1.00	x	44.38	x	1.0116	=	44.89		
							remove existing and replace with new									
204	01	95	26	00	0003	LF	10 AWG, 2 Conductor, Solid, Romex Copper Wire									\$3,706.50
							Installation	Quantity	Unit Price	Factor	=	Total				
								800.00	x	3.19	x	1.0116	=	2,581.60		
							Demolition	800.00	x	1.39	x	1.0116	=	1,124.90		
							for new outlets and electrical runs per plans									
205	01	95	26	00	0042	EA	AC Powered, Carbon Monoxide and Fire Alarm (Kidde 900-0114)									\$258.18
							Installation	Quantity	Unit Price	Factor	=	Total				
								2.00	x	105.92	x	1.0116	=	214.30		
							Demolition	2.00	x	21.69	x	1.0116	=	43.88		
							per plans									
206	02	82	33	00	0047	SF	>10 To 500 SF, Gypsum Wall Board, Asbestos Abatement And Disposal									\$2,913.41
							Installation	Quantity	Unit Price	Factor	=	Total				
								240.00	x	12.00	x	1.0116	=	2,913.41		
							drywall abatement									
207	02	82	33	00	0067	SF	>10 To 500 SF, Spray On Acoustical Ceiling, Asbestos Abatement And Disposal									\$5,550.04
							Installation	Quantity	Unit Price	Factor	=	Total				
								540.00	x	10.16	x	1.0116	=	5,550.04		
							ceiling abatement									
208	02	89	00	00	0005	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, For Separation Barrier									\$246.83
							Installation	Quantity	Unit Price	Factor	=	Total				
								400.00	x	0.61	x	1.0116	=	246.83		
							protection as part of abatement									
209	02	89	00	00	0006	EA	7' Zipper Door For Plastic Sheeting									\$32.17
							Installation	Quantity	Unit Price	Factor	=	Total				
								2.00	x	15.90	x	1.0116	=	32.17		
							zippers for access through abatement protection									
210	02	89	00	00	0019	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, Applied To Floors, Hazmat Containment Construction									\$791.07
							Installation	Quantity	Unit Price	Factor	=	Total				
								1,700.00	x	0.46	x	1.0116	=	791.07		
							protection as part of abatement									

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 107

211	02	89	00	00	0020	SF	6 Mil Plastic Fire Retardant, Anti Static Retardant Sheeting, Applied To Walls, Hazmat Containment Construction									\$895.27
							Installation	Quantity	Unit Price	Factor	=	Total				
								1,500.00	0.59	x	1.0116	=	895.27			
							protection as part of abatement									
212	02	89	00	00	0023	EA	Portable Personnel Decontamination Wash Facility (3 Stage)Includes connection to negative air system.									\$596.14
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	589.30	x	1.0116	=	596.14			
							protection as part of abatement									
213	03	54	16	00	0002	SF	1/8" Thick Self Leveling Cementitious Underlayment For Floors Including Surface Preparation									\$1,294.85
							Installation	Quantity	Unit Price	Factor	=	Total				
								800.00	1.60	x	1.0116	=	1,294.85			
							level existing flooring									
214	06	11	16	00	0061	SF	2" x 4" Wood Wall Framing At 16" On Center									\$1,097.59
							Installation	Quantity	Unit Price	Factor	=	Total				
								500.00	1.51	x	1.0116	=	763.76			
							Demolition	500.00	0.66	x	1.0116	=	333.83			
							for new walls installed									
215	06	11	16	00	0061	0004	MOD	For >200 To 500, Add								\$126.45
							Installation	Quantity	Unit Price	Factor	=	Total				
								500.00	0.25	x	1.0116	=	126.45			
216	06	41	13	00	0112	EA	15" x 30" Wall Cabinet									\$127.69
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	126.23	x	1.0116	=	127.69			
							installation of new									
217	06	41	13	00	0112	0068	MOD	For Custom Deluxe Grade, Add								\$37.10
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	36.67	x	1.0116	=	37.10			
218	06	41	13	00	0115	EA	24" x 30" Wall Cabinet									\$105.13
							Installation	Quantity	Unit Price	Factor	=	Total				
								0.00	150.60	x	1.0116	=	0.00			
							Demolition	4.00	25.98	x	1.0116	=	105.13			
							removal of existing									
219	06	41	13	00	0115	0067	MOD	For Deluxe Grade, Add								\$159.67
							Installation	Quantity	Unit Price	Factor	=	Total				
								4.00	39.46	x	1.0116	=	159.67			
220	06	41	13	00	0117	EA	27" x 30" Wall Cabinet									\$329.64
							Installation	Quantity	Unit Price	Factor	=	Total				
								2.00	162.93	x	1.0116	=	329.64			
							installation of new									
221	06	41	13	00	0117	0068	MOD	For Custom Deluxe Grade, Add								\$100.33
							Installation	Quantity	Unit Price	Factor	=	Total				
								2.00	49.59	x	1.0116	=	100.33			
222	06	41	13	00	0135	EA	30" x 12" x 46-1/2" Microwave Cabinet									\$324.10
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	320.38	x	1.0116	=	324.10			
							installation of new									

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

223	06	41	13	00 0135	0068	MOD	For Custom Deluxe Grade, Add						\$106.51
						Installation	Quantity 1.00	x	Unit Price 105.29	x	Factor = 1.0116	Total 106.51	
224	06	41	13	00 0154		EA	24" x 15" Wall Cabinet						\$105.13
						Installation	Quantity 0.00	x	Unit Price 120.99	x	Factor = 1.0116	Total 0.00	
						Demolition removal of existing	4.00	x	25.98	x	1.0116 =	105.13	
225	06	41	13	00 0154	0067	MOD	For Deluxe Grade, Add						\$111.76
						Installation	Quantity 4.00	x	Unit Price 27.62	x	Factor = 1.0116	Total 111.76	
226	06	41	13	00 0205		EA	15" Base Cabinet						\$161.07
						Installation	Quantity 1.00	x	Unit Price 159.22	x	Factor = 1.0116	Total 161.07	
						installation of new							
227	06	41	13	00 0205	0068	MOD	For Custom Deluxe Grade, Add						\$48.67
						Installation	Quantity 1.00	x	Unit Price 48.11	x	Factor = 1.0116	Total 48.67	
228	06	41	13	00 0215		EA	42" Base Cabinet						\$44.49
						Installation	Quantity 0.00	x	Unit Price 275.36	x	Factor = 1.0116	Total 0.00	
						Demolition removal of existing	1.00	x	43.98	x	1.0116 =	44.49	
229	06	41	13	00 0215	0067	MOD	For Deluxe Grade, Add						\$75.85
						Installation	Quantity 1.00	x	Unit Price 74.98	x	Factor = 1.0116	Total 75.85	
230	06	41	13	00 0298		EA	27" x 12" x 84" Broom Cabinet						\$367.62
						Installation	Quantity 1.00	x	Unit Price 363.40	x	Factor = 1.0116	Total 367.62	
						installation of new							
231	06	41	13	00 0298	0068	MOD	For Custom Deluxe Grade, Add						\$125.46
						Installation	Quantity 1.00	x	Unit Price 124.02	x	Factor = 1.0116	Total 125.46	
232	06	41	13	00 0307		EA	33" x 24" x 84" Universal Oven Cabinet						\$38.99
						Installation	Quantity 0.00	x	Unit Price 496.33	x	Factor = 1.0116	Total 0.00	
						Demolition removal of existing	1.00	x	38.54	x	1.0116 =	38.99	
233	06	41	13	00 0307	0067	MOD	For Deluxe Grade, Add						\$169.66
						Installation	Quantity 1.00	x	Unit Price 167.71	x	Factor = 1.0116	Total 169.66	
234	08	71	23	00 0008		PR	3-1/2" x 3-1/2" Standard Duty, Full Mortise, Ball Bearing, Brass/Bronze, Satin Chrome Finish Hinge						\$148.26
						Installation	Quantity 2.00	x	Unit Price 67.41	x	Factor = 1.0116	Total 136.38	
						Demolition hinges for doors	2.00	x	5.87	x	1.0116 =	11.88	

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 107

235	08	71	23	00	2298	EA	Bath/Bedroom Privacy F37 Pre-Assembled Lockset Locked with push button inside.								\$1,260.07
							Installation	Quantity	Unit Price	Factor	=	Total			
								2.00	601.86	x	1.0116	=	1,217.68		
							Demolition	2.00	20.95	x	1.0116	=	42.39		
							for new doors								
236	09	23	13	00	0022	SF	Smooth Finish Three Coats Gypsum Plaster On Walls								\$4,404.51
							Installation	Quantity	Unit Price	Factor	=	Total			
								700.00	6.22	x	1.0116	=	4,404.51		
							finish drywall								
237	09	29	00	00	0006	SF	5/8" Gypsum Board								\$970.12
							Installation	Quantity	Unit Price	Factor	=	Total			
								700.00	1.37	x	1.0116	=	970.12		
							New drywall per plans								
238	09	29	00	00	0070	SF	Spray Applied Orange Peel Finish On Existing Gypsum Board Wall								\$226.60
							Installation	Quantity	Unit Price	Factor	=	Total			
								700.00	0.32	x	1.0116	=	226.60		
							texture to match surrounding								
239	09	29	00	00	0074	LF	Corner Bead, Galvanized Steel For Gypsum Board								\$233.07
							Installation	Quantity	Unit Price	Factor	=	Total			
								80.00	2.88	x	1.0116	=	233.07		
							corner beads for drywall								
240	09	29	00	00	0074	0012	MOD	For Up To 100, Add							\$15.38
							Installation	Quantity	Unit Price	Factor	=	Total			
								80.00	0.19	x	1.0116	=	15.38		
241	09	65	23	00	0004	SF	0.16" Overall Thickness, 0.020" Wear Layer, Vinyl Plank Flooring (Armstrong® Luxe Plank™)								\$5,147.02
							Installation	Quantity	Unit Price	Factor	=	Total			
								800.00	6.36	x	1.0116	=	5,147.02		
							new vinyl plank flooring in entire unit								
242	10	28	13	13	0131	EA	24" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x24)								\$287.03
							Installation	Quantity	Unit Price	Factor	=	Total			
								3.00	77.82	x	1.0116	=	236.17		
							Demolition	3.00	16.76	x	1.0116	=	50.86		
							grab bars for rear of toilet and in shower								
243	10	28	13	13	0135	EA	48" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x48)								\$102.36
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	84.43	x	1.0116	=	85.41		
							Demolition	1.00	16.76	x	1.0116	=	16.95		
							grab bar for side of toilet								
244	10	28	13	13	0189	EA	Stainless Steel Shower Curtain Hook (Bobrick B-204-1)								\$47.34
							Installation	Quantity	Unit Price	Factor	=	Total			
								15.00	2.29	x	1.0116	=	34.75		
							Demolition	15.00	0.83	x	1.0116	=	12.59		
							Shower curtain hooks								
245	10	28	16	13	0017	EA	20" x 30" Recessed Steel Medicine Cabinet With Mirror, Nutone 495								\$359.24
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	208.47	x	1.0116	=	210.89		
							Demolition	5.00	29.33	x	1.0116	=	148.35		
							remove existng and replace with new								

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 107

246	10	28	16	13	0026	EA	Shower Curtain Rod, Polished Chrome											\$221.19	
								Quantity			Unit Price			Factor	=		Total		
							Installation	1.00	x		82.50	x		1.0116	=		83.46		
							Demolition	5.00	x		27.23	x		1.0116	=		137.73		
							remove existing and replace with new												
247	11	30	13	13	0087	EA	Removal And Reinstallation Of Stove/Range											\$221.08	
								Quantity			Unit Price			Factor	=		Total		
							Installation	1.00	x		218.54	x		1.0116	=		221.08		
							remove, store and reinstall existing oven												
248	12	36	61	16	0003	SF	1/4" Solid Polyester (Corian) Backsplash, Group B ColorsQuantity based on area of backsplash. Excludes backing material such as cement or water resistant gypsum board.											\$583.29	
								Quantity			Unit Price			Factor	=		Total		
							Installation	20.00	x		28.83	x		1.0116	=		583.29		
							backsplash for kitchen countertops												
249	12	36	61	16	0003	0021	MOD	For Up To 50, Add										\$189.78	
								Quantity			Unit Price			Factor	=		Total		
							Installation	20.00	x		9.38	x		1.0116	=		189.78		
250	12	36	61	16	0004	SF	1/2" Solid Polyester (Corian) Countertop, Group B ColorsQuantity based on area of counter, backsplash and apron. Includes drilling holes for fixtures and 1-1/2" drop edge with 1/8" radius edges (when apron not used).											\$1,898.57	
								Quantity			Unit Price			Factor	=		Total		
							Installation	40.00	x		46.92	x		1.0116	=		1,898.57		
							new countertops for kitchen												
251	12	36	61	16	0004	0021	MOD	For Up To 50, Add										\$606.96	
								Quantity			Unit Price			Factor	=		Total		
							Installation	40.00	x		15.00	x		1.0116	=		606.96		
252	12	36	61	16	0004	0026	MOD	For Each LF Of Half Round Edge, Add										\$323.71	
								Quantity			Unit Price			Factor	=		Total		
							Installation	40.00	x		8.00	x		1.0116	=		323.71		
253	12	36	61	16	0004	0029	MOD	For Each Sink, Range Or Vanity Cutout, Add										\$15.17	
								Quantity			Unit Price			Factor	=		Total		
							Installation	1.00	x		15.00	x		1.0116	=		15.17		
254	12	36	61	16	0004	0040	MOD	For >2.25 To 3 SF Integral Single Basin Kitchen Sink, AddSingle or double bowl.										\$344.39	
								Quantity			Unit Price			Factor	=		Total		
							Installation	1.00	x		340.44	x		1.0116	=		344.39		
255	21	13	13	00	0003	EA	Exposed Piping, Light Hazard, Complete Wet-Pipe Sprinkler System, Per HeadIncludes branch pipe and fittings, supports and sprinkler heads.											\$916.84	
								Quantity			Unit Price			Factor	=		Total		
							Installation	3.00	x		302.11	x		1.0116	=		916.84		
							new sprinkler system installed as needed												
256	21	13	13	00	0003	0004	MOD	For Up To 5, Add										\$431.00	
								Quantity			Unit Price			Factor	=		Total		
							Installation	3.00	x		142.02	x		1.0116	=		431.00		
257	22	01	40	81	0005	EA	Single Bowl Sink/Lavatory Drain Line Replacement											\$65.11	
								Quantity			Unit Price			Factor	=		Total		
							Installation	2.00	x		32.18	x		1.0116	=		65.11		
							for kitchen and bathroom sinks												

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 107

258	22	11	16	00	0878	LF	3/4" Inside Diameter Copper Pipe/Tubing Type L AssemblyIncludes all hangers and couplings, elbow, tee, reducer fittings. All hangers are complete assemblies. Not for use where detail is available.							\$1,951.38
						Installation	Quantity		Unit Price		Factor	=	Total	
							100.00	x	19.29	x	1.0116		1,951.38	
							for all water lines. Additional length due to inflated costs							
259	22	13	13	00	0062	EA	Countertop Kitchen Sink, Double Fixture Rough-In, Polyvinyl Chloride (PVC) Waste And Vent PipeIncludes polyvinyl chloride (PVC) waste and vent pipe and copper domestic supply. Excludes fixtures and faucets.							\$697.54
						Installation	Quantity		Unit Price		Factor	=	Total	
							2.00	x	344.77	x	1.0116		697.54	
							one for kitchen sink and one for bathroom sink							
260	22	13	16	00	0508	LF	3" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.							\$1,218.47
						Installation	Quantity		Unit Price		Factor	=	Total	
							50.00	x	24.09	x	1.0116		1,218.47	
							vent piping Additional length due to inflated costs							
261	22	13	16	00	0509	LF	4" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.							\$1,372.24
						Installation	Quantity		Unit Price		Factor	=	Total	
							50.00	x	27.13	x	1.0116		1,372.24	
							drain piping Additional length due to inflated costs							
262	22	41	39	00	0013	EA	Single Lever Handle, Chrome Bath And Shower, Pressure Balanced/Anti-Scald Valve (American Standard T675.502)							\$215.72
						Installation	Quantity		Unit Price		Factor	=	Total	
							1.00	x	177.79	x	1.0116		179.85	
						Demolition	Quantity		Unit Price		Factor	=	Total	
							1.00	x	35.46	x	1.0116		35.87	
							remove existing and replace with new shower/batg valve							
263	22	42	23	00	0011	EA	40" x 48" x 82" Handicapped, Solid Plastic Shower Enclosure (General Partitions)							\$5,062.44
						Installation	Quantity		Unit Price		Factor	=	Total	
							2.00	x	2,436.30	x	1.0116		4,929.12	
						Demolition	Quantity		Unit Price		Factor	=	Total	
							1.00	x	131.79	x	1.0116		133.32	
							remove existing and install new shower. additional quantities due to added costs currently							
264	22	42	23	00	0081	SF	Polyvinyl Chloride (PVC) Shower Pan Liner							\$96.14
						Installation	Quantity		Unit Price		Factor	=	Total	
							32.00	x	2.97	x	1.0116		96.14	
							pan liner for new shower							
265	26	01	20	91	0002	EA	Lock Out/Tag Out Local Disconnect							\$175.78
						Installation	Quantity		Unit Price		Factor	=	Total	
							8.00	x	21.72	x	1.0116		175.78	
							LOTO of existing circuits							
266	26	09	23	00	0109	EA	Wall Switch Replacement Occupancy Sensor, Single GangIncludes integral occupancy sensor and relay.							\$167.30
						Installation	Quantity		Unit Price		Factor	=	Total	
							2.00	x	82.69	x	1.0116		167.30	
							per plans							

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 107

267	26	27	26	00	0009	EA	1 Gang, 20 Amp, GFI, Duplex Receptacle Assembly						\$1,181.85
							Quantity	Unit Price	Factor	=	Total		
						Installation	10.00 x	83.87 x	1.0116	=	848.43		
						Demolition	10.00 x	32.96 x	1.0116	=	333.42		
						New outlets for bathroom and kitchen							
268	26	27	26	00	0038	EA	50 Amp, NEMA 15-50, Single Receptacle, 250 Volt, 3 Phase						\$106.16
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00 x	85.43 x	1.0116	=	86.42		
						Demolition	1.00 x	19.51 x	1.0116	=	19.74		
						for stove							
269	26	27	26	00	0138	EA	1 Gang, 20 Amp, 120/277 Volt, SPST, Switch Assembly						\$882.60
							Quantity	Unit Price	Factor	=	Total		
						Installation	8.00 x	76.10 x	1.0116	=	615.86		
						Demolition	8.00 x	32.96 x	1.0116	=	266.74		
						switches in bathroom and kitchen							
270	26	51	13	00	0421	EA	1,500 Lumens, 6" Diameter, Recessed LED Downlight With Open Trim (Lightolier C6L1520DL)						\$4,476.43
							Quantity	Unit Price	Factor	=	Total		
						Installation	10.00 x	404.35 x	1.0116	=	4,090.40		
						Demolition	10.00 x	38.16 x	1.0116	=	386.03		
						new LED recessed lighting per plans							
271	26	51	13	00	0458	EA	2,200 Lumens, 9" Diameter, Wall Mount LED Cylinder Downlight With Semi-Specular Trim (Gotham® EVO® CLED9)						\$488.20
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00 x	445.65 x	1.0116	=	450.82		
						Demolition	1.00 x	36.95 x	1.0116	=	37.38		
						for bathroom							

Subtotal for Unit 107 **\$72,342.02**

Unit 108

272	01	66	19	00	0056	EA	Handling Material For Over 125' Per 9" x 48" x 48" Container Per 125' Segment						\$339.90
							Quantity	Unit Price	Factor	=	Total		
						Installation	200.00 x	1.68 x	1.0116	=	339.90		
						for handling of debris and material from parking lot to unit							
273	01	74	19	00	0016	EA	40 CY Dumpster (5 Ton) "Construction Debris" Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.						\$2,033.23
							Quantity	Unit Price	Factor	=	Total		
						Installation	3.00 x	669.97 x	1.0116	=	2,033.22		
						for debris							
274	01	95	06	00	0014	LF	20" Wide Wood Shelving For Closets						\$309.63
							Quantity	Unit Price	Factor	=	Total		
						Installation	8.00 x	38.26 x	1.0116	=	309.63		
						removal of existing and installation of new per plans							
275	01	95	06	00	0095	LF	11/16" x 3-1/4" Pine Casing						\$3,995.82
							Quantity	Unit Price	Factor	=	Total		
						Installation	1,000.00 x	3.95 x	1.0116	=	3,995.82		
						baseboard and door casing for entire unit							

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 108

276	01	95	08	00	0054	EA	3'-0", Prehung 1-3/8" Primed, High Density Fiberboard Hardboard, Hollow Core, Six Panel Door And Frame								\$403.67
							Installation	Quantity	Unit Price	Factor	=	Total			
								2.00	199.52	x	1.0116	=	403.67		
							removal of existing and installation of 2 new doors								
277	01	95	08	00	0063	PR	Interior Residential Grade Door Hinges								\$78.72
							Installation	Quantity	Unit Price	Factor	=	Total			
								2.00	38.91	x	1.0116	=	78.72		
							removal of existing and installation of 2 new for doors								
278	01	95	09	00	0003	GSF	Paint Entire Unit Complete Including DoorsIncludes doors, walls, moldings, kitchen, ceilings, etc. Includes preparation. Per SF of floor area. Combination semi-gloss and eggshell. Two coats paint or one coat primer and one coat paint.								\$2,603.86
							Installation	Quantity	Unit Price	Factor	=	Total			
								600.00	4.29	x	1.0116	=	2,603.86		
							prime and 2 coats paint entire unit								
279	01	95	09	00	0003	0059	MOD	For Each Additional Coat, Add							\$2,804.16
							Installation	Quantity	Unit Price	Factor	=	Total			
								1,800.00	1.54	x	1.0116	=	2,804.16		
280	01	95	11	00	0003	EA	11.9 CF Top Freezer Refrigerator								\$780.96
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	772.00	x	1.0116	=	780.96		
							remove and replace existing fridge removed material for LI								
281	01	95	22	00	0004	EA	2 Piece Tank Type, Gravity Flush System, Floor Mounted, Floor Outlet, Elongated Vitreous China Water Closet (Kohler Highline® K-3999)Includes seat, wax ring, escutcheon, supply valve and line.								\$548.88
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	398.16	x	1.0116	=	402.78		
							Demolition	Quantity	Unit Price	Factor	=	Total			
								1.00	144.43	x	1.0116	=	146.11		
							remove existing and replace with new toilet								
282	01	95	22	00	0008	EA	Faucet, Kohler (K-15182-P)								\$175.15
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	146.51	x	1.0116	=	148.21		
							Demolition	Quantity	Unit Price	Factor	=	Total			
								1.00	26.63	x	1.0116	=	26.94		
							remove existing and replace with new bathroom faucet								
283	01	95	22	00	0015	EA	Pressure Balancing Shower Valve (Symmons BP-46-2-X)								\$184.68
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	144.03	x	1.0116	=	145.70		
							Demolition	Quantity	Unit Price	Factor	=	Total			
								1.00	38.53	x	1.0116	=	38.98		
							remove existing and replace with new								
284	01	95	22	00	0023	EA	Wall Mount, Hand Shower Unit With Hose (Delta Faucet 62001 DS)								\$200.12
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	175.63	x	1.0116	=	177.67		
							Demolition	Quantity	Unit Price	Factor	=	Total			
								1.00	22.20	x	1.0116	=	22.46		
							remove existing and replace with new								
285	01	95	22	00	0039	EA	25" x 22" x 6" Stainless Steel Kitchen Sink, Single Bowl, 22 Gauge (Elkay K125224)								\$532.30
							Installation	Quantity	Unit Price	Factor	=	Total			
								1.00	449.39	x	1.0116	=	454.60		
							Demolition	Quantity	Unit Price	Factor	=	Total			
								1.00	76.81	x	1.0116	=	77.70		
							remove existing and replace with new								

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
 Work Order Title: Palm Vista ADA upgrades

Unit 108

286	01	95	22	00	0043	EA	Kitchen Faucet, Polished Chrome (Kohler K-15171-P)								\$193.26
							Quantity		Unit Price		Factor	=	Total		
						Installation	1.00	x	146.66	x	1.0116	=	148.36		
						Demolition	1.00	x	44.38	x	1.0116	=	44.89		
							remove existing and replace with new								
287	01	95	26	00	0003	LF	10 AWG, 2 Conductor, Solid, Romex Copper Wire								\$3,706.50
							Quantity		Unit Price		Factor	=	Total		
						Installation	800.00	x	3.19	x	1.0116	=	2,581.60		
						Demolition	800.00	x	1.39	x	1.0116	=	1,124.90		
							for new outlets and electrical runs per plans								
288	01	95	26	00	0042	EA	AC Powered, Carbon Monoxide and Fire Alarm (Kidde 900-0114)								\$258.18
							Quantity		Unit Price		Factor	=	Total		
						Installation	2.00	x	105.92	x	1.0116	=	214.30		
						Demolition	2.00	x	21.69	x	1.0116	=	43.88		
							per plans								
289	02	82	33	00	0047	SF	>10 To 500 SF, Gypsum Wall Board, Asbestos Abatement And Disposal								\$2,913.41
							Quantity		Unit Price		Factor	=	Total		
						Installation	240.00	x	12.00	x	1.0116	=	2,913.41		
							drywall abatement								
290	02	82	33	00	0067	SF	>10 To 500 SF, Spray On Acoustical Ceiling, Asbestos Abatement And Disposal								\$5,550.04
							Quantity		Unit Price		Factor	=	Total		
						Installation	540.00	x	10.16	x	1.0116	=	5,550.04		
							ceiling abatement								
291	02	89	00	00	0005	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, For Separation Barrier								\$246.83
							Quantity		Unit Price		Factor	=	Total		
						Installation	400.00	x	0.61	x	1.0116	=	246.83		
							protection as part of abatement								
292	02	89	00	00	0006	EA	7' Zipper Door For Plastic Sheeting								\$32.17
							Quantity		Unit Price		Factor	=	Total		
						Installation	2.00	x	15.90	x	1.0116	=	32.17		
							zippers for access through abatement protection								
293	02	89	00	00	0019	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, Applied To Floors, Hazmat Containment Construction								\$791.07
							Quantity		Unit Price		Factor	=	Total		
						Installation	1,700.00	x	0.46	x	1.0116	=	791.07		
							protection as part of abatement								
294	02	89	00	00	0020	SF	6 Mil Plastic Fire Retardant, Anti Static Retardant Sheeting, Applied To Walls, Hazmat Containment Construction								\$895.27
							Quantity		Unit Price		Factor	=	Total		
						Installation	1,500.00	x	0.59	x	1.0116	=	895.27		
							protection as part of abatement								
295	02	89	00	00	0023	EA	Portable Personnel Decontamination Wash Facility (3 Stage)Includes connection to negative air system.								\$596.14
							Quantity		Unit Price		Factor	=	Total		
						Installation	1.00	x	589.30	x	1.0116	=	596.14		
							protection as part of abatement								

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 108

296	03	54	16	00	0002	SF	1/8" Thick Self Leveling Cementitious Underlayment For Floors Including Surface Preparation									\$1,294.85
							Installation	Quantity		Unit Price		Factor	=		Total	
								800.00	x	1.60	x	1.0116	=		1,294.85	
							level existing flooring									
297	06	11	16	00	0061	SF	2" x 4" Wood Wall Framing At 16" On Center									\$1,097.59
							Installation	Quantity		Unit Price		Factor	=		Total	
								500.00	x	1.51	x	1.0116	=		763.76	
							Demolition	500.00	x	0.66	x	1.0116	=		333.83	
							for new walls installed									
298	06	11	16	00	0061	0004	MOD	For >200 To 500, Add								\$126.45
							Installation	Quantity		Unit Price		Factor	=		Total	
								500.00	x	0.25	x	1.0116	=		126.45	
299	06	41	13	00	0112	EA	15" x 30" Wall Cabinet									\$127.69
							Installation	Quantity		Unit Price		Factor	=		Total	
								1.00	x	126.23	x	1.0116	=		127.69	
							installation of new									
300	06	41	13	00	0112	0068	MOD	For Custom Deluxe Grade, Add								\$37.10
							Installation	Quantity		Unit Price		Factor	=		Total	
								1.00	x	36.67	x	1.0116	=		37.10	
301	06	41	13	00	0115	EA	24" x 30" Wall Cabinet									\$105.13
							Installation	Quantity		Unit Price		Factor	=		Total	
								0.00	x	150.60	x	1.0116	=		0.00	
							Demolition	4.00	x	25.98	x	1.0116	=		105.13	
							removal of existing									
302	06	41	13	00	0115	0067	MOD	For Deluxe Grade, Add								\$159.67
							Installation	Quantity		Unit Price		Factor	=		Total	
								4.00	x	39.46	x	1.0116	=		159.67	
303	06	41	13	00	0117	EA	27" x 30" Wall Cabinet									\$329.64
							Installation	Quantity		Unit Price		Factor	=		Total	
								2.00	x	162.93	x	1.0116	=		329.64	
							installation of new									
304	06	41	13	00	0117	0068	MOD	For Custom Deluxe Grade, Add								\$100.33
							Installation	Quantity		Unit Price		Factor	=		Total	
								2.00	x	49.59	x	1.0116	=		100.33	
305	06	41	13	00	0135	EA	30" x 12" x 46-1/2" Microwave Cabinet									\$324.10
							Installation	Quantity		Unit Price		Factor	=		Total	
								1.00	x	320.38	x	1.0116	=		324.10	
							installation of new									
306	06	41	13	00	0135	0068	MOD	For Custom Deluxe Grade, Add								\$106.51
							Installation	Quantity		Unit Price		Factor	=		Total	
								1.00	x	105.29	x	1.0116	=		106.51	
307	06	41	13	00	0154	EA	24" x 15" Wall Cabinet									\$105.13
							Installation	Quantity		Unit Price		Factor	=		Total	
								0.00	x	120.99	x	1.0116	=		0.00	
							Demolition	4.00	x	25.98	x	1.0116	=		105.13	
							removal of existing									

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 108

308	06	41	13	00 0154	0067	MOD	For Deluxe Grade, Add												\$111.76
							Installation	Quantity		Unit Price		Factor	=	Total					
								4.00	x	27.62	x	1.0116	=	111.76					
309	06	41	13	00 0205		EA	15" Base Cabinet												\$161.07
							Installation	Quantity		Unit Price		Factor	=	Total					
								1.00	x	159.22	x	1.0116	=	161.07					
							installation of new												
310	06	41	13	00 0205	0068	MOD	For Custom Deluxe Grade, Add												\$48.67
							Installation	Quantity		Unit Price		Factor	=	Total					
								1.00	x	48.11	x	1.0116	=	48.67					
311	06	41	13	00 0215		EA	42" Base Cabinet												\$44.49
							Installation	Quantity		Unit Price		Factor	=	Total					
								0.00	x	275.36	x	1.0116	=	0.00					
							Demolition	Quantity		Unit Price		Factor	=	Total					
							removal of existing	1.00	x	43.98	x	1.0116	=	44.49					
312	06	41	13	00 0215	0067	MOD	For Deluxe Grade, Add												\$75.85
							Installation	Quantity		Unit Price		Factor	=	Total					
								1.00	x	74.98	x	1.0116	=	75.85					
313	06	41	13	00 0298		EA	27" x 12" x 84" Broom Cabinet												\$367.62
							Installation	Quantity		Unit Price		Factor	=	Total					
								1.00	x	363.40	x	1.0116	=	367.62					
							installation of new												
314	06	41	13	00 0298	0068	MOD	For Custom Deluxe Grade, Add												\$125.46
							Installation	Quantity		Unit Price		Factor	=	Total					
								1.00	x	124.02	x	1.0116	=	125.46					
315	06	41	13	00 0307		EA	33" x 24" x 84" Universal Oven Cabinet												\$38.99
							Installation	Quantity		Unit Price		Factor	=	Total					
								0.00	x	496.33	x	1.0116	=	0.00					
							Demolition	Quantity		Unit Price		Factor	=	Total					
							removal of existing	1.00	x	38.54	x	1.0116	=	38.99					
316	06	41	13	00 0307	0067	MOD	For Deluxe Grade, Add												\$169.66
							Installation	Quantity		Unit Price		Factor	=	Total					
								1.00	x	167.71	x	1.0116	=	169.66					
317	08	71	23	00 0008		PR	3-1/2" x 3-1/2" Standard Duty, Full Mortise, Ball Bearing, Brass/Bronze, Satin Chrome Finish Hinge												\$148.26
							Installation	Quantity		Unit Price		Factor	=	Total					
								2.00	x	67.41	x	1.0116	=	136.38					
							Demolition	Quantity		Unit Price		Factor	=	Total					
							hinges for doors	2.00	x	5.87	x	1.0116	=	11.88					
318	08	71	23	00 2298		EA	Bath/Bedroom Privacy F37 Pre-Assembled LocksetLocked with push button inside.												\$1,260.07
							Installation	Quantity		Unit Price		Factor	=	Total					
								2.00	x	601.86	x	1.0116	=	1,217.68					
							Demolition	Quantity		Unit Price		Factor	=	Total					
							for new doors	2.00	x	20.95	x	1.0116	=	42.39					
319	09	23	13	00 0022		SF	Smooth Finish Three Coats Gypsum Plaster On Walls												\$4,404.51
							Installation	Quantity		Unit Price		Factor	=	Total					
								700.00	x	6.22	x	1.0116	=	4,404.51					
							finish drywall												

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 108

320	09 29 00 00 0006	SF	5/8" Gypsum Board							\$970.12
			Installation	Quantity		Unit Price		Factor		Total
				700.00	x	1.37	x	1.0116	=	970.12
			New drywall per plans							
321	09 29 00 00 0070	SF	Spray Applied Orange Peel Finish On Existing Gypsum Board Wall							\$226.60
			Installation	Quantity		Unit Price		Factor		Total
				700.00	x	0.32	x	1.0116	=	226.60
			texture to match surrounding							
322	09 29 00 00 0074	LF	Corner Bead, Galvanized Steel For Gypsum Board							\$233.07
			Installation	Quantity		Unit Price		Factor		Total
				80.00	x	2.88	x	1.0116	=	233.07
			corner beads for drywall							
323	09 29 00 00 0074 0012	MOD	For Up To 100, Add							\$15.38
			Installation	Quantity		Unit Price		Factor		Total
				80.00	x	0.19	x	1.0116	=	15.38
324	09 65 23 00 0004	SF	0.16" Overall Thickness, 0.020" Wear Layer, Vinyl Plank Flooring (Armstrong® Luxe Plank™)							\$5,147.02
			Installation	Quantity		Unit Price		Factor		Total
				800.00	x	6.36	x	1.0116	=	5,147.02
			new vinyl plank flooring in entire unit							
325	10 28 13 13 0131	EA	24" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x24)							\$287.03
			Installation	Quantity		Unit Price		Factor		Total
				3.00	x	77.82	x	1.0116	=	236.17
			Demolition	3.00	x	16.76	x	1.0116	=	50.86
			grab bars for rear of toilet and in shower							
326	10 28 13 13 0135	EA	48" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x48)							\$102.36
			Installation	Quantity		Unit Price		Factor		Total
				1.00	x	84.43	x	1.0116	=	85.41
			Demolition	1.00	x	16.76	x	1.0116	=	16.95
			grab bar for side of toilet							
327	10 28 13 13 0189	EA	Stainless Steel Shower Curtain Hook (Bobrick B-204-1)							\$47.34
			Installation	Quantity		Unit Price		Factor		Total
				15.00	x	2.29	x	1.0116	=	34.75
			Demolition	15.00	x	0.83	x	1.0116	=	12.59
			Shower curtain hooks							
328	10 28 16 13 0017	EA	20" x 30" Recessed Steel Medicine Cabinet With Mirror, Nutone 495							\$359.24
			Installation	Quantity		Unit Price		Factor		Total
				1.00	x	208.47	x	1.0116	=	210.89
			Demolition	5.00	x	29.33	x	1.0116	=	148.35
			remove existing and replace with new							
329	10 28 16 13 0026	EA	Shower Curtain Rod, Polished Chrome							\$221.19
			Installation	Quantity		Unit Price		Factor		Total
				1.00	x	82.50	x	1.0116	=	83.46
			Demolition	5.00	x	27.23	x	1.0116	=	137.73
			remove existing and replace with new							
330	11 30 13 13 0087	EA	Removal And Reinstallation Of Stove/Range							\$221.08
			Installation	Quantity		Unit Price		Factor		Total
				1.00	x	218.54	x	1.0116	=	221.08
			remove, store and reinstall existing oven							

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 108

331	12	36	61	16	0003	SF	1/4" Solid Polyester (Corian) Backsplash, Group B Colors	Quantity based on area of backsplash. Excludes backing material such as cement or water resistant gypsum board.								\$583.29
						Installation	Quantity	Unit Price	Factor	=	Total					
							20.00	28.83	x	1.0116	=	583.29				
							backsplash for kitchen countertops									
332	12	36	61	16	0003	0021	MOD	For Up To 50, Add								\$189.78
							Installation	Quantity	Unit Price	Factor	=	Total				
								20.00	9.38	x	1.0116	=	189.78			
333	12	36	61	16	0004		SF	1/2" Solid Polyester (Corian) Countertop, Group B Colors	Quantity based on area of counter, backsplash and apron. Includes drilling holes for fixtures and 1-1/2" drop edge with 1/8" radius edges (when apron not used).							\$1,898.57
							Installation	Quantity	Unit Price	Factor	=	Total				
								40.00	46.92	x	1.0116	=	1,898.57			
								new countertops for kitchen								
334	12	36	61	16	0004	0021	MOD	For Up To 50, Add								\$606.96
							Installation	Quantity	Unit Price	Factor	=	Total				
								40.00	15.00	x	1.0116	=	606.96			
335	12	36	61	16	0004	0026	MOD	For Each LF Of Half Round Edge, Add								\$323.71
							Installation	Quantity	Unit Price	Factor	=	Total				
								40.00	8.00	x	1.0116	=	323.71			
336	12	36	61	16	0004	0029	MOD	For Each Sink, Range Or Vanity Cutout, Add								\$15.17
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	15.00	x	1.0116	=	15.17			
337	12	36	61	16	0004	0040	MOD	For >2.25 To 3 SF Integral Single Basin Kitchen Sink, Add	Single or double bowl.							\$344.39
							Installation	Quantity	Unit Price	Factor	=	Total				
								1.00	340.44	x	1.0116	=	344.39			
338	21	13	13	00	0003		EA	Exposed Piping, Light Hazard, Complete Wet-Pipe Sprinkler System, Per Head	Includes branch pipe and fittings, supports and sprinkler heads.							\$916.84
							Installation	Quantity	Unit Price	Factor	=	Total				
								3.00	302.11	x	1.0116	=	916.84			
								new sprinkler system installed as needed								
339	21	13	13	00	0003	0004	MOD	For Up To 5, Add								\$431.00
							Installation	Quantity	Unit Price	Factor	=	Total				
								3.00	142.02	x	1.0116	=	431.00			
340	22	01	40	81	0005		EA	Single Bowl Sink/Lavatory Drain Line Replacement								\$65.11
							Installation	Quantity	Unit Price	Factor	=	Total				
								2.00	32.18	x	1.0116	=	65.11			
								for kitchen and bathroom sinks								
341	22	11	16	00	0878		LF	3/4" Inside Diameter Copper Pipe/Tubing Type L Assembly	Includes all hangers and couplings, elbow, tee, reducer fittings. All hangers are complete assemblies. Not for use where detail is available.							\$1,951.38
							Installation	Quantity	Unit Price	Factor	=	Total				
								100.00	19.29	x	1.0116	=	1,951.38			
								for all water lines. Additional length due to inflated costs								

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
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Unit 108

342	22	13	13	00	0062	EA	Countertop Kitchen Sink, Double Fixture Rough-In, Polyvinyl Chloride (PVC) Waste And Vent PipeIncludes polyvinyl chloride (PVC) waste and vent pipe and copper domestic supply. Excludes fixtures and faucets.					\$697.54
						Installation	Quantity 2.00	x	Unit Price 344.77	x	Factor 1.0116 =	Total 697.54
							one for kitchen sink and one for bathroom sink					
343	22	13	16	00	0508	LF	3" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.					\$1,218.47
						Installation	Quantity 50.00	x	Unit Price 24.09	x	Factor 1.0116 =	Total 1,218.47
							vent piping Additional length due to inflated costs					
344	22	13	16	00	0509	LF	4" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.					\$1,372.24
						Installation	Quantity 50.00	x	Unit Price 27.13	x	Factor 1.0116 =	Total 1,372.24
							drain piping Additional length due to inflated costs					
345	22	41	39	00	0013	EA	Single Lever Handle, Chrome Bath And Shower, Pressure Balanced/Anti-Scald Valve (American Standard T675.502)					\$215.72
						Installation	Quantity 1.00	x	Unit Price 177.79	x	Factor 1.0116 =	Total 179.85
						Demolition	Quantity 1.00	x	Unit Price 35.46	x	Factor 1.0116 =	Total 35.87
							remove existing and replace with new shower/batg valve					
346	22	42	23	00	0011	EA	40" x 48" x 82" Handicapped, Solid Plastic Shower Enclosure (General Partitions)					\$5,062.44
						Installation	Quantity 2.00	x	Unit Price 2,436.30	x	Factor 1.0116 =	Total 4,929.12
						Demolition	Quantity 1.00	x	Unit Price 131.79	x	Factor 1.0116 =	Total 133.32
							remove existing and install new shower. additional quantities due to added costs currently					
347	22	42	23	00	0081	SF	Polyvinyl Chloride (PVC) Shower Pan Liner					\$96.14
						Installation	Quantity 32.00	x	Unit Price 2.97	x	Factor 1.0116 =	Total 96.14
							pan liner for new shower					
348	26	01	20	91	0002	EA	Lock Out/Tag Out Local Disconnect					\$175.78
						Installation	Quantity 8.00	x	Unit Price 21.72	x	Factor 1.0116 =	Total 175.78
							LOTO of existing circuits					
349	26	09	23	00	0109	EA	Wall Switch Replacement Occupancy Sensor, Single GangIncludes integral occupancy sensor and relay.					\$167.30
						Installation	Quantity 2.00	x	Unit Price 82.69	x	Factor 1.0116 =	Total 167.30
							per plans					
350	26	27	26	00	0009	EA	1 Gang, 20 Amp, GFI, Duplex Receptacle Assembly					\$1,181.85
						Installation	Quantity 10.00	x	Unit Price 83.87	x	Factor 1.0116 =	Total 848.43
						Demolition	Quantity 10.00	x	Unit Price 32.96	x	Factor 1.0116 =	Total 333.42
							New outlets for bathroom and kitchen					

Contractor's Price Proposal - Detail Continues..

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Unit 108

351	26	27	26	00	0038	EA	50 Amp, NEMA 15-50, Single Receptacle, 250 Volt, 3 Phase						\$106.16
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00	x	85.43	x	1.0116	=	86.42
						Demolition for stove	1.00	x	19.51	x	1.0116	=	19.74
352	26	27	26	00	0138	EA	1 Gang, 20 Amp, 120/277 Volt, SPST, Switch Assembly						\$882.60
							Quantity	Unit Price	Factor	=	Total		
						Installation	8.00	x	76.10	x	1.0116	=	615.86
						Demolition switches in bathroom and kitchen	8.00	x	32.96	x	1.0116	=	266.74
353	26	51	13	00	0421	EA	1,500 Lumens, 6" Diameter, Recessed LED Downlight With Open Trim (Lightolier C6L1520DL)						\$4,476.43
							Quantity	Unit Price	Factor	=	Total		
						Installation	10.00	x	404.35	x	1.0116	=	4,090.40
						Demolition new LED recessed lighting per plans	10.00	x	38.16	x	1.0116	=	386.03
354	26	51	13	00	0458	EA	2,200 Lumens, 9" Diameter, Wall Mount LED Cylinder Downlight With Semi-Specular Trim (Gotham® EVO® CLED9)						\$488.20
							Quantity	Unit Price	Factor	=	Total		
						Installation	1.00	x	445.65	x	1.0116	=	450.82
						Demolition for bathroom	1.00	x	36.95	x	1.0116	=	37.38

Subtotal for Unit 108 **\$72,342.01**

Unit 109

355	01	66	19	00	0056	EA	Handling Material For Over 125' Per 9" x 48" x 48" Container Per 125' Segment						\$339.90
							Quantity	Unit Price	Factor	=	Total		
						Installation	200.00	x	1.68	x	1.0116	=	339.90
							for handling of debris and material from parking lot to unit						
356	01	74	19	00	0016	EA	40 CY Dumpster (5 Ton) "Construction Debris" Includes delivery of dumpster, rental cost, pick-up cost, hauling, and disposal fee. Non-hazardous material.						\$2,033.23
							Quantity	Unit Price	Factor	=	Total		
						Installation	3.00	x	669.97	x	1.0116	=	2,033.22
							for debris						
357	01	95	06	00	0014	LF	20" Wide Wood Shelving For Closets						\$309.63
							Quantity	Unit Price	Factor	=	Total		
						Installation	8.00	x	38.26	x	1.0116	=	309.63
							removal of existing and installation of new per plans						
358	01	95	06	00	0095	LF	11/16" x 3-1/4" Pine Casing						\$3,995.82
							Quantity	Unit Price	Factor	=	Total		
						Installation	1,000.00	x	3.95	x	1.0116	=	3,995.82
							baseboard and door casing for entire unit						
359	01	95	08	00	0054	EA	3'-0", Prehung 1-3/8" Primed, High Density Fiberboard Hardboard, Hollow Core, Six Panel Door And Frame						\$403.67
							Quantity	Unit Price	Factor	=	Total		
						Installation	2.00	x	199.52	x	1.0116	=	403.67
							removal of existing and installation of 2 new doors						
360	01	95	08	00	0063	PR	Interior Residential Grade Door Hinges						\$78.72
							Quantity	Unit Price	Factor	=	Total		
						Installation	2.00	x	38.91	x	1.0116	=	78.72
							removal of existing and installation of 2 new for doors						

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 109

361	01 95 09 00 0003	GSF	Paint Entire Unit Complete Including DoorsIncludes doors, walls, moldings, kitchen, ceilings, etc. Includes preparation. Per SF of floor area. Combination semi-gloss and eggshell. Two coats paint or one coat primer and one coat paint.						\$2,603.86
		Installation	Quantity 600.00 x	Unit Price 4.29	x	Factor 1.0116	=	Total 2,603.86	
			prime and 2 coats paint entire unit						
362	01 95 09 00 0003 0059	MOD	For Each Additional Coat, Add						\$2,804.16
		Installation	Quantity 1,800.00 x	Unit Price 1.54	x	Factor 1.0116	=	Total 2,804.16	
363	01 95 11 00 0003	EA	11.9 CF Top Freezer Refrigerator						\$780.96
		Installation	Quantity 1.00 x	Unit Price 772.00	x	Factor 1.0116	=	Total 780.96	
			remove and replace existing fridge removed material for LI						
364	01 95 22 00 0004	EA	2 Piece Tank Type, Gravity Flush System, Floor Mounted, Floor Outlet, Elongated Vitreous China Water Closet (Kohler Highline® K-3999)Includes seat, wax ring, escutcheon, supply valve and line.						\$548.88
		Installation	Quantity 1.00 x	Unit Price 398.16	x	Factor 1.0116	=	Total 402.78	
		Demolition	1.00 x	144.43	x	1.0116	=	146.11	
			remove existing and replace with new toilet						
365	01 95 22 00 0008	EA	Faucet, Kohler (K-15182-P)						\$175.15
		Installation	Quantity 1.00 x	Unit Price 146.51	x	Factor 1.0116	=	Total 148.21	
		Demolition	1.00 x	26.63	x	1.0116	=	26.94	
			remove existing and replace with new bathroom faucet						
366	01 95 22 00 0015	EA	Pressure Balancing Shower Valve (Symmons BP-46-2-X)						\$184.68
		Installation	Quantity 1.00 x	Unit Price 144.03	x	Factor 1.0116	=	Total 145.70	
		Demolition	1.00 x	38.53	x	1.0116	=	38.98	
			remove existing and replace with new						
367	01 95 22 00 0023	EA	Wall Mount, Hand Shower Unit With Hose (Delta Faucet 62001 DS)						\$200.12
		Installation	Quantity 1.00 x	Unit Price 175.63	x	Factor 1.0116	=	Total 177.67	
		Demolition	1.00 x	22.20	x	1.0116	=	22.46	
			remove existing and replace with new						
368	01 95 22 00 0039	EA	25" x 22" x 6" Stainless Steel Kitchen Sink, Single Bowl, 22 Gauge (Elkay K125224)						\$532.30
		Installation	Quantity 1.00 x	Unit Price 449.39	x	Factor 1.0116	=	Total 454.60	
		Demolition	1.00 x	76.81	x	1.0116	=	77.70	
			remove existing and replace with new						
369	01 95 22 00 0043	EA	Kitchen Faucet, Polished Chrome (Kohler K-15171-P)						\$193.26
		Installation	Quantity 1.00 x	Unit Price 146.66	x	Factor 1.0116	=	Total 148.36	
		Demolition	1.00 x	44.38	x	1.0116	=	44.89	
			remove existing and replace with new						
370	01 95 26 00 0003	LF	10 AWG, 2 Conductor, Solid, Romex Copper Wire						\$3,706.50
		Installation	Quantity 800.00 x	Unit Price 3.19	x	Factor 1.0116	=	Total 2,581.60	
		Demolition	800.00 x	1.39	x	1.0116	=	1,124.90	
			for new outlets and electrical runs per palms						

Contractor's Price Proposal - Detail Continues..

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Work Order Title: Palm Vista ADA upgrades

Unit 109

371	01 95 26 00 0042	EA	AC Powered, Carbon Monoxide and Fire Alarm (Kide 900-0114)					\$258.18
		Installation	Quantity		Unit Price		Factor	Total
			2.00	x	105.92	x	1.0116	214.30
		Demolition per plans	2.00	x	21.69	x	1.0116	43.88
372	02 82 33 00 0047	SF	>10 To 500 SF, Gypsum Wall Board, Asbestos Abatement And Disposal					\$2,913.41
		Installation	Quantity		Unit Price		Factor	Total
			240.00	x	12.00	x	1.0116	2,913.41
		drywall abatement						
373	02 82 33 00 0067	SF	>10 To 500 SF, Spray On Acoustical Ceiling, Asbestos Abatement And Disposal					\$5,550.04
		Installation	Quantity		Unit Price		Factor	Total
			540.00	x	10.16	x	1.0116	5,550.04
		ceiling abatement						
374	02 89 00 00 0005	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, For Separation Barrier					\$246.83
		Installation	Quantity		Unit Price		Factor	Total
			400.00	x	0.61	x	1.0116	246.83
		protection as part of abatement						
375	02 89 00 00 0006	EA	7' Zipper Door For Plastic Sheeting					\$32.17
		Installation	Quantity		Unit Price		Factor	Total
			2.00	x	15.90	x	1.0116	32.17
		zippers for access through abatement protection						
376	02 89 00 00 0019	SF	6 Mil Plastic Fire Retardant, Anti Static Sheeting, Applied To Floors, Hazmat Containment Construction					\$791.07
		Installation	Quantity		Unit Price		Factor	Total
			1,700.00	x	0.46	x	1.0116	791.07
		protection as part of abatement						
377	02 89 00 00 0020	SF	6 Mil Plastic Fire Retardant, Anti Static Retardant Sheeting, Applied To Walls, Hazmat Containment Construction					\$895.27
		Installation	Quantity		Unit Price		Factor	Total
			1,500.00	x	0.59	x	1.0116	895.27
		protection as part of abatement						
378	02 89 00 00 0023	EA	Portable Personnel Decontamination Wash Facility (3 Stage)Includes connection to negative air system.					\$596.14
		Installation	Quantity		Unit Price		Factor	Total
			1.00	x	589.30	x	1.0116	596.14
		protection as part of abatement						
379	03 54 16 00 0002	SF	1/8" Thick Self Leveling Cementitious Underlayment For Floors Including Surface Preparation					\$1,294.85
		Installation	Quantity		Unit Price		Factor	Total
			800.00	x	1.60	x	1.0116	1,294.85
		level existing flooring						
380	06 11 16 00 0061	SF	2" x 4" Wood Wall Framing At 16" On Center					\$1,097.59
		Installation	Quantity		Unit Price		Factor	Total
			500.00	x	1.51	x	1.0116	763.76
		Demolition for new walls installed	500.00	x	0.66	x	1.0116	333.83
381	06 11 16 00 0061 0004	MOD	For >200 To 500, Add					\$126.45
		Installation	Quantity		Unit Price		Factor	Total
			500.00	x	0.25	x	1.0116	126.45

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
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Unit 109

382	06	41	13	00	0112	EA	15" x 30" Wall Cabinet										\$127.69
						Installation	Quantity	1.00	x	Unit Price	126.23	x	Factor	1.0116	=	Total	127.69
						installation of new											
383	06	41	13	00	0112	0068	MOD	For Custom Deluxe Grade, Add									\$37.10
						Installation	Quantity	1.00	x	Unit Price	36.67	x	Factor	1.0116	=	Total	37.10
384	06	41	13	00	0115	EA	24" x 30" Wall Cabinet										\$105.13
						Installation	Quantity	0.00	x	Unit Price	150.60	x	Factor	1.0116	=	Total	0.00
						Demolition	Quantity	4.00	x	Unit Price	25.98	x	Factor	1.0116	=	Total	105.13
						removal of existing											
385	06	41	13	00	0115	0067	MOD	For Deluxe Grade, Add									\$159.67
						Installation	Quantity	4.00	x	Unit Price	39.46	x	Factor	1.0116	=	Total	159.67
386	06	41	13	00	0117	EA	27" x 30" Wall Cabinet										\$329.64
						Installation	Quantity	2.00	x	Unit Price	162.93	x	Factor	1.0116	=	Total	329.64
						installation of new											
387	06	41	13	00	0117	0068	MOD	For Custom Deluxe Grade, Add									\$100.33
						Installation	Quantity	2.00	x	Unit Price	49.59	x	Factor	1.0116	=	Total	100.33
388	06	41	13	00	0135	EA	30" x 12" x 46-1/2" Microwave Cabinet										\$324.10
						Installation	Quantity	1.00	x	Unit Price	320.38	x	Factor	1.0116	=	Total	324.10
						installation of new											
389	06	41	13	00	0135	0068	MOD	For Custom Deluxe Grade, Add									\$106.51
						Installation	Quantity	1.00	x	Unit Price	105.29	x	Factor	1.0116	=	Total	106.51
390	06	41	13	00	0154	EA	24" x 15" Wall Cabinet										\$105.13
						Installation	Quantity	0.00	x	Unit Price	120.99	x	Factor	1.0116	=	Total	0.00
						Demolition	Quantity	4.00	x	Unit Price	25.98	x	Factor	1.0116	=	Total	105.13
						removal of existing											
391	06	41	13	00	0154	0067	MOD	For Deluxe Grade, Add									\$111.76
						Installation	Quantity	4.00	x	Unit Price	27.62	x	Factor	1.0116	=	Total	111.76
392	06	41	13	00	0205	EA	15" Base Cabinet										\$161.07
						Installation	Quantity	1.00	x	Unit Price	159.22	x	Factor	1.0116	=	Total	161.07
						installation of new											
393	06	41	13	00	0205	0068	MOD	For Custom Deluxe Grade, Add									\$48.67
						Installation	Quantity	1.00	x	Unit Price	48.11	x	Factor	1.0116	=	Total	48.67
394	06	41	13	00	0215	EA	42" Base Cabinet										\$44.49
						Installation	Quantity	0.00	x	Unit Price	275.36	x	Factor	1.0116	=	Total	0.00
						Demolition	Quantity	1.00	x	Unit Price	43.98	x	Factor	1.0116	=	Total	44.49
						removal of existing											

Contractor's Price Proposal - Detail Continues..

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Unit 109

395	06	41	13	00	0215	0067	MOD	For Deluxe Grade, Add												\$75.85
							Installation	Quantity	1.00	x		Unit Price	74.98	x		Factor	1.0116	=	Total	75.85
396	06	41	13	00	0298		EA	27" x 12" x 84" Broom Cabinet												\$367.62
							Installation	Quantity	1.00	x		Unit Price	363.40	x		Factor	1.0116	=	Total	367.62
							installation of new													
397	06	41	13	00	0298	0068	MOD	For Custom Deluxe Grade, Add												\$125.46
							Installation	Quantity	1.00	x		Unit Price	124.02	x		Factor	1.0116	=	Total	125.46
398	06	41	13	00	0307		EA	33" x 24" x 84" Universal Oven Cabinet												\$38.99
							Installation	Quantity	0.00	x		Unit Price	496.33	x		Factor	1.0116	=	Total	0.00
							Demolition	Quantity	1.00	x		Unit Price	38.54	x		Factor	1.0116	=	Total	38.99
							removal of existing													
399	06	41	13	00	0307	0067	MOD	For Deluxe Grade, Add												\$169.66
							Installation	Quantity	1.00	x		Unit Price	167.71	x		Factor	1.0116	=	Total	169.66
400	08	71	23	00	0008		PR	3-1/2" x 3-1/2" Standard Duty, Full Mortise, Ball Bearing, Brass/Bronze, Satin Chrome Finish Hinge												\$148.26
							Installation	Quantity	2.00	x		Unit Price	67.41	x		Factor	1.0116	=	Total	136.38
							Demolition	Quantity	2.00	x		Unit Price	5.87	x		Factor	1.0116	=	Total	11.88
							hinges for doors													
401	08	71	23	00	2298		EA	Bath/Bedroom Privacy F37 Pre-Assembled LocksetLocked with push button inside.												\$1,260.07
							Installation	Quantity	2.00	x		Unit Price	601.86	x		Factor	1.0116	=	Total	1,217.68
							Demolition	Quantity	2.00	x		Unit Price	20.95	x		Factor	1.0116	=	Total	42.39
							for new doors													
402	09	23	13	00	0022		SF	Smooth Finish Three Coats Gypsum Plaster On Walls												\$4,404.51
							Installation	Quantity	700.00	x		Unit Price	6.22	x		Factor	1.0116	=	Total	4,404.51
							finish drywall													
403	09	29	00	00	0006		SF	5/8" Gypsum Board												\$970.12
							Installation	Quantity	700.00	x		Unit Price	1.37	x		Factor	1.0116	=	Total	970.12
							New drywall per plans													
404	09	29	00	00	0070		SF	Spray Applied Orange Peel Finish On Existing Gypsum Board Wall												\$226.60
							Installation	Quantity	700.00	x		Unit Price	0.32	x		Factor	1.0116	=	Total	226.60
							texture to match surrounding													
405	09	29	00	00	0074		LF	Corner Bead, Galvanized Steel For Gypsum Board												\$233.07
							Installation	Quantity	80.00	x		Unit Price	2.88	x		Factor	1.0116	=	Total	233.07
							corner beads for drywall													
406	09	29	00	00	0074	0012	MOD	For Up To 100, Add												\$15.38
							Installation	Quantity	80.00	x		Unit Price	0.19	x		Factor	1.0116	=	Total	15.38

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 109

407	09	65	23	00	0004	SF	0.16" Overall Thickness, 0.020" Wear Layer, Vinyl Plank Flooring (Armstrong® Luxe Plank™)						\$5,147.02
						Installation	Quantity	Unit Price	Factor	=	Total		
							800.00	6.36	x	1.0116	=	5,147.02	
						new vinyl plank flooring in entire unit							
408	10	28	13	13	0131	EA	24" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x24)						\$287.03
						Installation	Quantity	Unit Price	Factor	=	Total		
							3.00	77.82	x	1.0116	=	236.17	
						Demolition	Quantity	Unit Price	Factor	=	Total		
							3.00	16.76	x	1.0116	=	50.86	
						grab bars for rear of toilet and in shower							
409	10	28	13	13	0135	EA	48" Length, 1-1/4" Diameter, Stainless Steel Grab Bar (Bobrick B-5806x48)						\$102.36
						Installation	Quantity	Unit Price	Factor	=	Total		
							1.00	84.43	x	1.0116	=	85.41	
						Demolition	Quantity	Unit Price	Factor	=	Total		
							1.00	16.76	x	1.0116	=	16.95	
						grab bar for side of toilet							
410	10	28	13	13	0189	EA	Stainless Steel Shower Curtain Hook (Bobrick B-204-1)						\$47.34
						Installation	Quantity	Unit Price	Factor	=	Total		
							15.00	2.29	x	1.0116	=	34.75	
						Demolition	Quantity	Unit Price	Factor	=	Total		
							15.00	0.83	x	1.0116	=	12.59	
						Shower curtain hooks							
411	10	28	16	13	0017	EA	20" x 30" Recessed Steel Medicine Cabinet With Mirror, Nutone 495						\$359.24
						Installation	Quantity	Unit Price	Factor	=	Total		
							1.00	208.47	x	1.0116	=	210.89	
						Demolition	Quantity	Unit Price	Factor	=	Total		
							5.00	29.33	x	1.0116	=	148.35	
						remove existing and replace with new							
412	10	28	16	13	0026	EA	Shower Curtain Rod, Polished Chrome						\$221.19
						Installation	Quantity	Unit Price	Factor	=	Total		
							1.00	82.50	x	1.0116	=	83.46	
						Demolition	Quantity	Unit Price	Factor	=	Total		
							5.00	27.23	x	1.0116	=	137.73	
						remove existing and replace with new							
413	11	30	13	13	0087	EA	Removal And Reinstallation Of Stove/Range						\$221.08
						Installation	Quantity	Unit Price	Factor	=	Total		
							1.00	218.54	x	1.0116	=	221.08	
						remove, store and reinstall existing oven							
414	12	36	61	16	0003	SF	1/4" Solid Polyester (Corian) Backsplash, Group B ColorsQuantity based on area of backsplash. Excludes backing material such as cement or water resistant gypsum board.						\$583.29
						Installation	Quantity	Unit Price	Factor	=	Total		
							20.00	28.83	x	1.0116	=	583.29	
						backsplash for kitchen countertops							
415	12	36	61	16	0003 0021	MOD	For Up To 50, Add						\$189.78
						Installation	Quantity	Unit Price	Factor	=	Total		
							20.00	9.38	x	1.0116	=	189.78	
416	12	36	61	16	0004	SF	1/2" Solid Polyester (Corian) Countertop, Group B ColorsQuantity based on area of counter, backsplash and apron. Includes drilling holes for fixtures and 1-1/2" drop edge with 1/8" radius edges (when apron not used).						\$1,898.57
						Installation	Quantity	Unit Price	Factor	=	Total		
							40.00	46.92	x	1.0116	=	1,898.57	
						new countertops for kitchen							

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 109

417	12	36	61	16	0004	0021	MOD	For Up To 50, Add										\$606.96	
							Installation	Quantity	40.00	x	Unit Price	15.00	x	Factor	1.0116	=	Total	606.96	
418	12	36	61	16	0004	0026	MOD	For Each LF Of Half Round Edge, Add										\$323.71	
							Installation	Quantity	40.00	x	Unit Price	8.00	x	Factor	1.0116	=	Total	323.71	
419	12	36	61	16	0004	0029	MOD	For Each Sink, Range Or Vanity Cutout, Add										\$15.17	
							Installation	Quantity	1.00	x	Unit Price	15.00	x	Factor	1.0116	=	Total	15.17	
420	12	36	61	16	0004	0040	MOD	For >2.25 To 3 SF Integral Single Basin Kitchen Sink, AddSingle or double bowl.										\$344.39	
							Installation	Quantity	1.00	x	Unit Price	340.44	x	Factor	1.0116	=	Total	344.39	
421	21	13	13	00	0003		EA	Exposed Piping, Light Hazard, Complete Wet-Pipe Sprinkler System, Per HeadIncludes branch pipe and fittings, supports and sprinkler heads.										\$916.84	
							Installation	Quantity	3.00	x	Unit Price	302.11	x	Factor	1.0116	=	Total	916.84	
								new sprinkler system installed as needed											
422	21	13	13	00	0003	0004	MOD	For Up To 5, Add										\$431.00	
							Installation	Quantity	3.00	x	Unit Price	142.02	x	Factor	1.0116	=	Total	431.00	
423	22	01	40	81	0005		EA	Single Bowl Sink/Lavatory Drain Line Replacement										\$65.11	
							Installation	Quantity	2.00	x	Unit Price	32.18	x	Factor	1.0116	=	Total	65.11	
								for kitchen and bathroom sinks											
424	22	11	16	00	0878		LF	3/4" Inside Diameter Copper Pipe/Tubing Type L AssemblyIncludes all hangers and couplings, elbow, tee, reducer fittings. All hangers are complete assemblies. Not for use where detail is available.										\$1,951.38	
							Installation	Quantity	100.00	x	Unit Price	19.29	x	Factor	1.0116	=	Total	1,951.38	
								for all water lines. Additional length due to inflated costs											
425	22	13	13	00	0062		EA	Countertop Kitchen Sink, Double Fixture Rough-In, Polyvinyl Chloride (PVC) Waste And Vent PipeIncludes polyvinyl chloride (PVC) waste and vent pipe and copper domestic supply. Excludes fixtures and faucets.										\$697.54	
							Installation	Quantity	2.00	x	Unit Price	344.77	x	Factor	1.0116	=	Total	697.54	
								one for kitchen sink and one for bathroom sink											
426	22	13	16	00	0508		LF	3" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.										\$1,218.47	
							Installation	Quantity	50.00	x	Unit Price	24.09	x	Factor	1.0116	=	Total	1,218.47	
								vent piping Additional length due to inflated costs											
427	22	13	16	00	0509		LF	4" Schedule 40 Polyvinyl Chloride (PVC) DWV Pipe AssemblyIncludes all fittings, couplings and hangers. Fittings are assumed every 10'. Not for use where detail is available.										\$1,372.24	
							Installation	Quantity	50.00	x	Unit Price	27.13	x	Factor	1.0116	=	Total	1,372.24	
								drain piping Additional length due to inflated costs											

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Unit 109

428	22	41	39	00	0013	EA	Single Lever Handle, Chrome Bath And Shower, Pressure Balanced/Anti-Scald Valve (American Standard T675.502)					\$215.72
							Quantity	Unit Price	Factor	=	Total	
						Installation	1.00 x	177.79 x	1.0116	=	179.85	
						Demolition	1.00 x	35.46 x	1.0116	=	35.87	
						remove existing and replace with new shower/batg valve						
429	22	42	23	00	0011	EA	40" x 48" x 82" Handicapped, Solid Plastic Shower Enclosure (General Partitions)					\$5,062.44
							Quantity	Unit Price	Factor	=	Total	
						Installation	2.00 x	2,436.30 x	1.0116	=	4,929.12	
						Demolition	1.00 x	131.79 x	1.0116	=	133.32	
						remove existing and install new shower. additional quantities due to added costs currently						
430	22	42	23	00	0081	SF	Polyvinyl Chloride (PVC) Shower Pan Liner					\$96.14
							Quantity	Unit Price	Factor	=	Total	
						Installation	32.00 x	2.97 x	1.0116	=	96.14	
						pan liner for new shower						
431	26	01	20	91	0002	EA	Lock Out/Tag Out Local Disconnect					\$175.78
							Quantity	Unit Price	Factor	=	Total	
						Installation	8.00 x	21.72 x	1.0116	=	175.78	
						LOTO of existing circuits						
432	26	09	23	00	0109	EA	Wall Switch Replacement Occupancy Sensor, Single GangIncludes integral occupancy sensor and relay.					\$167.30
							Quantity	Unit Price	Factor	=	Total	
						Installation	2.00 x	82.69 x	1.0116	=	167.30	
						per plans						
433	26	27	26	00	0009	EA	1 Gang, 20 Amp, GFI, Duplex Receptacle Assembly					\$1,181.85
							Quantity	Unit Price	Factor	=	Total	
						Installation	10.00 x	83.87 x	1.0116	=	848.43	
						Demolition	10.00 x	32.96 x	1.0116	=	333.42	
						New outlets for bathroom and kitchen						
434	26	27	26	00	0038	EA	50 Amp, NEMA 15-50, Single Receptacle, 250 Volt, 3 Phase					\$106.16
							Quantity	Unit Price	Factor	=	Total	
						Installation	1.00 x	85.43 x	1.0116	=	86.42	
						Demolition	1.00 x	19.51 x	1.0116	=	19.74	
						for stove						
435	26	27	26	00	0138	EA	1 Gang, 20 Amp, 120/277 Volt, SPST, Switch Assembly					\$882.60
							Quantity	Unit Price	Factor	=	Total	
						Installation	8.00 x	76.10 x	1.0116	=	615.86	
						Demolition	8.00 x	32.96 x	1.0116	=	266.74	
						switches in bathroom and kitchen						
436	26	51	13	00	0421	EA	1,500 Lumens, 6" Diameter, Recessed LED Downlight With Open Trim (Lightolier C6L1520DL)					\$4,476.43
							Quantity	Unit Price	Factor	=	Total	
						Installation	10.00 x	404.35 x	1.0116	=	4,090.40	
						Demolition	10.00 x	38.16 x	1.0116	=	386.03	
						new LED recessed lighting per plans						
437	26	51	13	00	0458	EA	2,200 Lumens, 9" Diameter, Wall Mount LED Cylinder Downlight With Semi-Specular Trim (Gotham® EVO® CLED9)					\$488.20
							Quantity	Unit Price	Factor	=	Total	
						Installation	1.00 x	445.65 x	1.0116	=	450.82	
						Demolition	1.00 x	36.95 x	1.0116	=	37.38	
						for bathroom						

Contractor's Price Proposal - Detail Continues..

Work Order Number: 098302.00
Work Order Title: Palm Vista ADA upgrades

Subtotal for Unit 109	\$72,342.01
Proposal Total	\$379,560.11

This total represents the correct total for the proposal. Any discrepancy between line totals, sub-totals and the proposal total is due to rounding.

Subcontractor Listing

Date: November 10, 2021

Re: IQC Master Contract #: CA-08-SL-B-A-030618-MDJ
Work Order #: 098302.00
Owner PO #:
Title: Palm Vista ADA upgrades
Contractor: MDJ Management
Proposal Value: \$379,560.11

Name of Contractor	Duties	Amount	%
Janus Corporation		\$35,000.00	9.22
Refined Construction		\$250,000.00	65.87



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. K.1

DATE: March 29, 2022

TO: City Council

FROM: Betsy George, Chief Financial Officer, (805) 200-5400, betsy.george@oxnard.org

SUBJECT: Banc of America Master Equipment Lease/Purchase Agreement (A-7667) for 2022 Equipment Lease Reimbursement to the City for Purchase of Fire Engines. (10/5/5)

RECOMMENDATION

That the City Council adopt a resolution authorizing the execution and delivery of Schedules of Property to the Master Equipment Lease/Purchase Agreement not to exceed \$3.3 million for the acquisition, financing, and leasing of certain equipment for the public benefit within the terms provided therein; authorizing the execution and delivery of other documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by the resolution.

(Presentation will be live at the Consultant's request.)

BACKGROUND

City Council authorized the purchase of three fire engines at the City Council meeting on January 18, 2022. The total approved purchase order amount was \$2,603,358.21. In addition to the purchase cost of the vehicles, there is expected to be additional upfitting costs (estimated at \$165,000 per vehicle). City staff purchased the vehicles the week of January 24th to avoid a 7% cost increase that would have taken effect on February 1, 2022. This saved the City \$172,042.

While it was staff's intention to finance the purchase of these vehicles, there was not sufficient time to prepare the legal documents ahead of the February 1 cutoff to avoid the 7% cost increase. Accordingly, staff purchased the vehicles ahead of February 1 with the intention of entering into a financing to reimburse the City for the upfront purchase cost.

The City has a positive prior relationship with Banc of America, the provider for the Master Equipment Lease Agreement A-7667 originally executed on June 17, 2014. Banc of America Public Capital Corp has approved the attached Master Equipment Lease Purchase Agreement ("Master Lease") with the City, which operates similar to a line of credit. Staff anticipates that funds will be drawn from this line of credit near the beginning of April 2022. Consistent with the City's other equipment leases, staff will submit reimbursement request to draw down from the line of credit when authorized equipment have been purchased, delivered, and paid for.

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

Equipment leases provide an option for the City to make critical equipment purchases under favorable financing conditions. In addition, this lease allows the City to finance equipment over the expected life of the equipment rather than

fronting the cost. The City Council had previously approved a budget appropriation of \$53,359 from the Lease Purchase Equipment Fund (313) related to the purchase of the vehicles.

Banc of America has provided a fixed 10-year interest rate of 2.29% for the \$3.3M financing. This equates to \$195,000 payments every 6 months (\$390,000 per fiscal year) through the final maturity of December 1, 2031.

GOOD FAITH ESTIMATES

The good faith estimates set forth herein are provided with respect to the 2022 Equipment Lease in accordance with California Government Code Section 5852.1. Such good faith estimates have been provided to the City by the Municipal Advisor.

Principal Amount. The Municipal Advisor has informed the City that, based on the City's purchase agreements, financing plan, and current market conditions, its good faith estimate of the aggregate principal amount of the 2022 Equipment Lease is \$3,300,000, (the "Estimated Principal Amount").

True Interest Cost of the 2022 Equipment Lease. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the 2022 Equipment Lease, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the true interest cost of the 2021 Equipment Lease is 2.29%.

Finance Charge of the 2022 Equipment Lease. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the 2022 Equipment Lease, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the finance charge for the 2022 Equipment Lease, which means the sum of all fees and charges paid to third parties (or costs associated with the 2022 Equipment Lease), is \$50,000.

Amount of Proceeds to be Received. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the 2022 Equipment Lease, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the amount of proceeds expected to be received by the City for the 2022 Equipment Lease is \$3,250,000.

Total Payment Amount. The Municipal Advisor has informed the City that, assuming that the Estimated Principal Amount of the 2022 Equipment Lease, and based on market interest rates prevailing at the time of preparation of such estimate, their good faith estimate of the total payment amount, which means the sum total of all payments the City will make to pay debt service on the 2022 Equipment Lease is \$3,703,744, which excludes any reserves or capitalized interest paid or funded with proceeds of the 2022 Equipment Lease (which may offset such total payment amount).

The foregoing estimates constitute current good faith estimates, and are based on market conditions prevailing at the time of preparation of such estimates. The actual principal amount of the 2022 Equipment Lease, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to (a) the actual date of the sale of the 2022 Equipment Lease being different than the date assumed for purposes of such estimates, (b) the actual principal amount of 2022 Equipment Lease being different from the Estimated Principal Amount, (c) the actual amortization of the 2022 Equipment Lease being different than the amortization assumed for purposes of such estimates, (d) the actual market interest rates at the time of sale of the 2022 Equipment Lease being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the City's financing plan, or a combination of such factors. The actual date of sale of the 2022 Equipment Lease and the actual principal amount of the 2022 Equipment Lease will be determined by the City based on the timing of the need for proceeds of the 2022 Equipment Lease and other factors. The actual interest rates borne by the 2022 Equipment Lease will depend on market interest rates at the time of sale thereof. The actual amortization of the 2022 Equipment Lease will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic, national, international and other factors beyond the control of the City, or the Municipal Advisor.

COMMITTEE OUTCOME

The Finance and Governance Committee approved 3-0 on March 8, 2022, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: NHA Advisors

ATTACHMENTS

1. Oxnard Resolution - Equipment Schedule No. 25 (MELPA) 220215
2. Oxnard A7667-Master Lease Agreement
3. Escrow and Account Control Agreement Schedule 25
4. Schedule of Property 25
5. Presentation

FORM OF AUTHORIZING RESOLUTION (LEASE)

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF OXNARD, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF SCHEDULE(S) OF PROPERTY TO THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT FOR THE ACQUISITION, FINANCING AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT WITHIN THE TERMS PROVIDED HEREIN; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, the City of Oxnard (the "*Lessee*"), a City duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of California is authorized by the laws of the State of California to acquire, finance and lease personal property (tangible and intangible) for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the governing body of the Lessee (the "*Board*") has determined that a need exists for the acquisition, financing and leasing of certain equipment with a cost not to exceed \$3,300,000 and consisting of fire engine vehicles, which constitutes personal property necessary for the Lessee to perform essential governmental functions (collectively, the "*Equipment*") on the terms herein provided;

WHEREAS, the Board has previously approved a reimbursement resolution detailing the City's intention to pay certain capital expenditures in connection with the Equipment prior to the issuance of one or more series of tax-exempt obligations and the City reasonably expects that certain of the proceeds of indebtedness will be used to reimburse the City for the Equipment; and

WHEREAS, in order to reimburse the City for the cost of acquiring such Equipment, the Lessee proposes to enter into those certain Schedule(s) of Property (the "*Equipment Schedule(s)*") with Banc of America Public Capital Corp (or one of its affiliates), as lessor (the "*Lessor*"), substantially in the proposed form presented to the Board at this meeting, which Equipment Schedule incorporates by reference the terms and provisions of that certain Master Equipment Lease/Purchase Agreement dated as of April 8, 2014, by and between Lessor and Lessee (the "*Agreement*"); and

WHEREAS, the Board deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Equipment Schedule and the other documentation relating to the acquisition, financing and leasing of the Equipment to be therein described on the terms and conditions therein and herein provided;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the governing body of the Lessee as follows:

Section 1. Findings and Determinations. It is hereby found and determined that the terms of the Equipment Schedule(s) and the form of Rental Payment Schedule(s), in the form presented to the Board at this meeting, are in the best interests of the Lessee for the acquisition financing and leasing of the Equipment.

Section 2. Approval of Documents. The form, terms and provisions of the Equipment Schedule(s) and Rental Payment Schedule(s) are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by City Manager or Chief Financial Officer of the Lessee or other members of the governing body of the Lessee (the “*Authorized Officials*”) executing the same, the execution of such documents being conclusive evidence of such approval. The Authorized Officials are each hereby authorized and directed to sign and deliver on behalf of the Lessee the Equipment Schedule(s) under which a separate Lease (as defined in the Agreement) is created, the Rental Payment Schedule attached thereto, the Escrow Agreement and any related exhibits attached thereto.

Section 3. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Lease to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of a final Acceptance Certificate, the Escrow Agreement, Disbursement Requests and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Lease.

Section 4. No General Liability. Nothing contained in this Resolution, the Lease, the Escrow Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Lease, the Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Lease entered into pursuant to the Agreement are limited obligations of the Lessee, subject to annual appropriation, as provided in the Agreement.

Section 5. Appointment of Authorized Lessee Representatives. The City Manager and Chief Financial Officer of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of the Lease and the Escrow Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Lease or the Escrow Agreement.

Section 6. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 7. Repealer. All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency with respect to this

Resolution. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

Section 8. Effective Date. This Resolution shall be effective immediately upon its approval and adoption.

ADOPTED AND APPROVED by the governing body of the Lessee this 29th day of March, 2022.

City of Oxnard, CA
as lessee

[SEAL]

By: _____
Printed Name: _____
Title: _____

ATTEST:

By: _____
Printed: Name: _____
Title: _____

The undersigned, a duly elected or appointed and acting City Clerk of the Lessee identified in the above Resolution No. ____ (the "*Resolution*"), hereby certifies that the Resolution is a full, true and correct copy of such Resolution as adopted by the governing body of the Lessee on March 29, 2022. The Resolution is in full force and effect on the date hereof and has not been amended, modified or otherwise changed by the governing body of the Lessee since the date of adoption of the Resolution.

DATED this ____ day of _____, 20__.

Name: _____
Title: _____

MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT

This Master Equipment Lease/Purchase Agreement (the "*Agreement*") dated as of April 8, 2014, and entered into between Banc of America Public Capital Corp., a Kansas corporation ("*Lessor*"), and City of Oxnard, California, a municipal corporation existing under the laws of the State of California ("*Lessee*").

WITNESSETH:

WHEREAS, Lessee desires to lease and acquire from Lessor certain Equipment described in each Schedule (as each such term is defined herein), subject to the terms and conditions of and for the purposes set forth in each Lease; and in the event of a conflict the terms of a Schedule prevail; and

WHEREAS, the relationship between the parties shall be a continuing one and items of equipment may be added to the Equipment from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the Schedules hereto for the purposes set forth herein; and

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"*Acquisition Amount*" means the amount specified in each Lease and represented by Lessee to be sufficient to acquire the Equipment listed in such Lease.

"*Acquisition Fund*" means, with respect to any Lease, the fund established and held by the Acquisition Fund Custodian pursuant to the related Acquisition Fund Agreement, if any.

"*Acquisition Fund Agreement*" means, with respect to any Lease, an Acquisition Fund and Account Control Agreement, substantially in the form of Exhibit A attached hereto, in form and substance acceptable to and executed by Lessee, Lessor and the Acquisition Fund Custodian, pursuant to which an Acquisition Fund is established and administered.

"*Acquisition Fund Custodian*" means the Acquisition Fund Custodian identified in any Acquisition Fund Agreement, and its successors and assigns.

"*Acquisition Period*" means, with respect to each Lease, that period stated in the Schedule to such Lease during which the Lease Proceeds attributable to such Lease may be expended on Equipment Costs.

A-7667
COUNCIL APPROVAL
DATE: 6/17/14 AGENDA # S-12

"Agreement" means this Master Equipment Lease/Purchase Agreement, including the exhibits hereto, together with any amendments and modifications to the Agreement pursuant to Section 13.05.

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the United States Treasury Regulations proposed or in effect thereunder.

"Commencement Date" means, for each Lease, the date when Lessee's obligation to pay rent commences under such Lease, which date shall be the earlier of (i) the date on which the Equipment listed in such Lease is accepted by Lessee in the manner described in Section 5.01, and (ii) the date on which sufficient moneys to purchase the Equipment listed in such Lease are deposited for that purpose with an Acquisition Fund Custodian.

"Contract Rate" means the rate identified as such in the applicable Schedule.

"Equipment" means the property listed in each of the Leases and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article V. Whenever reference is made in this Agreement to Equipment listed in a Lease, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.

"Equipment Costs" means the total cost of the Equipment listed in each Lease, including soft costs such as freight, installation and taxes paid up front by Lessor and all capitalizable consulting and training fees approved by Lessor, legal fees, financing costs, and other costs necessary to vest full, clear legal title to the Equipment in Lessee, subject to the security interest granted to and retained by Lessor as set forth in each Lease, and otherwise incurred in connection with the financing provided by the lease-purchase of the Equipment as provided in each Lease; *provided* that (i) any such soft costs on a cumulative basis shall not exceed a percentage of the Maximum Equipment Cost approved by Lessor and (ii) in no event shall capitalizable delivery charges, installation charges, taxes and similar capitalizable soft costs relating to such Equipment be included without Lessor's prior consent.

"Event of Default" means an Event of Default described in Section 12.01.

"Lease" means a Schedule and the terms of this Agreement which are incorporated by reference into such Schedule. Each Schedule shall constitute a separate and independent Lease.

"Lease Proceeds" means, with respect to each Lease, the total amount of money to be paid by Lessor to the Acquisition Fund Custodian for deposit and application in accordance with such Lease and the Acquisition Fund Agreement.

"Lease Term" for each Lease means the Original Term and all Renewal Terms therein provided and for this Agreement means the period from the date hereof until this Agreement is terminated.

"Lessee" means the entity referred to as Lessee in the first paragraph of this Agreement.

"Lessor" means (a) the entity referred to as Lessor in the first paragraph of this Agreement or (b) any assignee or transferee of any right, title or interest of Lessor in and to the Equipment under a Lease or any Lease (including Rental Payments thereunder) pursuant to Section 11.01, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform under a Lease.

"Material Adverse Change" means (a) prior to the Utilization Period Expiration, a downgrade in Lessee's external debt rating of two or more subgrades by either Moody's Investors Service, Inc, or Standard & Poor's Ratings Group or any equivalent successor credit rating agency, or any downgrade by either such agency that would cause Lessee's credit rating to be below investment grade, and (b) thereafter, any change in Lessee's creditworthiness that could have a material adverse effect on (i) the financial condition or operations of Lessee and its subsidiaries taken as a whole, or (ii) Lessee's ability to perform its obligations under this Agreement or any Lease.

"Maximum Equipment Cost" means the cumulative amount specified in the latest Schedule executed under this Agreement.

"Original Term" means the period from the Commencement Date for each Lease until the end of the fiscal year of Lessee in effect at such Commencement Date.

"Purchase Price" means, with respect to the Equipment listed on a Lease, the amount that Lessee may pay to Lessor to purchase such Equipment as provided in such Lease.

"Renewal Terms" means the renewal terms of each Lease, each having a duration of one year and a term coextensive with Lessee's fiscal year, as specified in the Schedule applicable thereto.

"Rental Payments" means the basic rental payments payable by Lessee under each Lease pursuant to Section 4.01, in each case consisting of a principal component and an interest component.

"Schedule" means each separately numbered Schedule of Property substantially in the form of Exhibit B-1 hereto together with a Rental Payment Schedule attached thereto substantially in the form of Exhibit B-2 hereto.

"State" means the State of California.

"Utilization Period Expiration" means the date, with respect to each Lease not funded under an Acquisition Fund Agreement, by which Lessee must deliver an Acceptance Certificate for the Equipment under such Lease as indicated in Section 3.04(b).

"Vendor" means the manufacturer or supplier of the Equipment or any other person as well as the agents or dealers of the manufacturer or supplier with whom Lessor arranged Lessee's acquisition and financing of the Equipment pursuant to the applicable Lease.

ARTICLE II

Section 2.01. Representations and Covenants of Lessee. Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof and as of the Commencement Date of each Lease as follows:

(a) Lessee is a political subdivision of the State within the meaning of Section 103(c) of the Code, duly organized and existing under the constitution and laws of the State, with full power and authority to enter into this Agreement and each Lease and the transactions contemplated hereby and to perform all of its obligations hereunder and under each Lease.

(b) Lessee has duly authorized the execution and delivery of this Agreement and each Lease by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and each Lease.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.

(d) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a body corporate and politic.

(e) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and each Lease and the acquisition by Lessee of the Equipment as provided in each Lease.

(f) During the Lease Term, the Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority. Lessee does not intend to sell or otherwise dispose of the Equipment or any interest therein prior to the last Rental Payment (including all Renewal Terms) scheduled to be paid under each Lease.

(g) Lessee has kept, and throughout the Lease Term of any Lease shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows and notes, and (4) schedules and attachments to the financial statements) within 270 days of its fiscal year end, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) its annual budget for the following fiscal year when approved but not later than 30 days prior to its current fiscal year end. The financial statements described in subsection (i) shall be accompanied by an unqualified opinion of Lessee's auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has an immediate need for the Equipment listed on each Schedule and expects to make immediate use of the Equipment listed on each Schedule. Lessee's need for the

Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the Lease Term to such item.

(i) The payment of the Rental Payments or any portion thereof is not (under the terms of any Lease or any underlying arrangement) directly or indirectly (x) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local governmental unit or payments in respect of such property; or (y) on a present value basis, derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit. The Equipment will not be used, directly or indirectly, in any activity carried on by any person other than a state or local governmental unit. No portion of the Equipment Costs for the Equipment will be used, directly or indirectly, to make or finance loans to any person other than Lessee. Lessee has not entered into any management or other service contract with respect to the use and operation of the Equipment.

(j) There is no pending litigation, tax claim, proceeding or dispute that may adversely affect Lessee's financial condition or impairs its ability to perform its obligations hereunder. Lessee will, at its expense, maintain its legal existence in good standing and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's security interest in the Equipment and Lessor's rights and benefits under this Lease.

ARTICLE III

Section 3.01. Lease of Equipment. Subject to the terms of this Master Lease, Lessor agrees to provide the funds specified in each Lease to be provided by it to acquire the Equipment, up to an amount equal to the Maximum Equipment Cost. Upon the execution of each Lease, Lessor demises, leases, transfers and lets to Lessee, and Lessee acquires, rents and leases from Lessor, the Equipment as set forth in such Lease and in accordance with the terms thereof. The Lease Term for each Lease may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Lease Term set forth in such Lease. At the end of the Original Term and at the end of each Renewal Term until the maximum Lease Term has been completed, Lessee shall be deemed to have exercised its option to continue each Lease for the next Renewal Term unless Lessee shall have terminated such Lease pursuant to Section 3.03 or Section 10.01. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the applicable Lease.

Section 3.02. Continuation of Lease Term. Lessee intends, subject to Section 3.03, to continue the Lease Term of each Lease through the Original Term and all Renewal Terms and to pay the Rental Payments thereunder. Lessee affirms that sufficient funds are available for the current fiscal year, and Lessee reasonably believes that an amount sufficient to make all Rental Payments during the entire Lease Term of each Lease can be obtained from legally available funds of Lessee. Lessee further intends to do all things lawfully within its power to obtain and maintain funds sufficient and available to discharge its obligation to make Rental Payments due hereunder, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable provisions of law,

to have such portion of the budget or appropriation request approved and to exhaust all available reviews and appeals in the event such portion of the budget or appropriation request is not approved.

Section 3.03. Nonappropriation. Lessee is obligated only to pay such Rental Payments under each Lease as may lawfully be made from funds budgeted and appropriated for that purpose during Lessee's then current fiscal year. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments under any Lease following the then current Original Term or Renewal Term, such Lease or Leases shall be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination promptly after any decision to non-appropriate is made, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If any Lease is terminated in accordance with this Section, Lessee agrees to peaceably deliver the Equipment to Lessor at the location(s) to be specified by Lessor.

Section 3.04. Conditions to Lessor's Performance.

(a) As a prerequisite to the performance by Lessor of any of its obligations pursuant to any Lease, Lessee shall deliver to Lessor the following:

- (i) A fully completed Schedule, executed by Lessee;
- (ii) An Acquisition Fund Agreement, executed by Lessee and the Acquisition Fund Custodian, unless Lessor pays 100% of the Acquisition Amount directly to the Vendor upon execution of the Lease;
- (iii) A Certificate executed by the Clerk or Secretary or other comparable officer of Lessee, in substantially the form attached hereto as Exhibit C, completed to the satisfaction of Lessor;
- (iv) A certified copy of a resolution, ordinance or other official action of Lessee's governing body authorizing the execution and delivery of this Lease and performance by Lessee of its obligations hereunder;
- (v) An opinion of counsel to Lessee in substantially the form attached hereto as Exhibit D respecting such Lease and otherwise satisfactory to Lessor;
- (vi) Evidence of insurance as required by Section 7.02 hereof;
- (vii) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Section 6.02;
- (viii) A copy of a fully completed and executed Form 8038-G;
- (ix) If any Equipment units are motor vehicles, properly completed certificates of title for such vehicles; and

(x) Such other items, if any, as are set forth in such Lease or are reasonably required by Lessor.

(b) In addition, the performance by Lessor of any of its obligations pursuant to any Lease shall be subject to: (i) no material adverse change in the financial condition of Lessee since the date of this Lease, (ii) no Event of Default having occurred, and (iii) if no Acquisition Fund has been established, the Equipment must be accepted by Lessee no later than the date listed as the Utilization Period Expiration in the applicable Schedule.

(c) Subject to satisfaction of the foregoing, Lessor will pay the Acquisition Amount for Equipment described in a Schedule to the Vendor or, if authorized by Lessee's governing body, will reimburse Lessee for the prior payment of any such Acquisition Amounts by Lessee to the Vendor, upon receipt of the documents described in Sections 5.01(a) and (b); or if an Acquisition Fund has been established pursuant to an Acquisition Fund Agreement, Lessor will deposit the Acquisition Amount for Equipment described in the Schedule with the Acquisition Fund Custodian.

(d) This Agreement is not a commitment by Lessor to enter into any Lease not currently in existence, and nothing in this Agreement shall be construed to impose any obligation upon Lessor to enter into any proposed Lease, it being understood that whether Lessor enters into any proposed Lease shall be a decision solely within Lessor's discretion.

(e) Lessee will cooperate with Lessor in Lessor's review of any proposed Lease. Without limiting the foregoing, Lessee will provide Lessor with any documentation or information Lessor may request in connection with Lessor's review of any proposed Lease. Such documentation may include, without limitation, documentation concerning the Equipment and its contemplated use and location and documentation or information concerning the financial status of Lessee and other matters related to Lessee.

ARTICLE IV

Section 4.01. Rental Payments. Subject to Section 3.03, Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the dates and in such amounts as provided in each Lease. Lessee shall pay Lessor a charge on any Rental Payment not paid on the date such payment is due at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less, from such date. Lessee shall not permit the federal government to guarantee any Rental Payments under any Lease. Rental Payments consist of principal and interest payments as more fully detailed on each Schedule, the interest on which begins to accrue as of the Commencement Date for each such Schedule.

Section 4.02. Interest and Principal Components. A portion of each Rental Payment is paid as, and represents payment of, interest, and the Balance of each Rental Payment is paid as, and represents payment of, principal. Each Lease shall set forth the principal and interest components of each Rental Payment payable thereunder during the Lease Term.

Section 4.03. Rental Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments under each

Lease shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein or in a Lease constitute a pledge of the general tax revenues, funds or moneys of Lessee.

Section 4.04. Rental Payments to be Unconditional. Except as provided in Section 3.03, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in each Lease shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment, after it has been accepted by Lessee, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances.

Section 4.05. Tax Covenants.

(a) Lessee agrees that it will not take any action that would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for federal income tax purposes, nor will it omit to take or cause to be taken, in timely manner, any action, which omission would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for federal income tax purposes.

(b) In the event that Lessee does not spend the moneys in the Acquisition Fund within six (6) months of the date the deposit is made pursuant to Section 3.04(c), Lessee will, if required by section 148(f) of the Code to pay rebate: (i) establish a Rebate Account and deposit the Rebate Amount (as defined in Section 1.148-3(b) of the Federal Income Tax Regulations) not less frequently than once per year after the applicable Commencement Date; and (ii) rebate to the United States, not less frequently than once every five (5) years after the applicable Commencement Date, an amount equal to at least 90% of the Rebate Amount and within 60 days after payment of all Rental Payments or the Purchase Price as provided in Section 10.01(a) hereof, 100% of the Rebate Amount, as required by the Code and any regulations promulgated thereunder. Lessee shall determine the Rebate Amount, if any, at least every year and upon payment of all Rental Payments or the Purchase Price and shall maintain such determination, together with any supporting documentation required to calculate the Rebate Amount, until six (6) years after the date of the final payment of the Rental Payments or the Purchase Price.

Section 4.06. Event of Taxability. Upon the occurrence of an Event of Taxability, the interest component shall be at a Taxable Rate retroactive to the date as of which the interest component is determined by the Internal Revenue Service to be includible in the gross income of the owner or owners thereof for federal income tax purposes, and Lessee will pay such additional amount as will result in the owner receiving the interest component at the Taxable Rate identified in the related Lease.

For purposes of this Section, “*Event of Taxability*” means a determination that the interest component is includible for federal income tax purposes in the gross income of the owner thereof due to Lessee’s action or failure to take any action.

Section 4.07. Mandatory Prepayment. If the Lease Proceeds are deposited into an Acquisition Fund, any funds remaining in the Acquisition Fund on or after the Acquisition Period and not applied to Equipment Costs, shall be applied by Lessor on the next Rental Payment date, pro rata to the prepayment of the principal component of the outstanding Rental Payments due under the applicable Schedule.

ARTICLE V

Section 5.01. Delivery, Installation and Acceptance of Equipment.

(a) Lessee shall order the Equipment, cause the Equipment to be delivered and installed at the location specified in the Leases and pay any and all delivery and installation costs and other Equipment Costs in connection therewith. When the Equipment listed in any Lease has been delivered and installed, Lessee shall promptly accept such Equipment and evidence said acceptance by executing and delivering to Lessor an Acceptance Certificate in the form attached hereto as Exhibit E.

(b) Lessee shall deliver to Lessor original invoices and bills of sale (if title to such Equipment has passed to Lessee) relating to each item of Equipment accepted by Lessee. With respect to Equipment not purchased through an Acquisition Fund, Lessor shall, upon receipt of an Acceptance Certificate from Lessee, prepare a Schedule of Property and Rental Payment Schedule in the forms attached hereto as Exhibits B-1 and B-2. Lessee shall execute and deliver such Schedules to Lessor within 5 business days of receipt.

Section 5.02. Quiet Enjoyment of Equipment. So long as Lessee is not in default under the related Lease, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee's quiet use and enjoyment of the Equipment during the Lease Term.

Section 5.03. Location; Inspection. Once installed, no item of the Equipment will be relocated from the base location specified for it in the Lease on which such item is listed without Lessor's consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property of Lessee for the purpose of inspecting the Equipment.

Section 5.04. Use and Maintenance of the Equipment. Lessee will not install, use, operate, or maintain the Equipment improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by the related Lease. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body; *provided* that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest (including the reversionary interest) of Lessor in and to the Equipment or its interest or rights under the Lease.

Lessee agrees that it will maintain, preserve, and keep the Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. In all cases, Lessee agrees to pay any costs necessary for the manufacturer to re-

certify the Equipment as eligible for manufacturer's maintenance upon the return of the Equipment to Lessor as provided for herein.

Lessee shall not alter any item of Equipment or install any accessory, equipment or device on an item of Equipment if that would impair any applicable warranty, the originally intended function or the value of that Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Equipment, excluding temporary replacements, shall thereupon become subject to the security interest of Lessor.

ARTICLE VI

Section 6.01. Title to the Equipment. During each Lease Term, and so long as Lessee is not in default under Article XII hereof, all right, title and interest in and to each item of the Equipment shall be vested in Lessee immediately upon its acceptance of each item of Equipment, subject to the terms and conditions of the applicable Lease. Lessee shall at all times protect and defend, at its own cost and expense, its title in and to the Equipment from and against all claims, liens and legal processes of its creditors, and keep all Equipment free and clear of all such claims, liens and processes. Upon the occurrence of an Event of Default or upon termination of a Lease pursuant to Section 3.03 hereof, full and unencumbered legal title to the Equipment shall pass to Lessor, and Lessee shall have no further interest therein. In addition, upon the occurrence of such an Event of Default or such termination, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of such legal title to Lessor and the termination of Lessee's interest therein, and upon request by Lessor shall deliver possession of the Equipment to Lessor in accordance with Section 12.02. Upon purchase of the Equipment under a Lease by Lessee pursuant to Section 10.01, Lessor's security interest or other interest in the Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security interest in the Equipment subject to the related Lease.

Section 6.02. Security Interest. To secure the payment of all of Lessee's obligations under each Lease, upon the execution of such Lease, Lessee grants to Lessor a security interest constituting a first lien on (a) the Equipment applicable to such Lease, (b) moneys and investments held from time to time in the Acquisition Fund and (c) any and all proceeds of any of the foregoing. Lessee agrees to execute and authorizes Lessor to file such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Equipment, the Acquisition Fund and the proceeds thereof.

Section 6.03. Personal Property. The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Upon the request of Lessor, Lessee will, at Lessee's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Equipment free of all levies, liens, and encumbrances except those created by each Lease. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and that the Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Equipment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Equipment. Lessee shall pay such taxes or charges as the same may become due; *provided* that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during each Lease Term.

Section 7.02. Insurance. Lessee shall during each Lease Term maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the then applicable Purchase Price of the Equipment; (b) liability insurance naming Lessor as additional insured that protects Lessor from liability in all events in form and amount satisfactory to Lessor; and (c) worker's compensation coverage as required by the laws of the State; *provided* that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clause (a). Lessee shall furnish to Lessor evidence of such insurance or self-insurance coverage throughout each Lease Term. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least 30 days in advance of such cancellation or modification.

Section 7.03. Risk of Loss. Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Equipment from any cause whatsoever, and no such loss of or damage to or liability arising from the Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Lease. Whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the fullest extent permitted by applicable law, but only from legally available funds) for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor, regardless of the cause thereof and all expenses incurred in connection therewith (including, without limitation, counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into of this Agreement or any of the transactions contemplated hereby, (b) the ordering, acquisition, ownership use, operation, condition, purchase, delivery, acceptance, rejection, storage or return of any item the Equipment, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee in connection with a Lease or any material misrepresentation provided by Lessee in connection with a Lease. The provisions of this paragraph shall continue in full force and effect notwithstanding the full payment of all

obligations under all Leases or the termination of the Lease Term under any Lease for any reason.

Section 7.04. Advances: In the event Lessee shall fail to keep the Equipment in good repair and working order, Lessor may, but shall be under no obligation to, maintain and repair the Equipment and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the then current Original Term or Renewal Term and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the due date until paid at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. Unless Lessee shall have exercised its option to purchase the Equipment by making payment of the Purchase Price as provided in the related Lease, if, prior to the termination of the applicable Lease Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee.

If Lessee elects to replace any item of the Equipment (the "*Replaced Equipment*") pursuant to this Section, the replacement equipment (the "*Replacement Equipment*") shall be of similar type, utility and condition to the Replaced Equipment and shall be of equal or greater value than the Replaced Equipment. Lessor shall receive a first priority security interest in any such Replacement Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor's security interest in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Equipment" for purposes of this Agreement and the related Lease. Lessee shall complete the documentation of Replacement Equipment on or before the next Rental Payment date after the occurrence of a casualty event, or be required to exercise the Purchase Option with respect to the damaged equipment.

For purposes of this Article, the term "*Net Proceeds*" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

Section 8.02. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pay or cause to be paid to Lessor the amount of the then applicable Purchase Price for the Equipment, and, upon such payment, the applicable Lease Term shall terminate and Lessor's security interest in the Equipment shall terminate as provided in Section 6.01 hereof. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing such Equipment and such other Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

ARTICLE IX

Section 9.01. Disclaimer of Warranties. Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Equipment, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee's acquisition of the Equipment shall be on an "as is" basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, any Lease, the Equipment or the existence, furnishing, functioning or Lessee's use of any item, product or service provided for in this Agreement or any Lease.

Section 9.02. Vendor's Warranties. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during each Lease Term, so long as Lessee shall not be in default under the related Lease, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lessor may have against Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against Vendor of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor with respect to any Lease, including the right to receive full and timely payments under a Lease. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to the Equipment.

ARTICLE X

Section 10.01. Purchase Option. Lessee shall have the option to purchase all of the Equipment listed in a Lease, at the following times and upon the following terms:

(a) From and after the date specified in the related Schedule (the "*Purchase Option Commencement Date*"), on the Rental Payment dates specified in each Lease, upon not less than 30 days' prior written notice, and upon payment in full of the Rental Payments then due under such Lease plus the then applicable Purchase Price, which may include a prepayment premium on the unpaid balance as set forth in the applicable Schedule; or

(b) In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment listed in a Lease, on the day specified in Lessee's notice to Lessor of its exercise of the purchase option (which shall be the earlier of the next Rental Payment date or 60 days after the casualty event) upon payment in full to Lessor of the Rental Payments then due under such Lease plus the then applicable Purchase Price; or

(c) Upon the expiration of the Lease Term, upon payment in full of all Rental Payments then due and all other amounts then owing under the Lease, and the payment of \$1.00 to Lessor.

After payment of the applicable Purchase Price, Lessee will own the related Equipment, and Lessor's security interests in and to such Equipment will be terminated.

ARTICLE XI

Section 11.01. Assignment by Lessor.

(a) Lessor's right, title and interest in and to Rental Payments and any other amounts payable by Lessee under any and all of the Leases, its security interest in the Equipment subject to each such Lease, and all proceeds therefrom may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor, without the necessity of obtaining the consent of Lessee; *provided*, that any such assignment, transfer or conveyance to a trustee for the benefit of owners of certificates of participation shall be made in a manner that conforms to any applicable State law. Nothing in this Section 11.01 shall be construed, however, to prevent Lessor from executing any such assignment, transfer or conveyance that does not involve funding through the use of certificates of participation within the meaning of applicable State law, including any such assignment, transfer or conveyance as part of a multiple asset pool to a partnership or trust; *provided* such certificates are sold only on a private placement basis (and not pursuant to any "public offering") to a purchaser(s) who represent that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment, (ii) such purchaser understands neither the Lease nor certificates will be registered under the Securities Act of 1933, (iii) such purchaser is either an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) it is the intention of such purchaser to acquire such certificates (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933; *provided further*, that in any event, Lessee shall not be required to make Rental Payments, to send notices or to otherwise deal with respect to matters arising under a Lease with or to more than one individual or entity.

(b) Unless to an affiliate controlling, controlled by or under common control with Lessor, no assignment, transfer or conveyance permitted by this Section 11.01 shall be effective until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests with respect to the Rental Payments payable under a Lease, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank or trust company as trustee or paying agent. During each Lease Term, Lessee shall keep, or cause to be

kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor. Assignments in part may include without limitation assignment of all of Lessor's security interest in and to the Equipment listed in a particular Lease and all rights in, to and under the Lease related to such Equipment. The option granted in this Section may be separately exercised from time to time with respect to the Equipment listed in each Lease, but such option does not permit the assignment of less than all of Lessor's interests in the Equipment listed in a single Lease.

(c) If Lessor notifies Lessee of its intent to assign the Lease, Lessee agrees that it shall execute and deliver to Lessor a Notice and Acknowledgement of Assignment substantially in the form of Exhibit F attached to this Lease within five (5) business days after its receipt of such request.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee's right, title, and interest in, to and under any Lease or any portion of the Equipment may be assigned or encumbered by Lessee for any reason.

ARTICLE XII

Section 12.01. Events of Default Defined. Any of the following events shall constitute an "Event of Default" under a Lease:

(a) Failure by Lessee to pay any Rental Payment or other payment required to be paid under any Lease within 10 days of the date when due as specified herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; *provided* that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to any Lease or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor under which there is outstanding, owing or committed an aggregate amount of at least 10% of Lessee's aggregate current long- and short-term indebtedness, if such default consists of (i) the failure to pay any indebtedness when due or (ii) the failure to perform any other obligation thereunder and gives the holder of the indebtedness the right to accelerate the indebtedness;

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization or insolvency proceeding; or

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator or Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments payable by Lessee pursuant to such Lease and other amounts payable by Lessee under such Lease to the end of the then current Original Term or Renewal Term to be due;

(b) With or without terminating the Lease Term under such Lease, Lessor may enter the premises where the Equipment listed in such Lease is located and retake possession of such Equipment or require Lessee at Lessee's expense to promptly return any or all of such Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee pursuant to such Lease and other amounts related to such Lease or the Equipment listed therein that are payable by Lessee to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies under such Lease, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of Section 3.03. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities under any other Lease or the Equipment listed therein; and

(c) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under such Lease or as a secured party in any or all of the Equipment subject to such Lease.

Section 12.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under a Lease now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any

such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice other than such notice as may be required in this Article.

Section 12.04. Application of Moneys. Any net proceeds from the exercise of any remedy under this Agreement, including the application specified in Section 12.02(b)(ii) (after deducting all expenses of Lessor in exercising such remedies including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing Equipment and all brokerage, auctioneer's or attorney's fees), shall be applied as follows:

(a) If such remedy is exercised solely with respect to a single Lease, Equipment listed in such Lease or rights thereunder, then to amounts due pursuant to such Lease and other amounts related to such Lease or such Equipment.

(b) If such remedy is exercised with respect to more than one Lease, Equipment listed in more than one Lease or rights under more than one Lease, then to amounts due pursuant to such Leases pro rata.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications under any Lease shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

Section 13.02. Binding Effect. Each Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of any Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.04. Amendments, Changes and Modifications. This Agreement and each Lease may only be amended by Lessor and Lessee in writing.

Section 13.05. Execution in Counterparts. This Agreement and each Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.06. Applicable Law. This Agreement and each Lease shall be governed by and construed in accordance with the laws of the State.

Section 13.07. Captions. The captions or headings in this Agreement and in each Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement or any Lease.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:

Banc of America Public Capital Corp.
555 California Street, 4th Floor
San Francisco, California 94104
Attention: Contract Administration
Fax No.: (415) 765-7373

LESSEE:

City of Oxnard, California
300 West Third Street, Suite 302
Oxnard, California 93030
Attention: Rena Bassett
Fax No.: _____

By: _____

Name: _____

Title: _____

Bridgett Arnold
Bridgett Arnold
Authorized Agent

By: _____

Name: _____

Title: _____

(Seal)

Attest:

By: _____

Name: _____

Title: _____

James Cameron

List of Exhibits

- Exhibit A -- Acquisition Fund and Account Control Agreement
- Exhibit B-1 -- Schedule of Property
- Exhibit B-2 -- Rental Payment Schedule
- Exhibit C -- Certificate
- Exhibit D -- Opinion of Counsel Form
- Exhibit E -- Acceptance Certificate
- Exhibit F -- Notice and Acknowledgement of Assignment

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:

Banc of America Public Capital Corp.
555 California Street, 4th Floor
San Francisco, California 94104
Attention: Contract Administration
Fax No.: (415) 765-7373

By: _____
Name: _____
Title: _____

LESSEE:

City of Oxnard, California
300 West Third Street, Suite 302
Oxnard, California 93030
Attention: Rena Bassett
Fax No.: _____

By: 
Name: Carmen Ramirez,
Title: Mayor Pro Tem

(Seal)

Attest:

By: 
Name: James Cameron
Title: Chief Financial Officer

List of Exhibits

- Exhibit A -- Acquisition Fund and Account Control Agreement
- Exhibit B-1 -- Schedule of Property
- Exhibit B-2 -- Rental Payment Schedule
- Exhibit C -- Certificate
- Exhibit D -- Opinion of Counsel Form
- Exhibit E -- Acceptance Certificate
- Exhibit F -- Notice and Acknowledgement of Assignment

EXHIBIT A

ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

(Will be provided upon request)

EXHIBIT B-1

SCHEDULE OF PROPERTY NO. ____

Re: Master Equipment Lease/Purchase Agreement, dated as of April 8, 2014,
between Banc of America Public Capital Corp., as Lessor, and City of
Oxnard, California, as Lessee

1. *Defined Terms.* All terms used herein have the meanings ascribed to them in the above-referenced Master Equipment Lease/Purchase Agreement (the "*Master Equipment Lease*").

2. *Equipment.* The following items of Equipment are hereby included under this Schedule of the Master Equipment Lease.

Quantity	Description	Serial No.	Model No.	Location

3. *Payment Schedule.*

(a) *Rental Payments.* The Rental Payments shall be in such amounts and payable on such dates as set forth in the Rental Payment Schedule attached to this Schedule as Exhibit _____. Rental Payments shall commence on the date on which the Equipment listed in this Schedule is accepted by Lessee, as indicated in an Acceptance Certificate substantially in the form of Exhibit E to the Master Equipment Lease or the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an Acquisition Fund Custodian, whichever is earlier.

(b) *Purchase Price Schedule.* The Purchase Price on each Rental Payment date for the Equipment listed in this Schedule shall be the amount set forth for such Rental Payment date in the "Purchase Price" column of the Rental Payment Schedule attached to this Schedule. The Purchase Price is in addition to all Rental Payments then due under this Schedule (including the Rental Payment shown on the same line in the Rental Payment Schedule).

4. *Representations, Warranties and Covenants.* Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Master Equipment Lease are true and correct as though made on the date of commencement of Rental Payments on this Schedule. Lessee further represents and warrants that (a) no material adverse change in Lessee's financial condition has occurred since the date of the Master Equipment Lease; (b) the governing body of Lessee has authorized the execution and delivery of this

Agreement and the Leases pursuant to [Resolution No. _____] [Ordinance No. _____], approved on _____, 20____; (c) the Equipment described in the Agreement referenced above is essential to the functions of Lessee or to the services Lessee provides its citizens; (d) lessee has an immediate need for, and expects to make immediate use of, substantially all such Equipment, which will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of its authority; and (f) Lessee expects and anticipates adequate funds to be available for all future payments or rent due after the current budgetary period.

5. *The Lease.* The terms and provisions of the Master Equipment Lease (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated into this Schedule by reference and made a part hereof.

[OPTION: IF ACQUISITION FUND AGREEMENT IS USED:

6. *Lease Proceeds.* The Lease Proceeds which Lessor shall pay to the Acquisition Fund Custodian in connection with this Schedule is \$_____, of which \$_____ is for deposit to the Expense Fund and the balance is for deposit to the Acquisition Fund. It is expected that by [six (6)] [twelve (12)] [eighteen (18)] months from the date of this Schedule No. _____, Lessee will have taken possession of all items of Equipment shown above and that a Lessee's Acceptance Certificate, or Acceptance Certificates, will be signed by Lessee and delivered to Lessor on or before [six (6)] [twelve (12)] [eighteen (18)] months from the date of this Schedule No. _____.

OR IF VENDOR PAID DIRECTLY USE:

6. *Acquisition Amount.* The Acquisition Amount for the Equipment described in this Schedule to be paid to the Vendor is \$ _____.]

[OPTION: IF ACQUISITION FUND AGREEMENT IS USED:

7. *Acquisition Period.* The Acquisition Period applicable to this Schedule shall end at the conclusion of the ____ month following the date hereof.]

[7][8]. *Lease Term.* The Lease Term shall consist of the Original Term and ____ consecutive Renewal Terms, with the final Renewal Term ending on _____.

[8][9]. *Purchase Option Commencement Date.* For purposes of Section 10.01 of the Lease, the Purchase Option Commencement Date is _____.

[OPTION: IF NO ACQUISITION FUND AGREEMENT IS USED:

[9][10]. *Utilization Period Expiration.* The Utilization Period Expiration is _____.]

[10][11]. *Maximum Equipment Cost.* The Maximum Equipment Cost approved on a cumulative basis under the Lease for this Schedule and all previous Schedules is \$_____.

[11][12]. *Contract Rate.* The Contract Rate for this Schedule is _____%.

[OPTION: IF MOTOR VEHICLES ARE BEING FINANCED:

[12][13]. *Registration.* Any Equipment that is a motor vehicle is to be registered and titled as follows:

Any Equipment that is a motor vehicle is to be registered and titled as follows:

- (a) Registered Owner: City of Oxnard, California
- (b) Lienholder: Banc of America Public Capital Corp.
555 California Street, 4th Floor
Mail Code CA5-705-04-01
San Francisco, California 94104

Lessee shall be responsible for the correct titling of all Equipment leased hereunder. Lessee will cause the original Certificates of Title to be delivered to Lessor for retention in Lessor's files throughout the term of the Lease.

Dated: _____

LESSOR:
Banc of America Public Capital Corp.
555 California Street, 4th Floor
San Francisco, California 94104
Attention: Contract Administration

LESSEE:
City of Oxnard, California
300 West Third Street, Suite 302
Oxnard, California 93030
Attention: Rena Bassett

By: _____
Name: _____
Title: _____

EXHIBIT ONLY-DO NOT EXECUTE

By: _____
Name: _____
Title: _____

(Seal)

Attest:

By: _____
Name: _____
Title: _____

Counterpart No. _____ of _____ manually executed and serially numbered counterparts. To the extent that this Lease constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

EXHIBIT B-2

RENTAL PAYMENT SCHEDULE

Rental Payment Date	Rental Payment Amount	Interest Portion	Principal Portion	Outstanding Balance	Purchase Price [excluding Prepayment Premium]

Prepayment Premium for purposes of Section 10.01(a) is [insert formula] .

For purposes of this Lease, "*Taxable Rate*," with respect to the interest component of Rental Payments, means an annual rate of interest equal to ____%.

LESSEE:
City of Oxnard, California

EXHIBIT ONLY-DO NOT EXECUTE

By: _____

Name: _____

Title: _____

EXHIBIT C

CERTIFICATE

The undersigned, a duly elected and acting _____ [Secretary] [City Clerk] of City of Oxnard, California ("*Lessee*") certifies as follows:

A. The following listed persons are duly elected and acting officials of Lessee (the "*Officials*") in the capacity set forth opposite their respective names below and that the facsimile signatures are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Master Equipment Lease/Purchase Agreement dated as of April 8, 2014 and the Schedule(s) thereunder and all future Schedule(s) (the "*Agreements*") by and between Lessee and Banc of America Public Capital Corp., and these Agreements are binding and authorized Agreements of Lessee, enforceable in all respects in accordance with their terms.

Name of Official	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: _____

EXHIBIT ONLY-DO NOT EXECUTE

By: _____

Name: _____

Title: _____

(The signer certifying this Certificate cannot be listed above as authorized to execute the Agreements.)

EXHIBIT D

OPINION OF COUNSEL TO LESSEE (to be typed on letterhead of counsel)

Banc of America Public Capital Corp.
555 California Street, 4th Floor
San Francisco, California 94104

Re: Schedule of Property No. _____, dated _____, to Master Equipment Lease/Purchase Agreement, dated as of April 8, 2014, between Banc of America Public Capital Corp., as Lessor, and City of Oxnard, California, as Lessee

Ladies and Gentlemen:

As legal counsel to City of Oxnard, California ("*Lessee*"), I have examined (a) an executed counterpart of a certain Master Equipment Lease/Purchase Agreement, dated as of April 8, 2014, and Exhibits thereto by and between Banc of America Public Capital Corp. ("*Lessor*") and Lessee (the "*Agreement*") and an executed counterpart of Schedule of Property No. _____, dated _____, by and between Lessor and Lessee (the "*Schedule*"), which, among other things, provides for the lease of certain property listed in the Schedule (the "*Equipment*") and a certain Acquisition Fund and Account Control Agreement among Lessor, Lessee, and _____ as Acquisition Fund Custodian, dated _____, (b) an executed counterpart of the ordinances or resolutions of Lessee which, among other things, authorize Lessee to execute the Agreement and the Schedule and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. The Schedule and the terms and provisions of the Agreement incorporated therein by reference together with the Rental Payment Schedule attached to the Schedule are herein referred to collectively as the "Lease", and the Lease and the Acquisition Fund and Account Control Agreement are referred to collectively as the "Transaction Documents."

Based on the foregoing, I am of the following opinions:

1. Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and [has a substantial amount of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power][is a political subdivision of a state within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "Code") and the obligations of Lessee under the Agreement will constitute an obligation of Lessee within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code].
2. Lessee has the requisite power and authority to lease and acquire the Equipment and to execute and deliver the Transaction Documents and to perform its obligations under the Lease.

3. The Lease has been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Transaction Documents are valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The authorization, approval, execution and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws; and

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or its assigns, as the case may be, in the Equipment or other collateral thereunder.

[6. The portion of rentals designated as and constituting interest paid by Lessee and received by Lessor is excluded from Lessor's gross income for federal income tax purposes under Section 103 of the Code and is exempt from State of _____ personal income taxes; and such interest is not a specific item of tax preference or other collateral for purposes of the federal individual or corporate alternative minimum taxes.]

All capitalized terms herein shall have the same meanings as in the Transaction Documents unless otherwise provided herein. Lessor and its successors and assigns, and any counsel rendering an opinion on the tax-exempt status of the interest components of the Rental Payments, are entitled to rely on this opinion.

Printed Name: _____

Signature: _____

Firm: _____

Dated: _____

Address: _____

Telephone No.: _____

EXHIBIT E

ACCEPTANCE CERTIFICATE

Banc of America Public Capital Corp.
555 California Street, 4th Floor
San Francisco, California 94104

Re: Schedule of Property No. _____, dated _____, to
Master Equipment Lease/Purchase Agreement, dated as of April 8, 2014,
between Banc of America Public Capital Corp., as Lessor, and City of
Oxnard, California, as Lessee

Ladies and Gentlemen:

In accordance with the Master Equipment Lease/Purchase Agreement (the "*Agreement*"),
the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Equipment (as such term is defined in the Agreement) listed in the
above-referenced Schedule of Property (the "*Schedule*") has been delivered, installed and
accepted on the date hereof.

2. Lessee has conducted such inspection and/or testing of the Equipment listed in the
Schedule as it deems necessary and appropriate and hereby acknowledges that it accepts the
Equipment for all purposes.

3. Lessee is currently maintaining the insurance coverage required by Section 7.02
of the Agreement.

4. No event or condition that constitutes, or with notice or lapse of time, or both,
would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

Date: _____

LESSEE:
City of Oxnard, California

EXHIBIT ONLY-DO NOT EXECUTE

By: _____

Name: _____

Title: _____

(Seal)

EXHIBIT F

NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT

DATED _____

BANC OF AMERICA PUBLIC CAPITAL CORP. ("*Assignor*") hereby gives notice that it has assigned and sold to [_____] ("*Assignee*") all of Assignor's right, title and interest in, to and under [Schedule of Property] No. [____], dated [_____] (the "*Lease*") to the Master Equipment Lease/Purchase Agreement ("*Equipment Lease*") dated as of [____], between Assignor and _____ ("*Lessee*").

For purposes of this Notice and Acknowledgment of Assignment (the "*Acknowledgment*"), "*Lease*" means collectively the Lease identified above, together with all exhibits, schedules, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith. The term "*Lease*" specifically excludes all other [Schedules of Property] entered into under the Equipment Lease and rental payments other than with respect to the [Schedule of Property] identified above. Each capitalized term used but not defined herein has the meaning set forth in the Equipment Lease described above.

1. Pursuant to the authority of Resolution _____ adopted on _____, Lessee hereby acknowledges the effect of the assignment of the Lease and absolutely and unconditionally agrees to deliver to Assignee all rental payments and other amounts coming due under the Lease in accordance with the terms thereof on and after the date of this Acknowledgment.

2. Lessee hereby agrees that: (i) Assignee shall have all the rights of Lessor under the Lease and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the equipment in accordance with the terms of the Lease, to declare a default and to exercise all remedies thereunder; and (ii) except as provided in Section [____] of the Lease, the obligations of Lessee to make rental payments and to perform and observe the other covenants and agreements contained in the Lease shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.

3. Lessee agrees that, as of the date of this Acknowledgment, the following information about the Lease is true, accurate and complete:

Number of Rental Payments Remaining	-	_____
Amount of Each Rental Payment	-	\$ _____
Total Amount of Rents Remaining	-	\$ _____
Frequency of Rental Payments	-	_____

EXHIBIT I

Escrow and Account Control Agreement

This Escrow and Account Control Agreement (this “Agreement”), dated as of April 5, 2022 by and among Banc of America Public Capital Corp, a Kansas corporation (together with its successors and assigns, hereinafter referred to as “Lessor”), the City of Oxnard, California, a municipal corporation organized and existing under the laws of the State of California (hereinafter referred to as “Lessee”) and Bank of America, National Association, a national banking association organized under the laws of the United States of America (hereinafter referred to as “Escrow Agent”).

Reference is made to that certain Master Equipment Lease/Purchase Agreement dated as of April 8, 2014 between Lessor and Lessee (hereinafter referred to as the “Lease”), covering the acquisition and lease of certain Equipment described therein (the “Equipment”). It is a requirement of the Lease that the Acquisition Amount \$3,300,000.00 be deposited into a segregated escrow account under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Creation of Escrow Account.

(a) There is hereby created an escrow fund to be known as the “Oxnard Equipment Escrow Account” (the “Escrow Account”) to be held by the Escrow Agent for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) Lessee may, from time to time, provide written instructions for Escrow Agent to use any available cash in the Escrow Account to purchase any money market fund or liquid deposit investment vehicle that Escrow Agent from time to time makes available to the parties hereto. Such written instructions shall be provided via delivery to Escrow Agent of a signed and completed Escrow Account Investment Selection Form (such form available from Escrow Agent upon request). All funds invested by Escrow Agent at the direction of Lessee in such short-term investments (as more particularly described in Escrow Agent's Escrow Account Investment Selection Form) shall be deemed to be part of the Escrow Account and subject to all the terms and conditions of this Agreement. If any cash is received for the Escrow Account after the cut-off time for the designated short-term investment vehicle, the Escrow Agent shall hold such cash uninvested until the next Business Day. In the absence of written instructions from Lessee (on Escrow Agent's Escrow Account Investment Selection Form) designating a short-term investment of cash in the Escrow Account, cash in the Escrow Account shall remain uninvested and it shall not be collateralized. Escrow Agent shall have no obligation to pay interest on cash in respect of any period during which it remains uninvested. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified

Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Escrow Agent for the reinvestment of any maturing investment. Accordingly, neither the Escrow Agent nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Escrow Account, and Lessee agrees to and does hereby release the Escrow Agent and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Escrow Account shall become part of the Escrow Account, and gains and losses on the investment of the moneys on deposit in the Escrow Account shall be borne by the Lessee. The Escrow Agent shall have no discretion whatsoever with respect to the management, disposition or investment of the Escrow Account. The Escrow Agent shall not be responsible for any market decline in the value of the Escrow Account and has no obligation to notify Lessor and Lessee of any such decline or take any action with respect to the Escrow Account, except upon specific written instructions stated herein. For purposes of this Agreement, "Qualified Investments" means any investments which meet the requirements of California State law.

(c) Unless the Escrow Account is earlier terminated in accordance with the provisions of paragraph (d) below, amounts in the Escrow Account shall be disbursed by the Escrow Agent in payment of amounts described in Section 2 hereof upon receipt of written instruction(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Escrow Account are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition of the Equipment. Any moneys remaining in the Escrow Account on or after the earlier of (i) the expiration of the Acquisition Period or (ii) the date on which Lessee executes an Acceptance Certificate shall be applied as provided in Section 4 hereof.

(d) The Escrow Account shall be terminated at the earliest of (i) the final distribution of amounts in the Escrow Account, (ii) the date on which Lessee executes a Final Acceptance Certificate or (iii) written notice given by Lessor of the occurrence of an Event of Default under the Lease or termination of the Lease due to an Event of Non-appropriation. Notwithstanding the foregoing, this Agreement shall not terminate nor shall the Escrow Account be closed until all funds deposited hereunder have been disbursed.

(e) The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Escrow Agent, and for the disposition of the same in accordance herewith. Notwithstanding and without limiting the generality of the foregoing, concurrent with the execution of this Agreement, Lessee and Lessor, respectively, shall deliver to the Escrow Agent an authorized signers form in the form of Exhibit A-1 (Lessee) and Exhibit A-2 (Lessor) attached hereto. Notwithstanding the foregoing sentence, the Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by the parties or by a person or persons authorized by the parties. The Escrow Agent specifically allows for receiving direction by

written or electronic transmission from an authorized representative with the following caveat, Lessee and Lessor agree to indemnify and hold harmless the Escrow Agent against any and all claims, losses, damages, liabilities, judgments, costs and expenses (including reasonable attorneys' fees) (collectively, "Losses") incurred or sustained by the Escrow Agent as a result of or in connection with the Escrow Agent's reliance upon and compliance with instructions or directions given by written or electronic transmission given by each, respectively, provided, however, that such Losses have not arisen from the gross negligence or willful misconduct of the Escrow Agent, it being understood that forbearance on the part of the Escrow Agent to verify or confirm that the person giving the instructions or directions, is, in fact, an authorized person shall not be deemed to constitute gross negligence or willful misconduct.

In the event conflicting instructions as to the disposition of all or any portion of the Escrow Account are at any time given by Lessor and Lessee, the Escrow Agent shall abide by the instructions or entitlement orders given by Lessor without consent of the Lessee.

(f) Unless the Escrow Agent is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, does to the extent permitted by law indemnify the Escrow Agent against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(g) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action including an interpleader action to resolve the disagreement. The Escrow Agent shall be reimbursed by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(h) The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(i) Lessee shall reimburse the Escrow Agent for all reasonable costs and expenses, including those of the Escrow Agent's attorneys, agents and employees incurred for non-routine administration of the Escrow Account and the performance of the Escrow Agent's powers and duties hereunder in connection with any Event of Default under the Lease, any termination of the Lease due to an Event of Non-appropriation or in connection with any dispute between Lessor and Lessee concerning the Escrow Account.

(j) The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation (the "Effective Date"), which shall be a date not less than 60 days after such notice is

delivered to an express carrier, charges prepaid, unless an earlier resignation date and the appointment of a successor shall have been approved by the Lessee and Lessor. After the Effective Date, the Escrow Agent shall be under no further obligation except to hold the Escrow Account in accordance with the terms of this Agreement, pending receipt of written instructions from Lessor regarding further disposition of the Escrow Account.

(k) The Escrow Agent shall have no responsibilities, obligations or duties other than those expressly set forth in this Agreement and no implied duties responsibilities or obligations shall be read into this Agreement.

2. Acquisition of Property.

(a) Acquisition Contracts. Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Escrow Account. Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof. Escrow Agent shall have no duty to monitor or enforce Lessee's compliance with the foregoing covenant.

(b) Authorized Escrow Account Disbursements. It is agreed as between Lessee and Lessor that disbursements from the Escrow Account shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the cost of acquiring the Equipment and to pay a portion of the City's costs of issuance.

(c) Requisition Procedure. No disbursement from the Escrow Account shall be made unless and until Lessor has approved such requisition. Prior to disbursement from the Escrow Account there shall be filed with the Escrow Agent a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due. All disbursements shall be made by wire transfer. The Escrow Agent is authorized to obtain and rely on confirmation of such Disbursement Request and payment instructions by telephone call-back to the person or persons designated for verifying such requests on Exhibit A-2 (such person verifying the request shall be different than the person initiating the request). The Lessor and Lessee hereby confirm that any call-back performed by Escrow Agent to verify a disbursement instruction pursuant to a Disbursement Request submitted pursuant to this Section 2(c) before release, shall be made to Lessor only and Escrow Agent shall have no obligation to call-back Lessee.

Each such Disbursement Request shall be signed by an authorized representative of Lessee (an "Authorized Representative") and by Lessor, and shall be subject to the following conditions, which Escrow Agent shall conclusively presume have been satisfied at such time as a requisition executed by Lessee and Lessor is delivered to it:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1; and
2. Delivery to Lessor of copies of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to such Equipment has passed to Lessee) therefor as required by Section 3.04 of the Lease and any additional documentation reasonably requested by Lessor.

Lessee and Lessor agree that their execution of the form attached hereto as Schedule 1 and delivery of the executed form to Escrow Agent confirms that all of the requirements and conditions with respect to disbursements set forth in this Section 2 have been satisfied.

3. Deposit to Escrow Account. Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Acquisition Amount to be deposited in the Escrow Account. Lessee agrees to pay any costs with respect to the Equipment in excess of amounts available therefor in the Escrow Account.

4. Excessive Escrow Account. Upon receipt of written instructions from Lessor including a representation that one of the following conditions has been satisfied (upon which representation Escrow Agent shall conclusively rely), any funds remaining in the Escrow Account on or after the earlier of (a) the expiration of the Acquisition Period or (b) the date on which Lessee executes an Acceptance Certificate, or upon a termination of the Escrow Account as otherwise provided herein, shall be distributed by the Escrow Agent to the Lessor in order for the Lessor to apply such funds to amounts owed by Lessee under the Lease in accordance with Section 4.07 of the Lease.

5. Security Interest. The Escrow Agent and Lessee acknowledge and agree that the Escrow Account and all proceeds thereof are being held by Escrow Agent for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Escrow Account, and all proceeds thereof, and all investments made with any amounts in the Escrow Account. If the Escrow Account, or any part thereof, is converted to investments as set forth in this Agreement, such investments shall be made in the name of Escrow Agent and the Escrow Agent hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

6. Control of Escrow Account. In order to perfect Lessor's security interest by means of control in (i) the Escrow Account established hereunder, (ii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Escrow Account, (iii) all of Lessee's rights in respect of the Escrow Account, such securities entitlements, investment property and other financial assets, and (iv) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "Collateral"), Lessor, Lessee and Escrow Agent further agree as follows:

(a) All terms used in this Section 6 which are defined in the Commercial Code of the State of California ("Commercial Code") but are not otherwise defined herein shall

have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Escrow Agent will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Provided that account investments shall be held in the name of the Escrow Agent, Escrow Agent hereby represents and warrants (a) that the records of Escrow Agent show that Lessee is the sole owner of the Collateral, (b) that Escrow Agent has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (c) that Escrow Agent is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Escrow Agent is obligated to accept from Lessor under this Agreement and entitlement orders that Escrow Agent, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Escrow Agent will not enter into any agreement by which Escrow Agent agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Escrow Agent shall promptly notify Lessor if any person requests Escrow Agent to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Lessee may effect sales, trades, transfers and exchanges of Collateral within the Escrow Account, but will not, without the prior written consent of Lessor, withdraw any Collateral from the Escrow Account. Escrow Agent acknowledges that Lessor reserves the right, by delivery of written notice to Escrow Agent, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Escrow Account. Further, Escrow Agent hereby agrees to comply with any and all written instructions delivered by Lessor to Escrow Agent (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Escrow Agent to comply with all instructions and entitlement orders delivered by Lessor to Escrow Agent.

(g) Escrow Agent will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Escrow Agent will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

(h) Escrow Agent and Lessee hereby agree that any property held in the Escrow Account shall be treated as a financial asset under such section of the Commercial Code

as corresponds with Section 8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Escrow Agent may be a party.

(i) Escrow Agent is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 8 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Escrow Account statements or reports issued or sent to Lessee with respect to the Escrow Account.

7. Information Required Under USA PATRIOT ACT. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

8. Miscellaneous. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This Agreement may not be amended except in writing signed by all parties hereto. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below.

Notices and other communications hereunder may be delivered or furnished by electronic mail provided that any formal notice be attached to an email message in PDF format and provided further that any notice or other communication sent to an e-mail address shall be deemed received upon and only upon the sender's receipt of affirmative acknowledgement or receipt from the intended recipient. For purposes hereof no acknowledgement of receipt generated on an automated basis shall be deemed sufficient for any purpose hereunder or admissible as evidence of receipt.

If to Lessor:	Banc of America Public Capital Corp
	11333 McCormick Road
	Mail Code: MD5-032-07-05
	Hunt Valley, MD 21031
	Attn: Contract Administration
	Fax: (443) 541-3057

If to Lessee:	City of Oxnard, California 300 W. Third Street, Third Floor Oxnard, CA 93030 Attn: Betsy George, CFO Email: betsy.george@oxnard.org
If to Escrow Agent	Bank of America, National Association Global Custody and Agency Services 540 W. Madison Street Mail Code: IL4-540-21-03 Chicago, Illinois 60661 Attention: GCAS AMRS Escrow Service Telephone: (312) 992-3272 Fax: (312) 453-4443 Email: gcas_amrs_escrow_client_service@bofa.com

9. Lessee and Lessor understand and agree that they are required to provide the Escrow Agent with a properly completed and signed Tax Certification (as defined below) and that the Escrow Agent may not perform its duties hereunder without having been provided with such Tax Certification. As used herein "Tax Certification" shall mean an IRS form W-9 or W-8 as described above. The Escrow Agent will comply with any U.S. tax withholding or backup withholding and reporting requirements that are required by law. With respect to earnings allocable to a foreign person, the Escrow Agent will withhold U.S. tax as required by law and report such earnings and taxes withheld, if any, for the benefit of such foreign person on IRS Form 1042-S (or any other required form), unless such earnings and withheld taxes are exempt from reporting under Treasury Regulation Section 1.1461-1(c)(2)(ii) or under other applicable law. With respect to earnings allocable to a United States person, the Escrow Agent will report such income, if required, on IRS Form 1099 or any other form required by law. The IRS Forms 1099 and/or 1042-S shall show the Escrow Agent as payor and Lessee as payee. Escrow Agent shall recognize Lessee as the designated party for regulatory reporting purposes.

Lessee and Lessor agree that they are not relieved of their respective obligations, if any, to prepare and file information reports under Code Section 6041, and the Treasury regulations thereunder, with respect to amounts of imputed interest income, as determined pursuant to Code Sections 483 or 1272. The Escrow Agent shall not be responsible for determining or reporting such imputed interest.

10. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the parties hereto consent to jurisdiction in the State of California and venue in any state or Federal court located in the County of Ventura.

11. Any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding. Any bank or corporation into which the Lessor

may be merged or with which it may be consolidated, or any bank or corporation to whom the Lessor may transfer a substantial amount of its business, shall be the successor to the Lessor without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

12. This Agreement may be amended, modified, and/or supplemented only by an instrument in writing executed by all parties hereto.

13. No party hereto shall assign its rights hereunder until its assignee has submitted to the Escrow Agent (i) Patriot Act disclosure materials and the Escrow Agent has determined that on the basis of such materials it may accept such assignee as a customer and (ii) assignee has delivered an IRS Form W-8 or W-9, as appropriate, to the Escrow Agent which the Escrow Agent has determined to have been properly signed and completed.

14. Escrow Agent will treat information related to this Agreement as confidential but, unless prohibited by law, Lessee and Lessor authorize the transfer or disclosure of any information relating to the Agreement to and between the subsidiaries, officers, affiliates and other representatives and advisors of Escrow Agent and third parties selected by any of them, wherever situated, for confidential use in the ordinary course of business, and further acknowledge that Escrow Agent and any such subsidiary, officer, affiliate or third party may transfer or disclose any such information as required by any law, court, regulator or legal process.

Lessor will treat information related to this Agreement as confidential but, unless prohibited by law, Escrow Agent and Lessee authorize the transfer or disclosure of any information relating to the Agreement to and between the subsidiaries, officers, affiliates, other representatives and advisors of Lessor and debt and equity sources and third parties selected by any of them, and to their prospective assignees wherever situated, for confidential use in the ordinary course of business, and further acknowledge that Lessor and any such subsidiary, officer, affiliate, debt and equity source or third party or prospective assignee may transfer or disclose any such information as required by any law, court, regulator or legal process.

Lessee will treat the terms of this Agreement as confidential except on a "need to know" basis to persons within or outside Lessee's organization (including affiliates of such party), such as attorneys, accountants, bankers, financial advisors, auditors and other consultants of such party and its affiliates, except as required by any law, court, regulator or legal process and except pursuant to the express prior written consent of the other parties, which consent shall not be unreasonably withheld;

In Witness Whereof, the parties have executed this Escrow and Account Control Agreement as of the date first above written.

Banc of America Public Capital Corp
as Lessor

City of Oxnard, California
as Lessee

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Bank of America, National Association
as Escrow Agent

By: _____

Name: _____

Title: _____

SCHEDULE 1
to the Escrow and Account Control Agreement

FORM OF DISBURSEMENT REQUEST

Re: Master Equipment Lease/Purchase Agreement dated as of April 8, 2014 by and between Banc of America Public Capital Corp, as Lessor, and City of Oxnard, California, as Lessee (the "Lease") (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Escrow and Account Control Agreement, dated as of April 5, 2022 (the "Escrow and Account Control Agreement") by and among Banc of America Public Capital Corp ("Lessor"), the City of Oxnard, California ("Lessee") and Bank of America, National Association, (the "Escrow Agent"), the undersigned hereby requests the Escrow Agent pay the following persons the following amounts from the Escrow Account created under the Escrow and Account Control Agreement for the following purposes:

Disbursement Amounts:

Payee's Name and Address	Invoice Number	Dollar Amount	Purpose
	<invoice list OR "see attached" with a spreadsheet>		
	<invoice list OR "see attached" with a spreadsheet>		

Lessee hereby represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(i) (a) Each obligation specified in the table herein titled as "Disbursement Amounts" has been incurred by Lessee in the stated amount, (b) the same is a proper charge against the Escrow Account for costs relating to the Equipment identified in the Lease, and (c) has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof).

(ii) Each item of Equipment relating to an obligation specified in the table herein titled as "Disbursement Amounts" has been delivered, installed and accepted by Lessee. Attached hereto is a copy of the invoice with respect to such obligation.

(iii) The undersigned, as Authorized Representative, has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

(v) The Equipment is insured in accordance with the Lease.

(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to the Lease.

(vii) The disbursement shall occur during the Acquisition Period.

(viii) The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

(ix) No Material Adverse Change has occurred since the date of the execution and delivery of the Lease.

(x) The information in this Disbursement Request regarding each Payee, including their respective name, address and wiring instructions, (collectively, the "Payee Information") is true and correct, such Payee Information has been verified and confirmed by Lessee and the Lessor can rely on Lessee's verification and confirmation of the accuracy of such Payee Information. Lessee hereby acknowledges and agrees that any call-back performed by Lessor to verify the disbursement instructions pursuant to this Disbursement Request shall be made to Lessee only and Lessor shall have no obligation to call-back any Payee listed above.

Dated: _____

CITY OF OXNARD, CALIFORNIA

By: _____
Name: _____
Title: _____

Disbursement of funds from the Escrow
Account in accordance with the foregoing
Disbursement Request hereby is authorized

BANC OF AMERICA PUBLIC CAPITAL CORP
as Lessor under the Lease

By: _____
Name: _____
Title: _____

[AN "EXHIBIT A-1" MUST BE COMPLETED AND EXECUTED AT TIME OF EXECUTION OF THE AGREEMENT]

EXHIBIT A-1

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, a duly elected or appointed and acting City Clerk of the City of Oxnard, California ("*Lessee*") certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the "*Officials*") in the capacity set forth opposite their respective names below and the facsimile signatures below are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Schedule of Property No. 25 dated as of April 5, 2022, to Master Equipment Lease/Purchase Agreement executed on April 8, 2014, by and between Lessee and Banc of America Public Capital Corp ("*Lessor*"), the Escrow and Account Control Agreement dated as of April 5, 2022 among Lessor, Lessee and Bank of America, National Association, as Escrow Agent, and all documents related thereto and delivered in connection therewith (collectively, the "*Agreements*"), and the Agreements each are the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

Name of Official	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: April 5, 2022

By: _____

Name: _____

Title: _____

(The signer of this Certificate cannot be listed above as authorized to execute the Agreements.)

EXHIBIT A-2

Escrow and Account Control Agreement dated as of April 5, 2022 by and among Lessor, Lessee and Escrow Agent

Certificate of Authorized Representatives – [Lessor]

Name: Bridgett Arnold

Title: Authorized Agent

Phone: 415-765-1867

Facsimile: 415-765-7373

E-mail: Bridgett.arnold@bofa.com

Signature: 

Fund Transfer / Disbursement Authority Level:

- ☒ Initiate
- ☒ Verify transactions initiated by others

Name: Augustine Reichenbach

Title: Authorized Agent

Phone: 443-541-2613

Facsimile: 904-312-6101

E-mail: Augustine.reichenbach@bofa.com

Signature: 

Fund Transfer / Disbursement Authority Level:

- ☒ Initiate
- ☒ Verify transactions initiated by others

Name: Jessica Perkins

Title: Authorized Agent

Phone: 410-854-5547

Facsimile: N/A

E-mail: Jessica.Perkins2@bofa.com

Signature: 

Fund Transfer / Disbursement Authority Level:

- ☒ Initiate
- ☒ Verify transactions initiated by others

Name: Kristen Turcone-Mariani

Title: Authorized Agent

Phone: 401-854-5525

Facsimile: N/A

E-mail: Kristen.turcone-mariani@bofa.com

Signature: 

Fund Transfer / Disbursement Authority Level:

- ☒ Initiate
- ☒ Verify transactions initiated by others

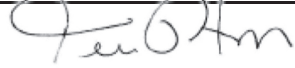
Name: Terri Preston

Title: Authorized Agent

Phone: 443-541-3642

Facsimile: 804-553-8124

E-mail: Terri.preston@bofa.com

Signature: 

Fund Transfer / Disbursement Authority Level:

- ☒ Initiate
- ☒ Verify transactions initiated by others

Name: Alicia Cosby

Title: Operations Analyst

Phone: 443-541-3651

Facsimile: N/A

E-mail: Alicia.cosby@bofa.com

Signature: 

Fund Transfer / Disbursement Authority Level:

- ☒ Initiate
- ☐ Verify transactions initiated by others

The Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by the person or persons identified above including without limitation, to initiate and verify funds transfers as indicated.

Banc of America Public Capital Corp

By: _____

Name: _____

Title: _____

Date: _____

SCHEDULE OF PROPERTY NO. 25

Re: Master Equipment Lease/Purchase Agreement, dated as of April 8, 2014,
between Banc of America Public Capital Corp, as Lessor, and City of
Oxnard, California, as Lessee

1. *Defined Terms.* All terms used herein have the meanings ascribed to them in the above-referenced Master Equipment Lease/Purchase Agreement (the “*Master Equipment Lease*”). For purposes of this Schedule the following defined terms in the Master Equipment Lease shall be defined as the following:

a The Acquisition Fund shall be deemed the Oxnard Equipment Escrow Account created under the Acquisition Fund Agreement.

b The Acquisition Fund Agreement shall be deemed that certain Escrow and Account Control Agreement, dated as of April 5, 2022, by and among Lessor, Lessee and the Acquisition Fund Custodian.

c The Acquisition Fund Custodian shall be deemed Bank of America, National Association, as Escrow Agent under the Escrow and Account Control Agreement, dated as of April 5, 2022, by and among Lessor, Lessee and the Bank of America, National Association.

2. *Equipment.* The following items of Equipment are hereby included under this Schedule of the Master Equipment Lease.

(3) Fire Truck Apparatus’s as further described in each Disbursement Request under the Escrow Agreement, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto as provided in the Agreement

3. *Payment Schedule.*

(a) *Rental Payments.* The Rental Payments shall be in such amounts and payable on such dates as set forth in the Rental Payment Schedule attached to this Schedule as Exhibit B. Rental Payments shall commence on the date on which the Equipment listed in this Schedule is accepted by Lessee, as indicated in an Acceptance Certificate substantially in the form of Exhibit E to the Master Equipment Lease or the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an Acquisition Fund Custodian, whichever is earlier.

(b) *Purchase Price Schedule.* The Purchase Price on each Rental Payment date for the Equipment listed in this Schedule shall be the amount set forth for such Rental Payment date in the “Purchase Price” column of the Rental Payment Schedule attached to this Schedule. The Purchase Price is in addition to all Rental Payments then due under this Schedule (including the Rental Payment shown on the same line in the Rental Payment Schedule).

4. *Representations, Warranties and Covenants.* Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Master Equipment Lease are true and correct as though made on the date of commencement of Rental Payments on this Schedule. Lessee further represents and warrants that (a) no material adverse change in Lessee's financial condition has occurred since the date of the Master Equipment Lease; (b) the governing body of Lessee has authorized the execution and delivery of this Agreement and the Leases pursuant to Agenda Item No. ____, approved on ____; (c) the Equipment described in the Agreement referenced above is essential to the functions of Lessee or to the services Lessee provides its citizens; (d) lessee has an immediate need for, and expects to make immediate use of, substantially all such Equipment, which will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of its authority; and (f) Lessee expects and anticipates adequate funds to be available for all future payments or rent due after the current budgetary period.

5. *The Lease.* The terms and provisions of the Master Equipment Lease (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated into this Schedule by reference and made a part hereof.

6. *Lease Proceeds.* The Lease Proceeds which Lessor shall pay to the Acquisition Fund Custodian in connection with this Schedule is \$3,300,000.00, of which \$3,300,000.00 is for deposit to the Acquisition Fund. It is expected that by eighteen (18) months from the date of this Schedule of Property No. 25, Lessee will have taken possession of all items of Equipment shown above and that a Lessee's Acceptance Certificate, or Acceptance Certificates, will be signed by Lessee and delivered to Lessor on or eighteen (18) months from the date of this Schedule of Property No. 25.

7. *Acquisition Period.* The Acquisition Period applicable to this Schedule shall end at the conclusion of the 18th month following the date hereof.

8. *Lease Term.* The Lease Term shall consist of the Original Term and (10) ten consecutive Renewal Terms, with the final Renewal Term ending on December 1, 2031.

9. *Purchase Option Commencement Date.* For purposes of Section 10.01 of the Lease, the Purchase Option Commencement Date is June 1, 2027.

10. *Maximum Equipment Cost.* The Maximum Equipment Cost approved on a cumulative basis under the Lease for this Schedule and all previous Schedules is \$23,555,000.00.

11. *Contract Rate.* The Contract Rate for this Schedule is 2.2900%.

12. *Registration.* Any Equipment that is a motor vehicle is to be registered and titled as follows:

- (a) Registered Owner: City of Oxnard, California
- (b) Lienholder: Banc of America Public Capital Corp
Northeast Center Building
2059 Northlake Parkway
Tucker, GA 30084-5321

Lessee shall be responsible for the correct titling of all Equipment leased hereunder. Lessee will cause the original Certificates of Title to be delivered to Lessor for retention in Lessor's files throughout the term of the Lease.

[Remainder of page intentionally left blank; signature page follows]

Dated: April 5, 2022

LESSOR:

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104
Attention: Contract Administration

LESSEE:

City of Oxnard, California
300 West Third Street, Suite 302
Oxnard, California 93030
Attention: Betsy George

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Counterpart No. _____ of _____ manually executed and serially numbered counterparts. To the extent that this Lease constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

EXHIBIT B

RENTAL PAYMENT SCHEDULE

RENTAL PAYMENT DATE	RENTAL PAYMENT AMOUNT	INTEREST PORTION	PRINCIPAL PORTION	OUTSTANDING BALANCE	PURCHASE PRICE
4/5/2022	\$0.00	\$0.00	\$0.00	\$3,300,000.00	N/A
12/1/2022	\$194,933.88	\$49,540.33	\$145,393.55	\$3,154,606.45	N/A
6/1/2023	\$194,933.88	\$36,120.24	\$158,813.64	\$2,995,792.81	N/A
12/1/2023	\$194,933.88	\$34,301.83	\$160,632.05	\$2,835,160.76	N/A
6/1/2024	\$194,933.88	\$32,462.59	\$162,471.29	\$2,672,689.47	N/A
12/1/2024	\$194,933.88	\$30,602.29	\$164,331.59	\$2,508,357.88	N/A
6/1/2025	\$194,933.88	\$28,720.70	\$166,213.18	\$2,342,144.69	N/A
12/1/2025	\$194,933.88	\$26,817.56	\$168,116.32	\$2,174,028.37	N/A
6/1/2026	\$194,933.88	\$24,892.62	\$170,041.26	\$2,003,987.11	N/A
12/1/2026	\$194,933.88	\$22,945.65	\$171,988.23	\$1,831,998.88	N/A
6/1/2027	\$194,933.88	\$20,976.39	\$173,957.49	\$1,658,041.39	\$1,658,041.39
12/1/2027	\$194,933.88	\$18,984.57	\$175,949.31	\$1,482,092.08	\$1,482,092.08
6/1/2028	\$194,933.88	\$16,969.95	\$177,963.93	\$1,304,128.16	\$1,304,128.16
12/1/2028	\$194,933.88	\$14,932.27	\$180,001.61	\$1,124,126.54	\$1,124,126.54
6/1/2029	\$194,933.88	\$12,871.25	\$182,062.63	\$942,063.91	\$942,063.91
12/1/2029	\$194,933.88	\$10,786.63	\$184,147.25	\$757,916.66	\$757,916.66
6/1/2030	\$194,933.88	\$8,678.15	\$186,255.73	\$571,660.93	\$571,660.93
12/1/2030	\$194,933.88	\$6,545.52	\$188,388.36	\$383,272.56	\$383,272.56
6/1/2031	\$194,933.88	\$4,388.47	\$190,545.41	\$192,727.15	\$192,727.15
12/1/2031	\$194,933.88	\$2,206.73	\$192,727.15	\$0.00	\$0.00
TOTAL	\$3,703,743.72	\$403,743.72	\$3,300,000.00		

Prepayment Premium for purposes of Section 10.01(a) is 0.00%.

For purposes of this Lease, "Taxable Rate," with respect to the interest component of Rental Payments, means an annual rate of interest equal to 2.9228%.

LESSEE:
City of Oxnard, California

By: _____

Name: _____

Title: _____

City of Oxnard

Banc of America Master Equipment Lease/Purchase Agreement (A-7667) for 2022 Equipment Lease Reimbursement to the City for Purchase of Fire Engines

PRESENTATION TO CITY COUNCIL

MARCH 29, 2022

Recommendation

- ▶ That the City Council adopt a resolution authorizing the execution and delivery of Schedules of Property to the Master Equipment Lease/Purchase Agreement not to exceed \$3.3 million for the acquisition, financing, and leasing of certain equipment for the public benefit within the terms provided therein; authorizing the execution and delivery of other documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by the resolution.

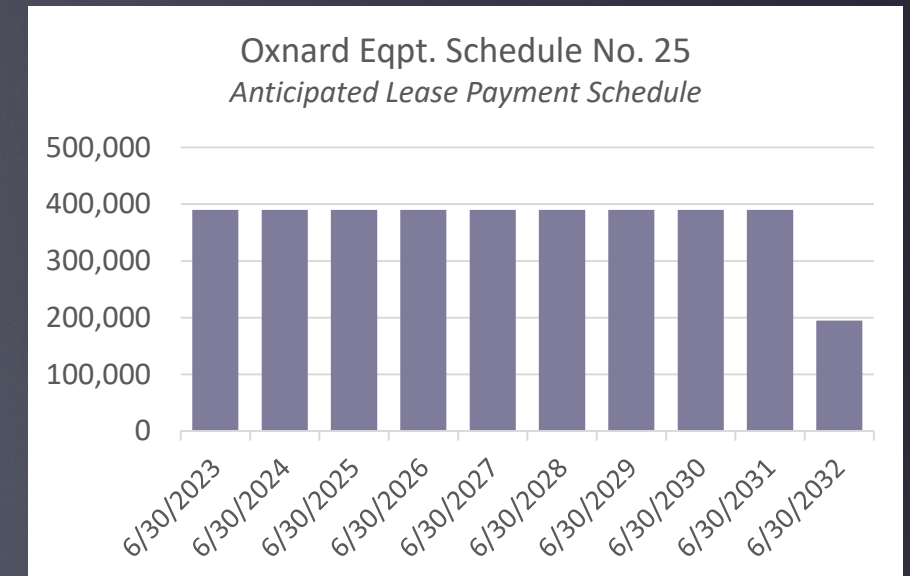
Background and Vehicle Needs

- ▶ Oxnard Fire Department needs three new fire engines
 - ❑ Purchase was approved at the January 18, 2022 meeting
 - ❑ Engines were purchased in late January to avoid a 7% cost increase that would have taken effect 2/1/2022
 - Accelerating the purchase saved the City approximately \$172,000
 - ❑ Engines purchased through South Coast Fire Equipment, piggybacking on the City of LA contract with Pierce (Manufacturer)

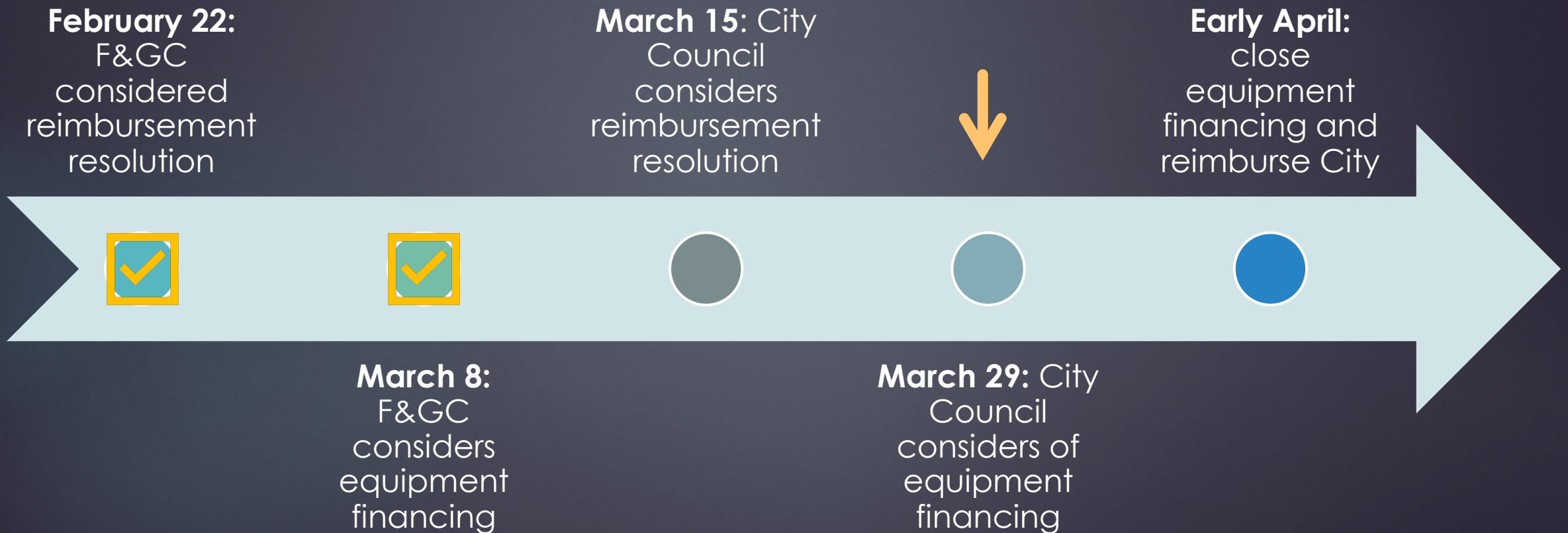


Financing Overview

- ▶ City plans to utilize the existing line of credit with Bank of America (BoFA) to reimburse City for the purchase price and upfitting costs
 - ❑ Current agreement has been in place since 2014 and has been used several times to finance equipment
 - ❑ Current draw is Schedule No. 25; will have a 10-year term (final payment 12/1/2031)
 - ❑ Amount borrowed expected to be \$3.3 million
- ▶ BoFA has provided a fixed 10-year interest rate of 2.29%
 - ❑ Semi-Annual debt service payments of \$195,000
 - ❑ Annual payments of \$390,000



Tentative Schedule



Recommendation

- ▶ That the City Council adopt a resolution authorizing the execution and delivery of Schedules of Property to the Master Equipment Lease/Purchase Agreement not to exceed \$3.3 million for the acquisition, financing, and leasing of certain equipment for the public benefit within the terms provided therein; authorizing the execution and delivery of other documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by the resolution.

Questions?



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. K.2

DATE: March 29, 2022

TO: City Council

FROM: Alexander Nguyen, City Manager, (805) 385-7430, alexander.nguyen@oxnard.org

SUBJECT: Recategorization of American Rescue Plan Act (ARPA) Projects According to Final Rule Issued by US Treasury. (0/25/10)

RECOMMENDATION

That the City Council:

1. Recategorize \$15,670,000 of ARPA projects into the Replacing Lost Public Sector Revenue category according to the Final Rule issued by the U.S. Department of the Treasury;
2. Make final decisions on remaining ARPA projects tabled in 2021 and newly proposed ARPA projects; and
3. Authorize the City Manager or designee to approve budget appropriations necessary to recognize revenue and appropriate funding for all ARPA projects.

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

BACKGROUND

In May 2021, the U.S. Department of the Treasury (US Treasury) released preliminary guidance on the American Rescue Plan Act (ARPA) in the form of an Interim Final Rule for the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program. The SLFRF program is expected to eventually provide metropolitan cities throughout the country \$45.6 billion in funding. The Interim Final Rule described eligible and ineligible uses of funds, listed program provisions, sought feedback from the public on program rules and began to distribute funds. As part of the SLFRF program, the City has been allocated \$59,540,662 in funding from the federal government, of which half, \$29,770,331, was received in May 2021. The remaining \$29,770,331 is expected in May 2022.

For the first eight months of the SLFRF program, local government grantees like the City operated under the Interim Final Rule, which the US Treasury published without clear direction for every spending category. On January 6th, the US Treasury released its Final Rule for SLFRF. Most of the new content aims to provide greater clarity, direction, and examples for rules already in effect under the Interim Final Rule while also containing some important changes to several categories (Attachment 1).

Beginning in July 2021, Council started the process of deliberating and selecting which ARPA projects to fund with the City's \$59 million allocation. After the Council meetings of September 21, 2021, and December 7, 2021, the Council selected and appropriated approximately \$48 million in ARPA projects. These projects respond to the COVID-19 pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery in the City.

Under the SLFRF program, ARPA funds must be used for costs incurred on or after March 3, 2021. Further, costs must be encumbered by December 31, 2024, and expended by December 31, 2026.

Replacing Lost Public Sector Revenue

The "Replacing Lost Public Sector Revenue" category remains the most flexible spending category under the SLFRF program. It provides the City with broad latitude to use funds to provide general government services with few restrictions. Examples of general government services include street resurfacing, infrastructure, maintenance, public safety payroll, and other administrative costs. Funds under this category can generally be spent by local governments using an amount up to a local or state government's revenue loss figure.

Through the Final Rule, the US Treasury provides a calculation formula for determining a local government's revenue loss (Attachment 1, pg 9). Revenue loss by recipients of ARPA funds must be calculated at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Calculations are to begin from the "base year" or last fiscal year before the onset of the pandemic, which was Fiscal Year 2018-19.

Using guidance from the Final Rule, for the reporting period ending December 31, 2020, the City had a calendar year general revenue loss of \$16,520,363.

For the period ending December 31, 2021, the City had general revenue losses totaling \$4,712,379.

The projected general revenue loss at the end of the calendar year 2022 is estimated to be \$12,365,188.

Therefore, the City's total general revenue loss due to the pandemic since December 2020 is projected to be \$33,597,930.

Recategorization of ARPA Funds

After the Council meetings of September 21, 2021, and December 7, 2021, the Council selected and appropriated \$9,190,000 of projects in the Replacing Lost Public Sector Revenue category (Attachment 2). With the approval of the recommended action, the City will elect to recognize an additional \$23,015,000 in ARPA funds to the Replacing Lost Public Sector Revenue category to repay the General Fund, or other City funds, for the general government services (e.g., street resurfacing, infrastructure, maintenance, public safety payroll) that the City has already spent funds on or will shortly. The \$23,015,000 includes:

1. Newly recategorized projects (\$15,670,000, green section on Attachment 3);
2. New staff-proposed projects (\$3,295,000, yellow section on Attachment 3); and
3. Projects that the Council had previously tabled in the Replacing Lost Public Sector Revenue category (\$4,050,000, Items 51 and 52 in orange section on Attachment 3).

This action will categorize a total of \$32,205,000 into the Replacing Lost Public Sector Revenue category, effectively freeing up City funds to fund the ARPA projects previously approved by Council but without the fast-approaching deadline to encumber ARPA funds (December 31, 2024) since the projects will be completed using regular City funds instead of ARPA dollars.

The ARPA projects that the Council appropriated and are now proposed to be recategorized will still be funded and completed, although, under the recommended action, with newly available City funding and more realistic deadlines.

For example, the "Seed money for ten (10) park playground shade structures" project, Item 8 in the green section on Attachment 3, is proposed to be recategorized. This project is proposed to be completed as needed and when certain parks receive upgrades or repairs to their equipment or changes to their physical layout. As the timeline for completing this project is variable and based on park needs with an unknown timeline, staff proposes recategorizing this project.

Another example is the "Olympic Skatepark in Colonia," Item 33 in the green section on Attachment 3. This project is also being proposed to be recategorized. Unlike typical construction projects, an Olympic-certified skateboard park requires a partnership with World Skate from start to finish. This partnership is critical as World Skate is the only global body that can certify Olympic skateboard parks. The process has an unknown timeline and may put the City past the ARPA deadline. World Skate's nine-stage qualification system includes forty-six components from application to

certification. This process includes project intake, cost estimation, a project plan, design, a management plan, construction, and certification (Attachment 4). The City is currently in stage one, having submitted an application after an initial interview, with a second interview to be scheduled in the spring between the City and World Skate.

If certified, this Olympic skateboard park will allow the City to host competitions while providing the community an invaluable opportunity to develop skating skills on a certified Olympic-certified course. Regardless of certification, we intend to build an Olympic-quality skate park.

Other ARPA projects, especially those to be completed by the Public Works Engineering Division (Division), are also proposed to be recategorized. Currently, the Division is managing over one hundred (100) funded capital projects. Council has approved approximately forty (40) new capital projects through ARPA, resulting in a roughly 40% increase in project management workload for the Division. Under the weight of the current workload, it will be challenging to complete the Division's ARPA projects on the timeline that ARPA outlines, even with the added project manager positions that Council previously approved.

The table below, a subset of Attachment 3, represents all ARPA projects currently categorized as Replacing Public Sector Revenue Loss as of December 7, 2021, and those that will be recategorized into this category, along with a reason for the project recategorization:

Item No.	Description	Reason for Recategorization	Amount
4	Safe Sleep Program - Capital improvements to support up to 14 RVs in City-owned parking lot at former Oxnard National Guard Armory	Unable to complete within ARPA project deadlines	\$700,000
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)	Unable to complete within ARPA project deadlines	\$1,000,000
14a	Property acquisition for economic development & redevelopment of Hueneme corridor between Saviers & S. J St.	Unable to complete within ARPA project deadlines - project has been split with Item 14	\$2,600,000
22	"Sports Park: Baseball and softball complex, lawns spaces w/ walking trails, inclusive playgrounds (Parks & Rec Master Plan, pgs 140, 158, 214, 217)	Aligns as a general government service	\$1,500,000
33	Olympic Skatepark in Colonia	Unable to complete within ARPA project deadlines	\$3,000,000
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)	Aligns as a general government service	\$830,000

43	Permanent Outdoor Patio Program Fund: provide grants for restaurants to create permanent, attractive and safe outdoor dining spaces.	Unable to complete within ARPA project deadlines	\$1,000,000
53	City-wide ADA tree and sidewalk improvements	Currently categorized - no change	\$1,000,000
54	Fire station architectural design for Oxnard Fire Stations 2, 3, 5	Currently categorized - no change	\$1,000,000
55	Fire Department Vehicle for 2-person paramedic squad	Currently categorized - no change	\$80,000
56	Police Department radio communications: upgrade City-wide radio infrastructure to a P25 system	Currently categorized - no change	\$4,000,000
57	Howell Rd lighting and safety improvements	Currently categorized - no change	\$250,000
58	Intelligent Transportation Systems (ITS) Traffic Signal Retiming Safety Project – Phase 1	Currently categorized - no change	\$750,000
59	Bike / Pedestrian project: Wooley Rd Protected Bike Lanes	Currently categorized - no change	\$1,500,000
62	Police Department Covid Response: Polaris ATV for PD beach patrols, equipment decontamination software, additional car wash cleaning, social distancing COVID compliance materials	Aligns as a general government service	\$40,000
67	305 W 3rd St - West Wing repair and asbestos abatement, capital investment to meet pandemic operational needs	Aligns as a general government service / unable to complete within ARPA project deadlines	\$3,000,000
78	Harbor Water Quality Mitigation Fund	Unable to complete within ARPA project deadlines	\$1,000,000
82	AWPF-Oxnard Regional Stormwater Capture Project Wetland Storage & Sewer Diversion Pilot	Unable to complete within ARPA project deadlines	\$1,000,000
85	Painting City Hall & Annex	Currently categorized - no change	\$600,000
86	USPS mailbox replacement	Currently categorized - no change	\$10,000
TOTAL:			\$24,860,000

Existing ARPA Projects

Not all ARPA projects will be recategorized under Replacing Public Sector Revenue Loss. Since December 7, 2021, staff

has gotten underway on some of the Council-approved ARPA projects and is planning to begin work on the balance of the projects shortly. For example, the Fire Department has purchased supplied air respirators, funded the “Fire Catch-up Academy,” and began purchasing Personal Protective Equipment for City staff. The City Manager’s office has executed contracts to support the City’s tourism industry and businesses in South Oxnard. Additionally, City staff has developed the Gratitude Program for Grocery Store Workers and set aside premium pay for City employees.

The table below, a subset of Attachment 3, represents all ARPA projects currently underway:

Item No.	Description	Amount
1	Gratitude program for grocery store workers	\$2,500,000
2	Premium pay for City employees working on the front-line during the pandemic	\$2,000,000
10	Oxnard festivals - "Comeback Year" grants	\$200,000
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	\$300,000
16	Saviers Rd Corridor: formation of South Oxnard Property Business Improvement District	\$100,000
21	Visit Oxnard: Branding & publications, destination management, digital advertising	\$436,000
23	Homeless Housing: temporary staffing to support administration of Mainstream & Emergency Housing Vouchers	\$400,000
35	Oxnard Arts Academy	\$450,000
36	Downtown water trailer, marketing funds, movable/lockable tables & chairs, public art for DOIA removable bollards & reader boards, 50 trash receptacles	\$775,000
61	Fire Department Supplied Air Respirators replacement	\$1,700,000
63	Code Compliance: Tablet purchases for field reporting, access to information, inspections, and video	\$12,600
64	PPE Purchase - 1 year supply for City employees	\$160,000
66	Fire Catch-up Academy: cost of six recruits	\$580,000
TOTAL:		\$9,613,600

Selection of ARPA Projects Previously Tabled

During the ARPA project selection process, seventy-three (73) projects were selected and appropriated by Council, totaling approximately \$48 million in ARPA funds, with another five (5) projects “tabled” until a further discussion amongst the Council would take place. These five (5) tabled projects total \$6,250,000.

For example, the “City-wide Wayfinding Program project,” Item 20 in the orange section on Attachment 3, was tabled by Council in 2021. This project seeks to provide aid to Oxnard’s hospitality industries and business districts by investing in

an upgraded wayfinding information system across the City (Attachment 5).

Another example of a previously tabled project was the “Heritage Square building and site enhancements, repairs, and event support” project, Item 38 in the orange section on Attachment 3. This project will complete needed safety improvements to the City-owned structures in the historic square, provide feature enhancements to the buildings, create a better rentable space for the community, maintain operations of the Summer Concert series, and solidify the square as a tourist destination in the City (Attachment 6).

The table below, a subset of Attachment 3, represents all ARPA projects that Council tabled until spring:

Item No.	Description	Amount
20	City-wide wayfinding program	\$1,000,000
38	Heritage Square building & site enhancements, repairs, and event support	\$1,000,000
45	Oxnard Employee Pipeline and Homeless Vocational programs	\$200,000
51	City-wide painting of curbs red next to fire hydrants	\$250,000
52	Bike / Pedestrian project: Path along the SCR-3 levee road north of the River Ridge Golf Course between Ventura Rd and Victoria Rd	\$3,800,000
TOTAL:		\$6,250,000

New ARPA Projects for Council Consideration

The four projects below are newly recommended by staff and will be categorized under the Replacing Public Sector Revenue Loss category and can be found in the yellow section marked as “NEW” on Attachment 3. These projects total \$3,295,000:

Fire Department D.R.A.F.T.S. - \$100,000

The Direct Recycling Apparatus Firefighting Training and Sustainability (D.R.A.F.T.S.) utilizes water normally wasted during extended training operations by recycling that water. D.R.A.F.T.S. will aid the Fire Department's training efforts while helping the City save 7.5 million gallons of water on average every year.

City Library Technology Upgrade - \$445,000

Replace all network equipment, all PCs with Chromeboxes, new WiFi systems with content filtering, new network firewalls, replace the current end-of-life system to support printing and internet access, and new payment systems. These improvements will be completed at the City's Main Library, South Oxnard Branch Library, and Colonia Branch Library.

This project is additive to the “Main and S. Oxnard branch libraries technology purchases, laptops, security systems, and upgrades; conversion of computer labs with up to 100 Chromebooks for the City's three libraries (includes Colonia)” project, Item 34 on Attachment 3. When staff began implementing Item 34, it was discovered that the current legacy equipment installed at all three City libraries was not robust enough to complete the Council-approved upgrades. The proposed City Library Upgrade project will provide the network and hardware upgrades necessary to complete the tasks listed in Item 34. Doing so will provide residents access to a better, more reliable, and secure network while providing public access to computers and the internet, serving as technology access points for the community.

PD Mobile Command Post - \$750,000

The Police Department's Mobile Command Post (MCP) is a platform equivalent to a commercial recreational vehicle. The MCP is equipped with radio communications and audio-visual equipment to assist in its command and control function at special events, critical and non-critical incidents, relatively complex police operations, and disaster scenes. The MCP can serve as a backup dispatch operation in the event of a catastrophic failure at the Police Department's headquarters building. The MCP allows for mobile incident command and use of the Incident Command Systems, facilitating the best possible near-scene decision-making. The MCP also provides mobility, shelter from inclement weather, logistical support, restroom facilities, a conference room, lighting, and electrical power. The Police Department's aging MCP was acquired in 2001 and is due for replacement.

Ventura County Family Justice Center - \$2,000,000

Since 2015, the Ventura County Family Justice Center (Center) has sought to engage county, city, and non-profit agencies in a collaborative approach to serving crime victims. This effort has since grown to include more than forty (40) agencies and volunteers working to build the Center.

The Center provides victims of crime a welcoming community that empowers and supports survivors of all ages and their families through comprehensive and holistic services. The Center seeks to use strength-based practices to end abuse and exploitation, pursue justice, and create pathways to hope for affected residents in Ventura County.

Between March 2019 and November 2021, the Center has assisted over 1,900 Oxnard residents, representing a third of the Center's clients, providing valuable services to survivors of criminal violence.

This project will fund the Center's Oxnard facility expansion to provide vital services for residents of the City.

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 City has been allocated \$59,540,662 in ARPA funding from the federal government, 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.

If Council approves all projects as listed, a total of \$57,737,200 worth of ARPA projects will be appropriated out of \$59,540,662 made available by US Treasury. This action would leave \$1,803,462 in unappropriated ARPA funds (Attachment 3). During the life of ARPA funding, staff will have the opportunity to ask Council to update the various budgets based on the actual costs as projects begin.

Approval of the recommended action will authorize the City Manager or designee to approve budget appropriations necessary to recognize revenue and appropriate funding to the four new ARPA projects. This action will ensure that ARPA projects are assigned a new project number, streamlined to move at a speedy pace, meet federal deadlines, and deploy much-needed support to the community.

Project numbers have been assigned to each specific ARPA project Council has previously selected for tracking and federal reporting purposes.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Adam Smith, Project Manager

ATTACHMENTS

1. US Treasury Overview of ARPA Final Rule
2. ARPA Investment List - Councilmember Selections - September 24 and December 7, 2021
3. Updated ARPA Investment List - March 29, 2022
4. World Skate Certification Rules
5. City-wide Wayfinding Project, Item 20
6. Heritage Square Building and Site Enhancements, Item 38
7. ARPA Final Rule
8. ARPA Presentation



Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule

U.S. DEPARTMENT OF THE TREASURY

January 2022



The Overview of the Final Rule provides a summary of major provisions of the final rule for informational purposes and is intended as a brief, simplified user guide to the final rule provisions.

The descriptions provided in this document summarize key provisions of the final rule but are non-exhaustive, do not describe all terms and conditions associated with the use of SLFRF, and do not describe all requirements that may apply to this funding. Any SLFRF funds received are also subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which incorporate the provisions of the final rule and the guidance that implements this program.



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Introduction

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF), a part of the American Rescue Plan, delivers \$350 billion to state, local, and Tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency. The program ensures that governments have the resources needed to:

- Fight the pandemic and support families and businesses struggling with its public health and economic impacts,
- Maintain vital public services, even amid declines in revenue, and
- Build a strong, resilient, and equitable recovery by making investments that support long-term growth and opportunity.

EARLY PROGRAM IMPLEMENTATION

In May 2021, Treasury published the Interim final rule (IFR) describing eligible and ineligible uses of funds (as well as other program provisions), sought feedback from the public on these program rules, and began to distribute funds. The IFR went immediately into effect in May, and since then, governments have used SLFRF funds to meet their immediate pandemic response needs and begin building a strong and equitable recovery, such as through providing vaccine incentives, development of affordable housing, and construction of infrastructure to deliver safe and reliable water.

As governments began to deploy this funding in their communities, Treasury carefully considered the feedback provided through its public comment process and other forums. Treasury received over 1,500 comments, participated in hundreds of meetings, and received correspondence from a wide range of governments and other stakeholders.

KEY CHANGES AND CLARIFICATIONS IN THE FINAL RULE

The final rule delivers broader flexibility and greater simplicity in the program, responsive to feedback in the comment process. Among other clarifications and changes, the final rule provides the features below.

Replacing Lost Public Sector Revenue

The final rule offers a standard allowance for revenue loss of \$10 million, allowing recipients to select between a standard amount of revenue loss or complete a full revenue loss calculation. Recipients that select the standard allowance may use that amount – in many cases their full award – for government services, with streamlined reporting requirements.

Public Health and Economic Impacts

In addition to programs and services, the final rule clarifies that recipients can use funds for capital expenditures that support an eligible COVID-19 public health or economic response. For example, recipients may build certain affordable housing, childcare facilities, schools, hospitals, and other projects consistent with final rule requirements.



In addition, the final rule provides an expanded set of households and communities that are presumed to be “impacted” and “disproportionately impacted” by the pandemic, thereby allowing recipients to provide responses to a broad set of households and entities without requiring additional analysis. Further, the final rule provides a broader set of uses available for these communities as part of COVID-19 public health and economic response, including making affordable housing, childcare, early learning, and services to address learning loss during the pandemic eligible in all impacted communities and making certain community development and neighborhood revitalization activities eligible for disproportionately impacted communities.

Further, the final rule allows for a broader set of uses to restore and support government employment, including hiring above a recipient’s pre-pandemic baseline, providing funds to employees that experienced pay cuts or furloughs, avoiding layoffs, and providing retention incentives.

Premium Pay

The final rule delivers more streamlined options to provide premium pay, by broadening the share of eligible workers who can receive premium pay without a written justification while maintaining a focus on lower-income and frontline workers performing essential work.

Water, Sewer & Broadband Infrastructure

The final rule significantly broadens eligible broadband infrastructure investments to address challenges with broadband access, affordability, and reliability, and adds additional eligible water and sewer infrastructure investments, including a broader range of lead remediation and stormwater management projects.

FINAL RULE EFFECTIVE DATE

The final rule takes effect on April 1, 2022. Until that time, the interim final rule remains in effect; funds used consistently with the IFR while it is in effect are in compliance with the SLFRF program.

However, recipients can choose to take advantage of the final rule’s flexibilities and simplifications now, even ahead of the effective date. Treasury will not take action to enforce the interim final rule to the extent that a use of funds is consistent with the terms of the final rule, regardless of when the SLFRF funds were used. Recipients may consult the *Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule and Final Rule*, which can be found on Treasury’s website, for more information on compliance with the interim final rule and the final rule.



Overview of the Program

The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program provides substantial flexibility for each jurisdiction to meet local needs within the four separate eligible use categories. This Overview of the Final Rule addresses the four eligible use categories ordered from the broadest and most flexible to the most specific.

Recipients may use SLFRF funds to:

- **Replace lost public sector revenue**, using this funding to provide government services up to the amount of revenue loss due to the pandemic.
 - Recipients may determine their revenue loss by choosing between two options:
 - A standard allowance of up to \$10 million in aggregate, not to exceed their award amount, during the program;
 - Calculating their jurisdiction's specific revenue loss each year using Treasury's formula, which compares actual revenue to a counterfactual trend.
 - Recipients may use funds up to the amount of revenue loss for government services; generally, services traditionally provided by recipient governments are government services, unless Treasury has stated otherwise.
- **Support the COVID-19 public health and economic response** by addressing COVID-19 and its impact on public health as well as addressing economic harms to households, small businesses, nonprofits, impacted industries, and the public sector.
 - Recipients can use funds for programs, services, or capital expenditures that respond to the public health and negative economic impacts of the pandemic.
 - To provide simple and clear eligible uses of funds, Treasury provides a list of enumerated uses that recipients can provide to households, populations, or classes (i.e., groups) that experienced pandemic impacts.
 - Public health eligible uses include COVID-19 mitigation and prevention, medical expenses, behavioral healthcare, and preventing and responding to violence.
 - Eligible uses to respond to negative economic impacts are organized by the type of beneficiary: assistance to households, small businesses, and nonprofits.
 - Each category includes assistance for "impacted" and "disproportionately impacted" classes: impacted classes experienced the general, broad-based impacts of the pandemic, while disproportionately impacted classes faced meaningfully more severe impacts, often due to preexisting disparities.
 - To simplify administration, the final rule presumes that some populations and groups were impacted or disproportionately impacted and are eligible for responsive services.

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule



- Eligible uses for assistance to impacted households include aid for re-employment, job training, food, rent, mortgages, utilities, affordable housing development, childcare, early education, addressing learning loss, and many more uses.
- Eligible uses for assistance to impacted small businesses or nonprofits include loans or grants to mitigate financial hardship, technical assistance for small businesses, and many more uses.
- Recipients can also provide assistance to impacted industries like travel, tourism, and hospitality that faced substantial pandemic impacts, or address impacts to the public sector, for example by re-hiring public sector workers cut during the crisis.
- Recipients providing funds for enumerated uses to populations and groups that Treasury has presumed eligible are clearly operating consistently with the final rule. Recipients can also identify (1) other populations or groups, beyond those presumed eligible, that experienced pandemic impacts or disproportionate impacts and (2) other programs, services, or capital expenditures, beyond those enumerated, to respond to those impacts.
- **Provide premium pay for eligible workers performing essential work**, offering additional support to those who have and will bear the greatest health risks because of their service in critical sectors.
 - Recipients may provide premium pay to eligible workers – generally those working in-person in key economic sectors – who are below a wage threshold or non-exempt from the Fair Labor Standards Act overtime provisions, or if the recipient submits justification that the premium pay is responsive to workers performing essential work.
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand affordable access to broadband internet.
 - Recipients may fund a broad range of water and sewer projects, including those eligible under the EPA’s Clean Water State Revolving Fund, EPA’s Drinking Water State Revolving Fund, and certain additional projects, including a wide set of lead remediation, stormwater infrastructure, and aid for private wells and septic units.
 - Recipients may fund high-speed broadband infrastructure in areas of need that the recipient identifies, such as areas without access to adequate speeds, affordable options, or where connections are inconsistent or unreliable; completed projects must participate in a low-income subsidy program.

While recipients have considerable flexibility to use funds to address the diverse needs of their communities, some restrictions on use apply across all eligible use categories. These include:

- **For states and territories:** No offsets of a reduction in net tax revenue resulting from a change in state or territory law.

Coronavirus State & Local Fiscal Recovery Funds: Overview of the Final Rule



- **For all recipients except for Tribal governments:** No extraordinary contributions to a pension fund for the purpose of reducing an accrued, unfunded liability.
- **For all recipients:** No payments for debt service and replenishments of rainy day funds; no satisfaction of settlements and judgments; no uses that contravene or violate the American Rescue Plan Act, Uniform Guidance conflicts of interest requirements, and other federal, state, and local laws and regulations.

Under the SLFRF program, funds must be used for costs incurred on or after March 3, 2021. Further, funds must be obligated by December 31, 2024, and expended by December 31, 2026. This time period, during which recipients can expend SLFRF funds, is the “period of performance.”

In addition to SLFRF, the American Rescue Plan includes other sources of funding for state and local governments, including the [Coronavirus Capital Projects Fund](#) to fund critical capital investments including broadband infrastructure; the [Homeowner Assistance Fund](#) to provide relief for our country’s most vulnerable homeowners; the [Emergency Rental Assistance Program](#) to assist households that are unable to pay rent or utilities; and the [State Small Business Credit Initiative](#) to fund small business credit expansion initiatives. Eligible recipients are encouraged to visit the Treasury website for more information.



Replacing Lost Public Sector Revenue

The Coronavirus State and Local Fiscal Recovery Funds provide needed fiscal relief for recipients that have experienced revenue loss due to the onset of the COVID-19 public health emergency. Specifically, SLFRF funding may be used to pay for “government services” in an amount equal to the revenue loss experienced by the recipient due to the COVID-19 public health emergency.

Government services generally include any service traditionally provided by a government, including construction of roads and other infrastructure, provision of public safety and other services, and health and educational services. Funds spent under government services are subject to streamlined reporting and compliance requirements.

In order to use funds under government services, recipients should first determine revenue loss. They may, then, spend up to that amount on general government services.

DETERMINING REVENUE LOSS

Recipients have two options for how to determine their amount of revenue loss. Recipients must choose one of the two options and cannot switch between these approaches after an election is made.

- 1. Recipients may elect a “standard allowance” of \$10 million to spend on government services through the period of performance.**

Under this option, which is newly offered in the final rule Treasury presumes that up to \$10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund “government services.” The standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss, particularly for SLFRF’s smallest recipients.

All recipients may elect to use this standard allowance instead of calculating lost revenue using the formula below, including those with total allocations of \$10 million or less. Electing the standard allowance does not increase or decrease a recipient’s total allocation.

- 2. Recipients may calculate their actual revenue loss according to the formula articulated in the final rule.**

Under this option, recipients calculate revenue loss at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or the end of each fiscal year of the recipient. Under the flexibility provided in the final rule, recipients can choose whether to use calendar or fiscal year dates but must be consistent throughout the period of performance. Treasury has also provided several adjustments to the definition of general revenue in the final rule.

To calculate revenue loss at each of these dates, recipients must follow a four-step process:



- a. Calculate 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*.
- b. Estimate *counterfactual revenue*, which is equal to the following formula, where n is the number of months elapsed since the end of the base year to the calculation date:

$$\text{base year revenue} \times (1 + \text{growth adjustment})^{\frac{n}{12}}$$

The *growth adjustment* is the greater of either a standard growth rate—5.2 percent—or the recipient’s average annual revenue growth in the last full three fiscal years prior to the COVID-19 public health emergency.

- c. Identify *actual revenue*, which equals revenues collected over the twelve months immediately preceding the calculation date.

Under the final rule, recipients must adjust actual revenue totals for the effect of tax cuts and tax increases that are adopted after the date of adoption of the final rule (January 6, 2022). Specifically, the estimated fiscal impact of tax cuts and tax increases adopted after January 6, 2022, must be added or subtracted to the calculation of actual revenue for purposes of calculation dates that occur on or after April 1, 2022.

Recipients may subtract from their calculation of actual revenue the effect of tax increases enacted prior to the adoption of the final rule. Note that recipients that elect to remove the effect of tax increases enacted before the adoption of the final rule must also remove the effect of tax decreases enacted before the adoption of the final rule, such that they are accurately removing the effect of tax policy changes on revenue.

- d. Revenue loss for the calculation date is equal to *counterfactual revenue* minus *actual revenue* (adjusted for tax changes) for the twelve-month period. If actual revenue exceeds counterfactual revenue, the loss is set to zero for that twelve-month period. Revenue loss for the period of performance is the sum of the revenue loss on for each calculation date.

The supplementary information in the final rule provides an example of this calculation, which recipients may find helpful, in the Revenue Loss section.



SPENDING ON GOVERNMENT SERVICES

Recipients can use SLFRF funds on government services up to the revenue loss amount, whether that be the standard allowance amount or the amount calculated using the above approach. **Government services generally include *any service traditionally provided by a government***, unless Treasury has stated otherwise. Here are some common examples, although this list is not exhaustive:

- ✓ Construction of schools and hospitals
- ✓ Road building and maintenance, and other infrastructure
- ✓ Health services
- ✓ General government administration, staff, and administrative facilities
- ✓ Environmental remediation
- ✓ Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)

Government services is the most flexible eligible use category under the SLFRF program, and funds are subject to streamlined reporting and compliance requirements. Recipients should be mindful that certain restrictions, which are detailed further in the Restrictions on Use section and apply to all uses of funds, apply to government services as well.



Responding to Public Health and Economic Impacts of COVID-19

The Coronavirus State and Local Fiscal Recovery Funds provide resources for governments to meet the public health and economic needs of those impacted by the pandemic in their communities, as well as address longstanding health and economic disparities, which amplified the impact of the pandemic in disproportionately impacted communities, resulting in more severe pandemic impacts.

The eligible use category to respond to public health and negative economic impacts is organized around the types of assistance a recipient may provide and includes several sub-categories:

- public health,
- assistance to households,
- assistance to small businesses,
- assistance to nonprofits,
- aid to impacted industries, and
- public sector capacity.

In general, to identify eligible uses of funds in this category, recipients should (1) identify a COVID-19 public health or economic impact on an individual or class (i.e., a group) and (2) design a program that responds to that impact. Responses should be related and reasonably proportional to the harm identified and reasonably designed to benefit those impacted.

To provide simple, clear eligible uses of funds that meet this standard, Treasury provides a non-exhaustive list of enumerated uses that respond to pandemic impacts. Treasury also presumes that some populations experienced pandemic impacts and are eligible for responsive services. In other words, recipients providing enumerated uses of funds to populations presumed eligible are clearly operating consistently with the final rule.¹

Recipients also have broad flexibility to (1) identify and respond to other pandemic impacts and (2) serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients can also identify groups or “classes” of beneficiaries that experienced pandemic impacts and provide services to those classes.

¹ However, please note that use of funds for enumerated uses may not be grossly disproportionate to the harm. Further, recipients should consult the Capital Expenditures section for more information about pursuing a capital expenditure; please note that enumerated capital expenditures are not presumed to be reasonably proportional responses to an identified harm except as provided in the Capital Expenditures section.



Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	- Can identify impact to a specific household, business or nonprofit or to a class of households, businesses, or nonprofits (i.e., group) - Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class	- Types of responses can include a program, service, or capital expenditure - Response should be related and reasonably proportional to the harm - Response should also be reasonably designed to benefit impacted individual or class
Simplifying Presumptions	Final Rule presumes certain populations and classes are impacted and disproportionately impacted	Final Rule provides non-exhaustive list of enumerated eligible uses that respond to pandemic impacts and disproportionate impacts

To assess eligibility of uses of funds, recipients should first determine the sub-category where their use of funds may fit (e.g., public health, assistance to households, assistance to small businesses), based on the entity that experienced the health or economic impact.² Then, recipients should refer to the relevant section for more details on each sub-category.

While the same overall eligibility standard applies to all uses of funds to respond to the public health and negative economic impacts of the pandemic, each sub-category has specific nuances on its application. In addition:

- Recipients interested in using funds for capital expenditures (i.e., investments in property, facilities, or equipment) should review the Capital Expenditures section in addition to the eligible use sub-category.
- Recipients interested in other uses of funds, beyond the enumerated uses, should refer to the section on “Framework for Eligible Uses Beyond Those Enumerated.”

² For example, a recipient interested in providing aid to unemployed individuals is addressing a negative economic impact experienced by a household and should refer to the section on assistance to households. Recipients should also be aware of the difference between “beneficiaries” and “sub-recipients.” Beneficiaries are households, small businesses, or nonprofits that can receive assistance based on impacts of the pandemic that they experienced. On the other hand, sub-recipients are organizations that carry out eligible uses on behalf of a government, often through grants or contracts. Sub-recipients do not need to have experienced a negative economic impact of the pandemic; rather, they are providing services to beneficiaries that experienced an impact.



RESPONDING TO THE PUBLIC HEALTH EMERGENCY

While the country has made tremendous progress in the fight against COVID-19, including a historic vaccination campaign, the disease still poses a grave threat to Americans' health and the economy. Providing state, local, and Tribal governments the resources needed to fight the COVID-19 pandemic is a core goal of the Coronavirus State and Local Fiscal Recovery Funds, as well as addressing the other ways that the pandemic has impacted public health. Treasury has identified several public health impacts of the pandemic and enumerated uses of funds to respond to impacted populations.

- **COVID-19 mitigation and prevention.** The pandemic has broadly impacted Americans and recipients can provide services to prevent and mitigate COVID-19 to the general public or to small businesses, nonprofits, and impacted industries in general. Enumerated eligible uses include:
 - ✓ Vaccination programs, including vaccine incentives and vaccine sites
 - ✓ Testing programs, equipment and sites
 - ✓ Monitoring, contact tracing & public health surveillance (e.g., monitoring for variants)
 - ✓ Public communication efforts
 - ✓ Public health data systems
 - ✓ COVID-19 prevention and treatment equipment, such as ventilators and ambulances
 - ✓ Medical and PPE/protective supplies
 - ✓ Support for isolation or quarantine
 - ✓ Ventilation system installation and improvement
 - ✓ Technical assistance on mitigation of COVID-19 threats to public health and safety
 - ✓ Transportation to reach vaccination or testing sites, or other prevention and mitigation services for vulnerable populations
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities, public facilities, and schools
 - ✓ Support for prevention and mitigation strategies in small businesses, nonprofits, and impacted industries
 - ✓ Medical facilities generally dedicated to COVID-19 treatment and mitigation (e.g., ICUs, emergency rooms)
 - ✓ Temporary medical facilities and other measures to increase COVID-19 treatment capacity
 - ✓ Emergency operations centers & emergency response equipment (e.g., emergency response radio systems)
 - ✓ Public telemedicine capabilities for COVID-19 related treatment



- **Medical expenses.** Funds may be used for expenses to households, medical providers, or others that incurred medical costs due to the pandemic, including:
 - ✓ Unreimbursed expenses for medical care for COVID-19 testing or treatment, such as uncompensated care costs for medical providers or out-of-pocket costs for individuals
 - ✓ Paid family and medical leave for public employees to enable compliance with COVID-19 public health precautions
 - ✓ Emergency medical response expenses
 - ✓ Treatment of long-term symptoms or effects of COVID-19
- **Behavioral health care, such as mental health treatment, substance use treatment, and other behavioral health services.** Treasury recognizes that the pandemic has broadly impacted Americans' behavioral health and recipients can provide these services to the general public to respond. Enumerated eligible uses include:
 - ✓ Prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs, outreach to individuals not yet engaged in treatment, harm reduction & long-term recovery support
 - ✓ Enhanced behavioral health services in schools
 - ✓ Services for pregnant women or infants born with neonatal abstinence syndrome
 - ✓ Support for equitable access to reduce disparities in access to high-quality treatment
 - ✓ Peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services
 - ✓ Expansion of access to evidence-based services for opioid use disorder prevention, treatment, harm reduction, and recovery
 - ✓ Behavioral health facilities & equipment
- **Preventing and responding to violence.** Recognizing that violence – and especially gun violence – has increased in some communities due to the pandemic, recipients may use funds to respond in these communities through:
 - ✓ Referrals to trauma recovery services for victims of crime
 - ✓ Community violence intervention programs, including:
 - Evidence-based practices like focused deterrence, with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance
 - ✓ In communities experiencing increased gun violence due to the pandemic:
 - Law enforcement officers focused on advancing community policing
 - Enforcement efforts to reduce gun violence, including prosecution
 - Technology & equipment to support law enforcement response



RESPONDING TO NEGATIVE ECONOMIC IMPACTS

The pandemic caused severe economic damage and, while the economy is on track to a strong recovery, much work remains to continue building a robust, resilient, and equitable economy in the wake of the crisis and to ensure that the benefits of this recovery reach all Americans. While the pandemic impacted millions of American households and businesses, some of its most severe impacts fell on low-income and underserved communities, where pre-existing disparities amplified the impact of the pandemic and where the most work remains to reach a full recovery.

The final rule recognizes that the pandemic caused broad-based impacts that affected many communities, households, and small businesses across the country; for example, many workers faced unemployment and many small businesses saw declines in revenue. The final rule describes these as “impacted” households, communities, small businesses, and nonprofits.

At the same time, the pandemic caused disproportionate impacts, or more severe impacts, in certain communities. For example, low-income and underserved communities have faced more severe health and economic outcomes like higher rates of COVID-19 mortality and unemployment, often because pre-existing disparities exacerbated the impact of the pandemic. The final rule describes these as “disproportionately impacted” households, communities, small businesses, and nonprofits.

To simplify administration of the program, the final rule presumes that certain populations were “impacted” and “disproportionately impacted” by the pandemic; these populations are presumed to be eligible for services that respond to the impact they experienced. The final rule also enumerates a non-exhaustive list of eligible uses that are recognized as responsive to the impacts or disproportionate impacts of COVID-19. Recipients providing enumerated uses to populations presumed eligible are clearly operating consistently with the final rule.

As discussed further in the section Framework for Eligible Uses Beyond Those Enumerated, recipients can also identify other pandemic impacts, impacted or disproportionately impacted populations or classes, and responses.



Assistance to Households

Impacted Households and Communities

Treasury presumes the following households and communities are impacted by the pandemic:

- ✓ Low- or-moderate income households or communities
- ✓ Households that experienced unemployment
- ✓ Households that experienced increased food or housing insecurity
- ✓ Households that qualify for the Children's Health Insurance Program, Childcare Subsidies through the Child Care Development Fund (CCDF) Program, or Medicaid
- ✓ *When providing affordable housing programs:* households that qualify for the National Housing Trust Fund and Home Investment Partnerships Program
- ✓ *When providing services to address lost instructional time in K-12 schools:* any student that lost access to in-person instruction for a significant period of time

Low- or moderate-income households and communities are those with (i) income at or below 300 percent of the Federal Poverty Guidelines for the size of the household based on the most recently published poverty guidelines or (ii) income at or below 65 percent of the area median income for the county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines are higher than the area's median income and using the Federal Poverty Guidelines would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the response they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$65,880 per year.³ In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is impacted by the pandemic and eligible for services to respond. Additionally, by following the steps detailed in the section Framework for Eligible Uses Beyond Those Enumerated, recipients may designate additional households as impacted or disproportionately impacted beyond these presumptions, and may also pursue projects not listed below in response to these impacts consistent with Treasury's standards.

³ For recipients in Alaska, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$82,350 per year. For recipients in Hawaii, the income limit for 300 percent of the Federal Poverty Guidelines for a household of three is \$75,780 per year.



Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to impacts of the pandemic on households and communities:

- ✓ Food assistance & food banks
- ✓ Emergency housing assistance: rental assistance, mortgage assistance, utility assistance, assistance paying delinquent property taxes, counseling and legal aid to prevent eviction and homelessness & emergency programs or services for homeless individuals, including temporary residences for people experiencing homelessness
- ✓ Health insurance coverage expansion
- ✓ Benefits for surviving family members of individuals who have died from COVID-19
- ✓ Assistance to individuals who want and are available for work, including job training, public jobs programs and fairs, support for childcare and transportation to and from a jobsite or interview, incentives for newly-employed workers, subsidized employment, grants to hire underserved workers, assistance to unemployed individuals to start small businesses & development of job and workforce training centers
- ✓ Financial services for the unbanked and underbanked
- ✓ Burials, home repair & home weatherization
- ✓ Programs, devices & equipment for internet access and digital literacy, including subsidies for costs of access
- ✓ Cash assistance
- ✓ Paid sick, medical, and family leave programs
- ✓ Assistance in accessing and applying for public benefits or services
- ✓ Childcare and early learning services, home visiting programs, services for child welfare-involved families and foster youth & childcare facilities
- ✓ Assistance to address the impact of learning loss for K-12 students (e.g., high-quality tutoring, differentiated instruction)
- ✓ Programs or services to support long-term housing security: including development of affordable housing and permanent supportive housing
- ✓ Certain contributions to an Unemployment Insurance Trust Fund⁴

⁴ Recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. Additionally, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that balance and deposit more SLFRF funds, back up to the pre-pandemic balance. Recipients that deposit SLFRF funds into an unemployment insurance trust fund, or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., maximum benefit entitlement).

***Disproportionately Impacted Households and Communities***

Treasury presumes the following households and communities are disproportionately impacted by the pandemic:

- ✓ Low -income households and communities
- ✓ Households residing in Qualified Census Tracts
- ✓ Households that qualify for certain federal benefits⁵
- ✓ Households receiving services provided by Tribal governments
- ✓ Households residing in the U.S. territories or receiving services from these governments

Low-income households and communities are those with (i) income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the most recently published poverty guidelines or (ii) income at or below 40 percent of area median income for its county and size of household based on the most recently published data. For the vast majority of communities, the Federal Poverty Guidelines level is higher than the area median income level and using this level would result in more households and communities being presumed eligible. Treasury has provided an easy-to-use spreadsheet with Federal Poverty Guidelines and area median income levels on its website.

Recipients can measure income for a specific household or the median income for the community, depending on whether the service they plan to provide serves specific households or the general community. The income thresholds vary by household size; recipients should generally use income thresholds for the appropriate household size but can use a default household size of three when easier for administration or when measuring income for a general community.

The income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$40,626 per year.⁶ In other words, recipients can always presume that a household earning below this level, or a community with median income below this level, is disproportionately impacted by the pandemic and eligible for services to respond.

⁵ These programs are Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Free- and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs, Medicare Part D Low-Income Subsidies, Supplemental Security Income (SSI), Head Start and/or Early Head Start, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), Section 8 Vouchers, Low-Income Home Energy Assistance Program (LIHEAP), and Pell Grants. For services to address educational disparities, Treasury will recognize Title I eligible schools as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible.

⁶ For recipients in Alaska, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$50,783 per year. For recipients in Hawaii, the income limit for 185 percent of the Federal Poverty Guidelines for a household of three is \$46,731 per year



Treasury recognizes the enumerated projects below, which have been expanded under the final rule, as eligible to respond to disproportionate impacts of the pandemic on households and communities:

- ✓ Pay for community health workers to help households access health & social services
- ✓ Remediation of lead paint or other lead hazards
- ✓ Primary care clinics, hospitals, integration of health services into other settings, and other investments in medical equipment & facilities designed to address health disparities
- ✓ Housing vouchers & assistance relocating to neighborhoods with higher economic opportunity
- ✓ Investments in neighborhoods to promote improved health outcomes
- ✓ Improvements to vacant and abandoned properties, including rehabilitation or maintenance, renovation, removal and remediation of environmental contaminants, demolition or deconstruction, greening/vacant lot cleanup & conversion to affordable housing⁷
- ✓ Services to address educational disparities, including assistance to high-poverty school districts & educational and evidence-based services to address student academic, social, emotional, and mental health needs
- ✓ Schools and other educational equipment & facilities

⁷ Please see the final rule for further details and conditions applicable to this eligible use. This includes Treasury's presumption that demolition of vacant or abandoned residential properties that results in a net reduction in occupiable housing units for low- and moderate-income individuals in an area where the availability of such housing is lower than the need for such housing is ineligible for support with SLFRF funds.



Assistance to Small Businesses

Small businesses have faced widespread challenges due to the pandemic, including periods of shutdown, declines in revenue, or increased costs. The final rule provides many tools for recipients to respond to the impacts of the pandemic on small businesses, or disproportionate impacts on businesses where pre-existing disparities like lack of access to capital compounded the pandemic's effects.

Small businesses eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "small business," specifically:

1. Have 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. Are a small business concern as defined in section 3 of the Small Business Act⁸ (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).

Impacted Small Businesses

Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

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|---------------------------------------|--|
| ✓ Decreased revenue or gross receipts | ✓ Capacity to weather financial hardship |
| ✓ Financial insecurity | ✓ Challenges covering payroll, rent or mortgage, and other operating costs |
| ✓ Increased costs | |

Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

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| ✓ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs | ✓ Technical assistance, counseling, or other services to support business planning |
|---|--|

Disproportionately Impacted Small Businesses

Treasury presumes that the following small businesses are disproportionately impacted by the pandemic:

⁸ 15 U.S.C. 632.



- ✓ Small businesses operating in Qualified Census Tracts
- ✓ Small businesses operated by Tribal governments or on Tribal lands
- ✓ Small businesses operating in the U.S. territories

Assistance to disproportionately impacted small businesses includes the following enumerated uses, which have been expanded under the final rule:

- ✓ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ✓ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses
- ✓ Support for microbusinesses, including financial, childcare, and transportation costs



Assistance to Nonprofits

Nonprofits have faced significant challenges due to the pandemic's increased demand for services and changing operational needs, as well as declines in revenue sources such as donations and fees.

Nonprofits eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "nonprofit"—specifically those that are 501(c)(3) or 501(c)(19) tax-exempt organizations.

Impacted Nonprofits

Recipients can identify nonprofits impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue (e.g., from donations and fees)
- ✓ Financial insecurity
- ✓ Increased costs (e.g., uncompensated increases in service need)
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to nonprofits that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship
- ✓ Technical or in-kind assistance or other services that mitigate negative economic impacts of the pandemic

Disproportionately Impacted Nonprofits

Treasury presumes that the following nonprofits are disproportionately impacted by the pandemic:

- ✓ Nonprofits operating in Qualified Census Tracts
- ✓ Nonprofits operated by Tribal governments or on Tribal lands
- ✓ Nonprofits operating in the U.S. territories

Recipients may identify appropriate responses that are related and reasonably proportional to addressing these disproportionate impacts.



Aid to Impacted Industries

Recipients may use SLFRF funding to provide aid to industries impacted by the COVID-19 pandemic. Recipients should first designate an impacted industry and then provide aid to address the impacted industry's negative economic impact.

This sub-category of eligible uses does not separately identify disproportionate impacts and corresponding responsive services.

1. Designating an impacted industry. There are two main ways an industry can be designated as "impacted."

1. If the industry is in the travel, tourism, or hospitality sectors (including Tribal development districts), the industry is impacted.
2. If the industry is outside the travel, tourism, or hospitality sectors, the industry is impacted if:
 - a. The industry experienced at least 8 percent employment loss from pre-pandemic levels,⁹ or
 - b. The industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries as of the date of the final rule, based on the totality of economic indicators or qualitative data (if quantitative data is unavailable), and if the impacts were generally due to the COVID-19 public health emergency.

Recipients have flexibility to define industries broadly or narrowly, but Treasury encourages recipients to define narrow and discrete industries eligible for aid. State and territory recipients also have flexibility to define the industries with greater geographic precision; for example, a state may identify a particular industry in a certain region of a state as impacted.

2. Providing eligible aid to the impacted industry. Aid may only be provided to support businesses, attractions, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Further, aid should be generally broadly available to all businesses within the impacted industry to avoid potential conflicts of interest, and Treasury encourages aid to be first used for operational expenses, such as payroll, before being used on other types of costs.

⁹ Specifically, a recipient should compare the percent change in the number of employees of the recipient's identified industry and the national Leisure & Hospitality sector in the three months before the pandemic's most severe impacts began (a straight three-month average of seasonally-adjusted employment data from December 2019, January 2020, and February 2020) with the latest data as of the final rule (a straight three-month average of seasonally-adjusted employment data from September 2021, October 2021, and November 2021). For parity and simplicity, smaller recipients without employment data that measure industries in their specific jurisdiction may use data available for a broader unit of government for this calculation (e.g., a county may use data from the state in which it is located; a city may use data for the county, if available, or state in which it is located) solely for purposes of determining whether a particular industry is an impacted industry.



Treasury recognizes the enumerated projects below as eligible responses to impacted industries.

- ✓ Aid to mitigate financial hardship, such as supporting payroll costs, lost pay and benefits for returning employees, support of operations and maintenance of existing equipment and facilities
- ✓ Technical assistance, counseling, or other services to support business planning
- ✓ COVID-19 mitigation and infection prevention measures (see section Public Health)

As with all eligible uses, recipients may pursue a project not listed above by undergoing the steps outlined in the section Framework for Eligible Uses Beyond Those Enumerated.



PUBLIC SECTOR CAPACITY

Recipients may use SLFRF funding to restore and bolster public sector capacity, which supports government's ability to deliver critical COVID-19 services. There are three main categories of eligible uses to bolster public sector capacity and workforce: Public Safety, Public Health, and Human Services Staff; Government Employment and Rehiring Public Sector Staff; and Effective Service Delivery.

Public Safety, Public Health, and Human Services Staff

SLFRF funding may be used for payroll and covered benefits for public safety, public health, health care, human services and similar employees of a recipient government, for the portion of the employee's time spent responding to COVID-19. Recipients should follow the steps below.

1. **Identify eligible public safety, public health, and human services staff.** Public safety staff include:

- ✓ Police officers (including state police officers)
- ✓ Sheriffs and deputy sheriffs
- ✓ Firefighters
- ✓ Emergency medical responders
- ✓ Correctional and detention officers
- ✓ Dispatchers and supervisor personnel that directly support public safety staff

Public health staff include:

- ✓ Employees involved in providing medical and other physical or mental health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions
- ✓ Laboratory technicians, medical examiners, morgue staff, and other support services essential for patient care
- ✓ Employees of public health departments directly engaged in public health matters and related supervisory personnel

Human services staff include:

- ✓ Employees providing or administering social services and public benefits
- ✓ Child welfare services employees
- ✓ Child, elder, or family care employees

2. **Assess portion of time spent on COVID-19 response for eligible staff.**

Recipients can use a variety of methods to assess the share of an employees' time spent responding to COVID-19, including using reasonable estimates—such as estimating the share of time based on discussions with staff and applying that share to all employees in that position.

For administrative convenience, recipients can consider public health and safety employees entirely devoted to responding to COVID-19 (and their payroll and benefits fully covered by SLFRF) if the



employee, or his or her operating unit or division, is “primarily dedicated” to responding to COVID-19. Primarily dedicated means that more than half of the employee, unit, or division’s time is dedicated to responding to COVID-19.

Recipients must periodically reassess their determination and maintain records to support their assessment, although recipients do not need to track staff hours.

3. **Use SLFRF funding for payroll and covered benefits for the portion of eligible staff time spent on COVID-19 response.** SLFRF funding may be used for payroll and covered benefits for the portion of the employees’ time spent on COVID-19 response, as calculated above, through the period of performance.

Government Employment and Rehiring Public Sector Staff

Under the increased flexibility of the final rule, SLFRF funding may be used to support a broader set of uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring, support, and retention.

- **Restoring pre-pandemic employment.** Recipients have two options to restore pre-pandemic employment, depending on the recipient’s needs.
 - *If the recipient simply wants to hire back employees for pre-pandemic positions:* Recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021. Recipients may use SLFRF funds to cover payroll and covered benefits for such positions through the period of performance.
 - *If the recipient wants to hire above the pre-pandemic baseline and/or would like to have flexibility in positions:* Recipients may use SLFRF funds to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted FTEs up to 7.5 percent above its pre-pandemic baseline. Specifically, recipients should undergo the following steps:
 - a. Identify the recipient’s budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline*.
 - b. Multiply the pre-pandemic baseline by 1.075. This is called the *adjusted pre-pandemic baseline*.
 - c. Identify the recipient’s budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude the number of FTEs dedicated to responding to the COVID-19 public health emergency. This is called the *actual number of FTEs*.
 - d. Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be covered by SLFRF funds. Recipients do not have to hire for the same roles that existed pre-pandemic.

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Recipients may use SLFRF funds to cover payroll and covered benefits through the period of performance; these employees must have begun their employment on or after March 3, 2021. Recipients may only use SLFRF funds for additional FTEs hired over the March 3, 2021 level (i.e., the *actual number of FTEs*).

- **Supporting and retaining public sector workers.** Recipients can also use funds in other ways that support the public sector workforce.¹⁰ These include:
 - **Providing additional funding for employees who experienced pay reductions or were furloughed** since the onset of the pandemic, up to the difference in the employee's pay, taking into account unemployment benefits received.
 - **Maintaining current compensation levels to prevent layoffs.** SLFRF funds may be used to maintain current compensation levels, with adjustments for inflation, in order to prevent layoffs that would otherwise be necessary.
 - **Providing worker retention incentives, including reasonable increases in compensation** to persuade employees to remain with the employer as compared to other employment options. Retention incentives must be entirely additive to an employee's regular compensation, narrowly tailored to need, and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Treasury presumes that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as other requirements are met.
- **Covering administrative costs associated with administering the hiring, support, and retention programs above.**

Effective Service Delivery

SLFRF funding may be used to improve the efficacy of public health and economic programs through tools like program evaluation, data, and outreach, as well as to address administrative needs caused or exacerbated by the pandemic. Eligible uses include:

- **Supporting program evaluation, data, and outreach through:**

¹⁰ Recipients should be able to substantiate that these uses of funds are substantially due to the public health emergency or its negative economic impacts (e.g., fiscal pressures on state and local budgets) and respond to its impacts. See the final rule for details on these uses.



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- ✓ Program evaluation and evidence resources
 - ✓ Data analysis resources to gather, assess, share, and use data
 - ✓ Technology infrastructure to improve access to and the user experience of government IT systems, as well as technology improvements to increase public access and delivery of government programs and services
 - ✓ Community outreach and engagement activities
 - ✓ Capacity building resources to support using data and evidence, including hiring staff, consultants, or technical assistance support
- **Addressing administrative needs, including:**
 - ✓ Administrative costs for programs responding to the public health emergency and its economic impacts, including non-SLFRF and non-federally funded programs
 - ✓ Address administrative needs caused or exacerbated by the pandemic, including addressing backlogs caused by shutdowns, increased repair or maintenance needs, and technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, data and case management systems)

**CAPITAL EXPENDITURES**

As described above, the final rule clarifies that recipients may use funds for programs, services, and capital expenditures that respond to the public health and negative economic impacts of the pandemic. Any use of funds in this category for a capital expenditure must comply with the capital expenditure requirements, in addition to other standards for uses of funds.

Capital expenditures are subject to the same eligibility standard as other eligible uses to respond to the pandemic's public health and economic impacts; specifically, they must be related and reasonably proportional to the pandemic impact identified and reasonably designed to benefit the impacted population or class.

For ease of administration, the final rule identifies enumerated types of capital expenditures that Treasury has identified as responding to the pandemic's impacts; these are listed in the applicable sub-category of eligible uses (e.g., public health, assistance to households, etc.). Recipients may also identify other responsive capital expenditures. Similar to other eligible uses in the SLFRF program, no pre-approval is required for capital expenditures.

To guide recipients' analysis of whether a capital expenditure meets the eligibility standard, recipients (with the exception of Tribal governments) must complete and meet the requirements of a written justification for capital expenditures equal to or greater than \$1 million. For large-scale capital expenditures, which have high costs and may require an extended length of time to complete, as well as most capital expenditures for non-enumerated uses of funds, Treasury requires recipients to submit their written justification as part of regular reporting. Specifically:

If a project has total capital expenditures of	and the use is enumerated by Treasury as eligible, then	and the use is beyond those enumerated by Treasury as eligible, then
Less than \$1 million	No Written Justification required	No Written Justification required
Greater than or equal to \$1 million, but less than \$10 million	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury	Written Justification required and recipients must submit as part of regular reporting to Treasury
\$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury	

A Written Justification includes:

- *Description of the harm or need to be addressed.* Recipients should provide a description of the specific harm or need to be addressed and why the harm was exacerbated or caused by the public health emergency. Recipients may provide quantitative information on the extent and the type of harm, such as the number of individuals or entities affected.



- *Explanation of why a capital expenditure is appropriate.* For example, recipients should include an explanation of why existing equipment and facilities, or policy changes or additional funding to pertinent programs or services, would be inadequate.
- *Comparison of proposed capital project against at least two alternative capital expenditures and demonstration of why the proposed capital expenditure is superior.* Recipients should consider the effectiveness of the capital expenditure in addressing the harm identified and the expected total cost (including pre-development costs) against at least two alternative capital expenditures.

Where relevant, recipients should consider the alternatives of improving existing capital assets already owned or leasing other capital assets.

Treasury presumes that the following capital projects are generally ineligible:

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| ✖ Construction of new correctional facilities as a response to an increase in rate of crime | ✖ Construction of convention centers, stadiums, or other large capital projects intended for general economic development or to aid impacted industries |
| ✖ Construction of new congregate facilities to decrease spread of COVID-19 in the facility | |

In undertaking capital expenditures, Treasury encourages recipients to adhere to 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. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

**FRAMEWORK FOR ELIGIBLE USES BEYOND THOSE ENUMERATED**

As described above, recipients have broad flexibility to identify and respond to other pandemic impacts and serve other populations that experienced pandemic impacts, beyond the enumerated uses and presumed eligible populations. Recipients should undergo the following steps to decide whether their project is eligible:

Step	1. Identify COVID-19 public health or economic impact	2. Design a response that addresses or responds to the impact
Analysis	- Can identify impact to a specific household, business or nonprofit or to a class of households, businesses or nonprofits (i.e., group) - Can also identify disproportionate impacts, or more severe impacts, to a specific beneficiary or to a class	- Types of responses can include a program, service, or capital expenditure - Response should be related and reasonably proportional to the harm - Response should also be reasonably designed to benefit impacted individual or class

1. Identify a COVID-19 public health or negative economic impact on an individual or a class.

Recipients should identify an individual or class that is “impacted” or “disproportionately impacted” by the COVID-19 public health emergency or its negative economic impacts as well as the specific impact itself.

- “Impacted” entities are those impacted by the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency. For example, an individual who lost their job or a small business that saw lower revenue during a period of closure would both have experienced impacts of the pandemic.
- “Disproportionately impacted” entities are those that experienced disproportionate public health or economic outcomes from the pandemic; Treasury recognizes that pre-existing disparities, in many cases, amplified the impacts of the pandemic, causing more severe impacts in underserved communities. For example, a household living in a neighborhood with limited access to medical care and healthy foods may have faced health disparities before the pandemic, like a higher rate of chronic health conditions, that contributed to more severe health outcomes during the COVID-19 pandemic.

The recipient may choose to identify these impacts at either the individual level or at a class level. If the recipient is identifying impacts at the individual level, they should retain documentation supporting the impact the individual experienced (e.g., documentation of lost revenues from a small business). Such documentation can be streamlined in many cases (e.g., self-attestation that a household requires food assistance).

Recipients also have broad flexibility to identify a “class” – or a group of households, small businesses, or nonprofits – that experienced an impact. In these cases, the recipients should



first identify the class and the impact that it faced. Then, recipients only need to document that the individuals served fall within that class; recipients do not need to document a specific impact to each individual served. For example, a recipient could identify that restaurants in the downtown area faced substantial declines in revenue due to decreased foot traffic from workers; the recipient could develop a program to respond to the impact on that class and only needs to document that the businesses being served are restaurants in the downtown area.

Recipients should keep the following considerations in mind when designating a class:

- **There should be a relationship between the definition of the class and the proposed response.** Larger and less-specific classes are less likely to have experienced similar harms, which may make it more difficult to design a response that appropriately responds to those harms.
 - **Classes may be determined on a population basis or on a geographic basis,** and the response should be appropriately matched. For example, a response might be designed to provide childcare to single parents, regardless of which neighborhood they live in, or a response might provide a park to improve the health of a disproportionately impacted neighborhood.
 - **Recipients may designate classes that experienced disproportionate impact,** by assessing the impacts of the pandemic and finding that some populations experienced meaningfully more severe impacts than the general public. To determine these disproportionate impacts, recipients:
 - May designate classes based on academic research or government research publications (such as the citations provided in the supplementary information in the final rule), through analysis of their own data, or through analysis of other existing data sources.
 - May also consider qualitative research and sources to augment their analysis, or when quantitative data is not readily available. Such sources might include resident interviews or feedback from relevant state and local agencies, such as public health departments or social services departments.
 - Should consider the quality of the research, data, and applicability of analysis to their determination in all cases.
 - **Some of the enumerated uses may also be appropriate responses to the impacts experienced by other classes of beneficiaries.** It is permissible for recipients to provide these services to other classes, so long as the recipient determines that the response is also appropriate for those groups.
 - **Recipients may designate a class based on income level, including at levels higher than the final rule definition of "low- and moderate-income."** For example, a recipient may identify that households in their community with incomes above the final rule threshold for low-income nevertheless experienced disproportionate impacts from the pandemic and provide responsive services.
2. **Design a response that addresses or responds to the impact.** Programs, services, and other interventions must be reasonably designed to benefit the individual or class that experienced



the impact. They must also be related and reasonably proportional to the extent and type of impact experienced. For example, uses that bear no relation or are grossly disproportionate to the type or extent of the impact would not be eligible.

“Reasonably proportional” refers to the scale of the response compared to the scale of the harm, as well as the targeting of the response to beneficiaries compared to the amount of harm they experienced; for example, it may not be reasonably proportional for a cash assistance program to provide a very small amount of aid to a group that experienced severe harm and a much larger amount to a group that experienced relatively little harm. Recipients should consider relevant factors about the harm identified and the response to evaluate whether the response is reasonably proportional. For example, recipients may consider the size of the population impacted and the severity, type, and duration of the impact. Recipients may also consider the efficacy, cost, cost-effectiveness, and time to delivery of the response.

For disproportionately impacted communities, recipients may design interventions that address broader pre-existing disparities that contributed to more severe health and economic outcomes during the pandemic, such as disproportionate gaps in access to health care or pre-existing disparities in educational outcomes that have been exacerbated by the pandemic.



Premium Pay

The Coronavirus State and Local Fiscal Recovery Funds may be used to provide premium pay to eligible workers performing essential work during the pandemic. Premium pay may be awarded to eligible workers up to \$13 per hour. Premium pay must be in addition to wages or remuneration (i.e., compensation) the eligible worker otherwise receives. Premium pay may not exceed \$25,000 for any single worker during the program.

Recipients should undergo the following steps to provide premium pay to eligible workers.

1. **Identify an “eligible” worker.** Eligible workers include workers “needed to maintain continuity of operations of essential critical infrastructure sectors.” These sectors and occupations are eligible:

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| ✓ Health care | ✓ State, local, or Tribal government workforce |
| ✓ Emergency response | ✓ Workers providing vital services to Tribes |
| ✓ Sanitation, disinfection & cleaning | ✓ Educational, school nutrition, and other work required to operate a school facility |
| ✓ Maintenance | ✓ Laundry |
| ✓ Grocery stores, restaurants, food production, and food delivery | ✓ Elections |
| ✓ Pharmacy | ✓ Solid waste or hazardous materials management, response, and cleanup |
| ✓ Biomedical research | ✓ Work requiring physical interaction with patients |
| ✓ Behavioral health | ✓ Dental care |
| ✓ Medical testing and diagnostics | ✓ Transportation and warehousing |
| ✓ Home and community-based health care or assistance with activities of daily living | ✓ Hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment |
| ✓ Family or child care | |
| ✓ Social services | |
| ✓ Public health | |
| ✓ Mortuary | |
| ✓ Critical clinical research, development, and testing necessary for COVID-19 response | |

Beyond this list, the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical so long as doing so is necessary to protecting the health and wellbeing of the residents of such jurisdictions.

2. **Verify that the eligible worker performs “essential work,”** meaning work that:

- Is not performed while teleworking from a residence; and
- Involves either:
 - a. regular, in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or
 - b. 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.



3. Confirm that the premium pay “responds to” workers performing essential work during the COVID-19 public health emergency. Under the final rule, which broadened the share of eligible workers who can receive premium pay without a written justification, recipients may meet this requirement in one of three ways:

- Eligible worker receiving premium pay is earning (with the premium included) at or below 150 percent of their residing state or county’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ [Occupational Employment and Wage Statistics](#), whichever is higher, on an annual basis; or
- Eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions; or
- If a worker does not meet either of the above requirements, the recipient must submit written justification to Treasury detailing how the premium pay is otherwise responsive to workers performing essential work during the public health emergency. This may include a description of the essential worker’s duties, health, or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff.

Premium pay may be awarded in installments or lump sums (e.g., monthly, quarterly, etc.) and may be awarded to hourly, part-time, or salaried or non-hourly workers. Premium pay must be paid in addition to wages already received and may be paid retrospectively. A recipient may not use SLFRF to merely reimburse itself for premium pay or hazard pay already received by the worker, and premium pay may not be paid to volunteers.



Water & Sewer Infrastructure

The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in water and sewer infrastructure. State, local, and Tribal governments have a tremendous need to address the consequences of deferred maintenance in drinking water systems and removal, management, and treatment of sewage and stormwater, along with additional resiliency measures needed to adapt to climate change.

Recipients may undertake the eligible projects below:

PROJECTS ELIGIBLE UNDER EPA'S CLEAN WATER STATE REVOLVING FUND (CWSRF)

Eligible projects under the CWSRF, and the final rule, include:

- ✓ Construction of publicly owned treatment works
- ✓ Projects pursuant to implementation of a nonpoint source pollution management program established under the Clean Water Act (CWA)
- ✓ Decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage
- ✓ Management and treatment of stormwater or subsurface drainage water
- ✓ Water conservation, efficiency, or reuse measures
- ✓ Development and implementation of a conservation and management plan under the CWA
- ✓ Watershed projects meeting the criteria set forth in the CWA
- ✓ Energy consumption reduction for publicly owned treatment works
- ✓ Reuse or recycling of wastewater, stormwater, or subsurface drainage water
- ✓ Security of publicly owned treatment works

Treasury encourages recipients to review the EPA handbook for the [CWSRF](#) for a full list of eligibilities.

PROJECTS ELIGIBLE UNDER EPA'S DRINKING WATER STATE REVOLVING FUND (DWSRF)

Eligible drinking water projects under the DWSRF, and the final rule, include:

- ✓ Facilities to improve drinking water quality
- ✓ Transmission and distribution, including improvements of water pressure or prevention of contamination in infrastructure and lead service line replacements
- ✓ New sources to replace contaminated drinking water or increase drought resilience, including aquifer storage and recovery system for water storage
- ✓ Green infrastructure, including green roofs, rainwater harvesting collection, permeable pavement
- ✓ Storage of drinking water, such as to prevent contaminants or equalize water demands
- ✓ Purchase of water systems and interconnection of systems
- ✓ New community water systems

Treasury encourages recipients to review the EPA handbook for the [DWSRF](#) for a full list of eligibilities.

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ADDITIONAL ELIGIBLE PROJECTS

With broadened eligibility under the final rule, SLFRF funds may be used to fund additional types of projects— such as additional stormwater infrastructure, residential wells, lead remediation, and certain rehabilitations of dams and reservoirs — beyond the CWSRF and DWSRF, if they are found to be “necessary” according to the definition provided in the final rule and outlined below.

- ✓ Culvert repair, resizing, and removal, replacement of storm sewers, and additional types of stormwater infrastructure
- ✓ Infrastructure to improve access to safe drinking water for individual served by residential wells, including testing initiatives, and treatment/remediation strategies that address contamination
- ✓ Dam and reservoir rehabilitation if primary purpose of dam or reservoir is for drinking water supply and project is necessary for provision of drinking water
- ✓ Broad set of lead remediation projects eligible under EPA grant programs authorized by the Water Infrastructure Improvements for the Nation (WIIN) Act, such as lead testing, installation of corrosion control treatment, lead service line replacement, as well as water quality testing, compliance monitoring, and remediation activities, including replacement of internal plumbing and faucets and fixtures in schools and childcare facilities

A “necessary” investment in infrastructure must be:

- (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise,
- (2) a cost-effective means for meeting that need, taking into account available alternatives, and
- (3) for investments in infrastructure that supply drinking water in order to meet projected population growth, projected to be sustainable over its estimated useful life.

Please note that DWSRF and CWSRF-eligible projects are generally presumed to be necessary investments. Additional eligible projects generally must be responsive to an identified need to achieve or maintain an adequate minimum level of service. Recipients are only required to assess cost-effectiveness of projects for the creation of new drinking water systems, dam and reservoir rehabilitation projects, or projects for the extension of drinking water service to meet population growth needs. Recipients should review the supplementary information to the final rule for more details on requirements applicable to each type of investment.

APPLICABLE STANDARDS & REQUIREMENTS

Treasury encourages recipients to adhere to 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. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.

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Broadband Infrastructure

The Coronavirus State and Local Fiscal Recovery Funds may be used to make necessary investments in broadband infrastructure, which has been shown to be critical for work, education, healthcare, and civic participation during the public health emergency. The final rule broadens the set of eligible broadband infrastructure investments that recipients may undertake.

Recipients may pursue investments in broadband infrastructure meeting technical standards detailed below, as well as an expanded set of cybersecurity investments.

BROADBAND INFRASTRUCTURE INVESTMENTS

Recipients should adhere to the following requirements when designing a broadband infrastructure project:

1. **Identify an eligible area for investment.** Recipients are encouraged to prioritize projects that are designed to serve locations without access to reliable wireline 100/20 Mbps broadband service (meaning service that reliably provides 100 Mbps download speed and 20 Mbps upload speed through a wireline connection), but are broadly able to invest in projects designed to provide service to locations with an identified need for additional broadband investment. Recipients have broad flexibility to define need in their community. Examples of need could include:

- ✓ Lack of access to a reliable high-speed broadband connection
- ✓ Lack of affordable broadband
- ✓ Lack of reliable service

If recipients are considering deploying broadband to locations where there are existing and enforceable federal or state funding commitments for reliable service of at least 100/20 Mbps, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams.

2. **Design project to meet high-speed technical standards.** Recipients are required to design projects to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. 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, eligible projects may be designed to reliably meet or exceed 100/20 Mbps and be scalable to a minimum of symmetrical 100 Mbps download and upload speeds.

Treasury encourages recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to focus on projects that will achieve last-mile connections. Further, Treasury encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and co-operatives.



3. **Require enrollment in a low-income subsidy program.** Recipients must require the service provider for a broadband project that provides service to households to either:

- ✓ Participate in the FCC's Affordable Connectivity Program (ACP)
- ✓ Provide access to a broad-based affordability program to low-income consumers that provides benefits commensurate to ACP

Treasury encourages broadband services to also include at least one low-cost option offered without data usage caps at speeds sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Recipients are also encouraged to consult with the community on affordability needs.

CYBERSECURITY INVESTMENTS

SLFRF may be used for modernization of cybersecurity for existing and new broadband infrastructure, regardless of their speed delivery standards. This includes modernization of hardware and software.

APPLICABLE STANDARDS & REQUIREMENTS

Treasury encourages recipients to adhere to 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. Treasury also encourages recipients to prioritize in their procurements employers with high labor standards and to prioritize employers without recent violations of federal and state labor and employment laws.



Restrictions on Use

While recipients have considerable flexibility to use Coronavirus State and Local Fiscal Recovery Funds to address the diverse needs of their communities, some restrictions on use of funds apply.

OFFSET A REDUCTION IN NET TAX REVENUE

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation beginning on March 3, 2021, through the last day of the fiscal year in which the funds provided have been spent.** If a state or territory cuts taxes during this period, it must demonstrate how it paid for the tax cuts from sources other than SLFRF, such as by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be repaid to the Treasury.

DEPOSITS INTO PENSION FUNDS

- **No recipients except Tribal governments may use this funding to make a deposit to a pension fund.** Treasury defines a “deposit” as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions connected to an eligible use of funds (e.g., for public health and safety staff). Examples of extraordinary payments include ones that:

- | | |
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| <ul style="list-style-type: none"> ✖ Reduce a liability incurred prior to the start of the COVID-19 public health emergency and occur outside the recipient's regular timing for making the payment | <ul style="list-style-type: none"> ✖ Occur at the regular time for pension contributions but is larger than a regular payment would have been |
|--|--|

ADDITIONAL RESTRICTIONS AND REQUIREMENTS

Additional restrictions and requirements that apply across all eligible use categories include:

- **No debt service or replenishing financial reserves.** Since SLFRF funds are intended to be used prospectively, recipients may not use SLFRF funds for debt service or replenishing financial reserves (e.g., rainy day funds).
- **No satisfaction of settlements and judgments.** 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 is itself not an eligible use. However, if a settlement requires the recipient to provide services or incur other costs that are an eligible use of SLFRF funds, SLFRF may be used for those costs.
- **Additional general restrictions.** SLFRF funds may not be used for a project that conflicts with or contravenes the purpose of the American Rescue Plan Act statute (e.g., uses of funds that

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undermine COVID-19 mitigation practices in line with CDC guidance and recommendations) and may not be used in violation of the Award Terms and Conditions or conflict of interest requirements under the Uniform Guidance. Other applicable laws and regulations, outside of SLFRF program requirements, may also apply (e.g., laws around procurement, contracting, conflicts-of-interest, environmental standards, or civil rights).



Program Administration

The Coronavirus State and Local Fiscal Recovery Funds final rule details a number of administrative processes and requirements, including on distribution of funds, timeline for use of funds, transfer of funds, treatment of loans, use of funds to meet non-federal match or cost-share requirements, administrative expenses, reporting on use of funds, and remediation and recoupment of funds used for ineligible purposes. This section provides a summary for the most frequently asked questions.

TIMELINE FOR USE OF FUNDS

Under the SLFRF, funds must be used for costs incurred on or after March 3, 2021. Further, costs must be obligated by December 31, 2024, and expended by December 31, 2026.

TRANSFERS

Recipients may undertake projects on their own or through subrecipients, which carry out eligible uses on behalf of a recipient, including pooling funds with other recipients or blending and braiding SLFRF funds with other sources of funds. Localities may also transfer their funds to the state through section 603(c)(4), which will decrease the locality's award and increase the state award amounts.

LOANS

Recipients may generally use SLFRF funds to provide loans for uses that are otherwise eligible, although there are special rules about how recipients should track program income depending on the length of the loan. Recipients should consult the final rule if they seek to utilize these provisions.

NON-FEDERAL MATCH OR COST-SHARE REQUIREMENTS

Funds available under the "revenue loss" eligible use category (sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act) generally may be used to meet the non-federal cost-share or matching requirements of other federal programs. However, note that SLFRF funds may not be used as the non-federal share for purposes of a state's Medicaid and CHIP programs because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services pursuant to 2 CFR 200.102 of the Uniform Guidance and related regulations.

SLFRF funds beyond those that are available under the revenue loss eligible use category may not be used to meet the non-federal match or cost-share requirements of other federal programs, other than as specifically provided for by statute. As an example, the Infrastructure Investment and Jobs Act provides that SLFRF funds may be used to meet the non-federal match requirements of authorized Bureau of Reclamation projects and certain broadband deployment projects. Recipients should consult the final rule for further details if they seek to utilize SLFRF funds as a match for these projects.

ADMINISTRATIVE EXPENSES

SLFRF funds may be used for direct and indirect administrative expenses involved in administering the program. For details on permissible direct and indirect administrative costs, recipients should refer to Treasury's [Compliance and Reporting Guidance](#). Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

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REPORTING, COMPLIANCE & RECOUPMENT

Recipients are required to comply with Treasury's [Compliance and Reporting Guidance](#), which includes submitting mandatory periodic reports to Treasury.

Funds used in violation of the final rule are subject to remediation and recoupment. As outlined in the final rule, Treasury may identify funds used in violation through reporting or other sources. Recipients will be provided with an initial written notice of recoupment with an opportunity to submit a request for reconsideration before Treasury provides a final notice of recoupment. If the recipient receives an initial notice of recoupment and does not submit a request for reconsideration, the initial notice will be deemed the final notice. Treasury may pursue other forms of remediation and monitoring in conjunction with, or as an alternative to, recoupment.

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Item No.	Investment Idea	ARPA Category	ARPA Sub-Category, Federal Register page	Estimated Cost	Council Priority	Tranche	Notes	Picked by Council - 9/21/21	Tabled until spring 2022
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		\$2,500,000	
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		\$2,000,000	
3	Refreshing school crosswalks and Safe Routes planning	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$600,000	Y	1		\$600,000	
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		\$700,000	
6	Carnegie Art Museum: architectural and seismic study (New)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$160,000	Y	1		\$160,000	
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		\$3,000,000	
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		\$1,000,000	
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		\$600,000	
New	YARA program	Address Negative Economic Impacts	Assistance to Unemployed Workers, Households, pg 26794; Promoting Healthy Childhood Environments, pg 26796	\$75,000			Added by Mayor Zaragoza	\$75,000	
New	Painting City Hall & Annex	Replacing Public Revenue Loss	Government Services, pg 26801	\$600,000			Added by Mayor Zaragoza	\$600,000	
New	USPS mailbox replacement	Replacing Public Revenue Loss	Government Services, pg 26801				Added by Mayor Pro Tem MacDonald		
10	Oxnard festivals - "Comeback Year" grants	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$200,000	N	1		\$200,000	
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	Address Negative Economic Impacts	Expenses to Improve Efficacy of Economic Relief Programs, pg 26794	\$300,000	N	1		\$300,000	
12	Community Assessment report on Oxnard's business attractions assets and gap analysis	Address Negative Economic Impacts	Small Business and Nonprofits/Expenses to Improve Efficacy of Economic Relief Programs, pg 26794	\$100,000	Y	1		\$100,000	
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		\$15,000	
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		\$3,000,000	
15	Saviers Rd Corridor: conceptual plan for widening sidewalks, landscape, lighting.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 26794	\$140,000	Y	2		\$140,000	
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		\$100,000	
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		\$325,000	
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		\$600,000	
19	PACC - upgraded marquee with new digital sign	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$85,000	N	1		\$85,000	
20	City-wide wayfinding program	Address Negative Economic Impacts	Aid to Impacted Industries: Hotels and Tourism, pg 26795	\$1,000,000	N	1	Move to spring discussion		\$1,000,000
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		\$436,000	
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	Reduced by \$5 million	\$1,500,000	

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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		\$400,000	
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		\$1,200,000	
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		\$600,000	
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		\$75,000	
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		\$100,000	
28	Youth Facilities (PAL): sports equipment, youth center supplies, vehicle	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 26796	\$130,000	Y	1		\$130,000	
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		\$190,000	
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		\$20,000	
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	Discuss additional investments in spring	\$100,000	
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		\$545,000	
33	Olympic Skatepark in Colonia	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 26795	\$3,000,000	N	2		\$3,000,000	
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		\$830,000	
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		\$450,000	
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		\$775,000	
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		\$250,000	
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	Move to spring discussion		\$1,000,000
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	Added by Councilmember Teran	\$1,000,000	
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	Move to spring discussion		\$200,000
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	Added by Councilmember Madrigal	\$500,000	
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		\$17,000	
50	Youth Recreation Centers: Installation of Fiber Lines for South Oxnard Center, Southwinds Center, Colonia Center, Durley Park Center - requires an internet service provider to provide service	Broadband Infrastructure	Promoting Healthy Childhood Environments, pg 26796; Broadband Infrastructure, pg 26804	\$675,000	N	2		\$675,000	
51	City-wide painting of curbs red next to fire hydrants	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$250,000	N	2	Move to spring discussion		\$250,000
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	Move to spring discussion		\$3,800,000

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53	City-wide ADA tree and sidewalk improvements	Replace Public Sector Revenue Loss	Government Services pg 26801	\$1,000,000	Y	2		\$1,000,000	
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		\$1,000,000	
55	Fire Department Vehicle for 2-person paramedic squad	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$80,000	Y	2		\$80,000	
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		\$4,000,000	
57	Howell Rd lighting and safety improvements	Replace Public Sector Revenue Loss	Government Services, pg 26801	\$250,000	Y	2		\$250,000	
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		\$750,000	
59	Bike / Pedestrian project: Wooley Rd Protected Bike Lanes	Replace Public Sector Revenue Loss	Government Services pg 26801	\$1,500,000	N	2	Added by Councilmembers Teran & Madrigal	\$1,500,000	
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		\$80,000	
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		\$1,700,000	
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		\$40,000	
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		\$12,600	
64	PPE Purchase - 1 year supply for City employees	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$160,000	Y	1		\$160,000	
65	Zoom license bundles - 1 year	Support Public Health Response	COVID-19 Response & Prevention, pg 26821	\$6,600	N	1		\$6,600	
66	Fire Catch-up Academy: cost of six recruits	Support Public Health Response	Public Health & Safety Staff, pg 26791	\$580,000	Y	1		\$580,000	
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		\$3,000,000	
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		\$80,000	
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		\$350,000	
71	Electrical Plant Water Quality Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2		\$400,000	
72	Phase 1 Design: College Park-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	
73	Phase 1 Design: Drifhill Elementary School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	
74	Phase 1 Design: Frank Intermediate School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 26802	\$100,000	Y	2		\$100,000	
75	Stormwater Conveyance Improvements along Oxnard Boulevard	Water & Sewer Infrastructure	Stormwater, pg 26802	\$400,000	N	2		\$400,000	
76	Stormdrain: Diamond Bar	Water & Sewer Infrastructure	Stormwater, pg 26802	\$600,000	N	2		\$600,000	
77	Harbor Area Water Quality Feasibility Study	Water & Sewer Infrastructure	Stormwater, pg 26802	\$300,000	N	2		\$300,000	
78	Harbor Water Quality Mitigation Fund	Water & Sewer Infrastructure	Stormwater, pg 26802	\$1,000,000	N	2		\$1,000,000	
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		\$100,000	
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		\$100,000	

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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		\$400,000	
82	AWPF-Oxnard Regional Stormwater Capture Project Wetland Storage & Sewer Diversion Pilot	Water & Sewer Infrastructure	Stormwater, pg 26802	\$1,000,000	Y	2		\$1,000,000	
83	Phase 1 Design: Riverpark basin - recycled water storage project	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 26802	\$100,000	N	2		\$100,000	
								\$48,182,200	\$6,250,000

Total of projects selected: \$48,182,200
Total of projects deferred to spring: \$6,250,000
Available ARPA funding: \$59,540,662
Remaining ARPA funding: \$11,358,462

American Rescue Plan Act (ARPA) Investments
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Item No.	Investment Idea	ARPA Category	ARPA Sub-Category, Federal Register page	Council Priority	Tranche	Notes	Picked by Council - 9/21/21	Tabled until spring 2022	New Projects
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 4396	Y	1		\$2,500,000		
2	Premium pay for City employees working on the front-line during the pandemic	Premium Pay for Essential Workers	Premium Pay, pg 4396	Y	1		\$2,000,000		
3	Refreshing school crosswalks and Safe Routes planning	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 4363	Y	1		\$600,000		
6	Carnegie Art Museum: architectural and seismic study (New)	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 4381	Y	1		\$160,000		
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 4363	Y	2		\$3,000,000		
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 4363	Y	2		\$600,000		
10	Oxnard festivals - "Comeback Year" grants	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 4381	N	1		\$200,000		
11	Community Assessment to determine transitions to adulthood among Oxnard Youth Post Covid-19	Address Negative Economic Impacts	Expenses to Improve Efficacy of Economic Relief Programs, pg 4383	N	1		\$300,000		
12	Community Assessment report on Oxnard's business attractions assets and gap analysis	Address Negative Economic Impacts	Small Business and Nonprofits/Expenses to Improve Efficacy of Economic Relief Programs, pg 4383	Y	1		\$100,000		
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 4357	Y	1		\$15,000		
14	Develop plan to redevelop Hueneme corridor between Saviers Rd & S. J St; Oxnard Transit Center: assembly of land, & procurement of developer	Address Negative Economic Impacts	Building Stronger Communities through Investments in Housing & Neighborhoods, pg 4372	Y	1	Split project with Item 14a below due to ARPA completion deadline	\$400,000		
15	Saviers Rd Corridor: conceptual plan for widening sidewalks, landscape, lighting.	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 4354	Y	2		\$140,000		
16	Saviers Rd Corridor: formation of South Oxnard Property Business Improvement District (PBID)	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 4354	Y	1		\$100,000		
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 4381	N	1		\$325,000		
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 4381	N	1		\$600,000		
19	PACC - upgraded marquee with new digital sign	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 4381	N	1		\$85,000		
21	Visit Oxnard: Branding & publications, destination management, digital advertising	Address Negative Economic Impacts	Aid to Impacted Industries: Hotels and Tourism, pg 4381	N	1		\$436,000		
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 4357	Y	1		\$400,000		
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 4363	Y	2		\$1,200,000		
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 4363	Y	2		\$600,000		
26	Durley Park: repair baseball fields (Parks & Rec Master Plan, pg 158)	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 4363	Y	1		\$75,000		
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 4381	N	2		\$100,000		
28	Youth Facilities (PAL): sports equipment, youth center supplies, vehicle	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 4363	Y	1		\$130,000		
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 4363	Y	1		\$190,000		
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 4363	Y	1		\$20,000		
31	Oxnard Senior Centers (Wilson, South Oxnard, and Colonia): replacement of furniture in the social spaces	Address Negative Economic Impacts	Assistance to Households, pg 4357	Y	1	Discuss additional investments in spring	\$100,000		
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 4381	N	2		\$545,000		

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35	Oxnard Arts Academy: portable classrooms, instruments, tablets, music stands, chairs, tables	Address Negative Economic Impacts	Addressing Education Disparities, pg 4375	Y	2		\$450,000		
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 4354	Y	1		\$775,000		
37	Downtown: implement outdoor venues on City owned properties (A St and 5th St)	Address Negative Economic Impacts	Small Businesses & Nonprofits, pg 4354	Y	1		\$250,000		
46	Oxnard Tennis Center: replace the foundation and resurface the tennis courts	Address Negative Economic Impacts	Promoting Healthy Childhood Environments, pg 4363	Y	2	Added by Councilmember Madrigal	\$500,000		
49	Libraries (Main, S. Oxnard, and Colonia branch): upgrade of Wifi systems with Bluesocket Access Points with omnidirectional antennas	Broadband Infrastructure	Broadband Infrastructure, pg 4417	N	1		\$17,000		
50	Youth Recreation Centers: Installation of Fiber Lines for South Oxnard Center, Southwinds Center, Colonia Center, Durley Park Center - requires an internet service provider to provide service	Broadband Infrastructure	Promoting Healthy Childhood Environments, pg 4363; Broadband Infrastructure, pg 4417	N	2		\$675,000		
53	City-wide ADA tree and sidewalk improvements	Replace Public Sector Revenue Loss	Government Services pg 4400	Y	2		\$1,000,000		
54	Fire station architectural design for Oxnard Fire Stations 2, 3, 5	Replace Public Sector Revenue Loss	Government Services pg 4400	Y	1		\$1,000,000		
55	Fire Department Vehicle for 2-person paramedic squad	Replace Public Sector Revenue Loss	Government Services pg 4400	Y	2		\$80,000		
56	Police Department radio communications: upgrade City-wide radio infrastructure to a P25 system	Replace Public Sector Revenue Loss	Government Services pg 4400	Y	2		\$4,000,000		
57	Howell Rd lighting and safety improvements	Replace Public Sector Revenue Loss	Government Services pg 4400	Y	2		\$250,000		
58	Intelligent Transportation Systems (ITS) Traffic Signal Retiming Safety Project – Phase 1	Replace Public Sector Revenue Loss	Government Services pg 4400	Y	2		\$750,000		
59	Bike / Pedestrian project: Wooley Rd Protected Bike Lanes	Replace Public Sector Revenue Loss	Government Services pg 4400	N	2	Added by Councilmembers Teran & Madrigal	\$1,500,000		
60	Contactless payment kiosk for utility payments, installed at location to be determined	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 4352	N	1		\$80,000		
61	Fire Department Supplied Air Respirators replacement and multi-band radios	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 4352	Y	1		\$1,700,000		
63	Code Compliance: Tablet purchases for field reporting, access to information, inspections, and video	Support Public Health Response	COVID-19 Response & Prevention, pg 4352	Y	1		\$12,600		
64	PPE Purchase - 1 year supply for City employees	Support Public Health Response	COVID-19 Response & Prevention, pg 4352	Y	1		\$160,000		
65	Zoom license bundles - 1 year	Support Public Health Response	COVID-19 Response & Prevention, pg 4352	N	1		\$6,600		
66	Fire Catch-up Academy: cost of six recruits	Support Public Health Response	Public Health & Safety Staff, pg 4383	Y	1		\$580,000		
68	Contactless payment kiosk for utility payments, installed at the South Oxnard Center	Support Public Health Response	COVID-19 Mitigation & Prevention, pg 4352	N	1		\$80,000		
69	Senior Nutrition Program: commercial freezers, cookware, thermal insulated bags, industrial pressure cookers, vehicle	Support Public Health Response	COVID-19 Response & Prevention, pg 4352	Y	1		\$350,000		
71	Electrical Plant Water Quality Capture Project	Water & Sewer Infrastructure	Stormwater, pg 4413	N	2		\$400,000		
72	Phase 1 Design: College Park-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 4413	Y	2		\$100,000		
73	Phase 1 Design: Driffill Elementary School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 4413	Y	2		\$100,000		
74	Phase 1 Design: Frank Intermediate School-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 4413	Y	2		\$100,000		
75	Stormwater Conveyance Improvements along Oxnard Boulevard	Water & Sewer Infrastructure	Stormwater, pg 4413	N	2		\$400,000		
76	Stormdrain: Diamond Bar	Water & Sewer Infrastructure	Stormwater, pg 4413	N	2		\$600,000		
77	Harbor Area Water Quality Feasibility Study	Water & Sewer Infrastructure	Stormwater, pg 4413	N	2		\$300,000		
79	Phase 1 Design: East Village/Del Sol Park diversion and infiltration-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 4413	Y	2		\$100,000		

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80	Phase 1 Design: Ventura Road and 2nd St. diversion and infiltration-Oxnard Regional Stormwater Capture Project	Water & Sewer Infrastructure	Stormwater, pg 4413	Y	2		\$100,000		
81	Stormwater Catch Basins Full Capture Devices Installation for Edison Canal and Channel Islands Harbor	Water & Sewer Infrastructure	Stormwater, pg 4413	N	2		\$400,000		
83	Phase 1 Design: Riverpark basin - recycled water storage project	Water & Sewer Infrastructure	Water & Sewer Infrastructure pg 4409	N	2		\$100,000		
84	YARA program	Address Negative Economic Impacts	Assistance to Unemployed Workers, Households, pg 4357; Promoting Healthy Childhood Environments, pg 4363			Added by Mayor Zaragoza	\$75,000		
85	Painting City Hall & Annex	Replacing Public Revenue Loss	Government Services, pg 4400			Added by Mayor Zaragoza	\$600,000		
86	USPS mailbox replacement	Replacing Public Revenue Loss	Government Services, pg 4400			Added by Mayor Pro Tem MacDonald	\$10,000		

20	City-wide wayfinding program	Address Negative Economic Impacts	Aid to Impacted Industries: Hotels and Tourism, pg 4381	N	1	Move to spring discussion		\$1,000,000	
38	Heritage Square building & site enhancements, repairs, and event support	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 4381	N	1	Move to spring discussion		\$1,000,000	
45	Oxnard Employee Pipeline and Homeless Vocational programs	Address Negative Economic Impacts	Assistance to Unemployed Workers, Households, pg 4357	Y	1	Move to spring discussion		\$200,000	
51	City-wide painting of curbs red next to fire hydrants	Replace Public Sector Revenue Loss	Government Services, pg 4400	N	2	Move to spring discussion		\$250,000	
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 4400	N	2	Move to spring discussion		\$3,800,000	

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 4357	Y	1		\$700,000		
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 4363	Y	2		\$1,000,000		
14a	Property acquisition for economic development & redevelopment of Hueneme corridor between Saviers & S. J St.	Address Negative Economic Impacts	Building Stronger Communities through Investments in Housing & Neighborhoods, pg 4372	Y	1	Split project w/ Item 14 above due to ARPA completion deadline	\$2,600,000		
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 4381	Y	2	Reduced by \$5 million	\$1,500,000		
33	Olympic Skatepark in Colonia	Address Negative Economic Impacts	Aid to Impacted Industries: Tourism, pg 4381	N	2		\$3,000,000		
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 4363	Y	1		\$830,000		
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 4354	Y	1	Added by Councilmember Teran	\$1,000,000		
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 4352	Y	1		\$40,000		
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 4352	N	2		\$3,000,000		
78	Harbor Water Quality Mitigation Fund	Water & Sewer Infrastructure	Stormwater, pg 4413	N	2		\$1,000,000		
82	AWPF-Oxnard Regional Stormwater Capture Project Wetland Storage & Sewer Diversion Pilot	Water & Sewer Infrastructure	Stormwater, pg 4413	Y	2		\$1,000,000		

NEW	Fire Department: Direct Recycling Apparatus Firefighting Training and Sustainability - will save 7.5 million gallons of water per year	Replace Public Sector Revenue Loss	Government Services, pg 4400	Y	2	New project proposed by staff			\$100,000
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Item No.	Investment Idea	ARPA Category	ARPA Sub-Category, Federal Register page	Council Priority	Tranche	Notes	Picked by Council - 9/21/21	Tabled until spring 2022	New Projects
NEW	PD Mobile Command Post: radio communications and audio-visual equipment to assist in command and control function at special events, critical and non-critical incidents, relatively complex police operations, and disaster scenes	Replace Public Sector Revenue Loss	Government Services, pg 4400	Y	2	New project proposed by staff			\$750,000
NEW	City Library Technology Upgrade	Replace Public Sector Revenue Loss	Government Services, pg 4400	Y	2	New project proposed by staff			\$445,000
NEW	Ventura County Family Justice Center facility	Replace Public Sector Revenue Loss	Government Services, pg 4400	N	2	New project proposed by staff			\$2,000,000

\$48,192,200 \$6,250,000 \$3,295,000

Total of current projects: \$48,192,200
Total of projects deferred to spring: \$6,250,000
Total amount of new projects: \$3,295,000
Grand Total: \$57,737,200
Available ARPA funding: \$59,540,662
Remaining ARPA funding: \$1,803,462

SKATEPARK FACILITY CERTIFICATION RULES

SKATEBOARD FACILITIES

The scope of this regulation is to define the technical and safety features of multipurpose skateboard facilities used for recreation, sport and competition activities. This document applies to indoor and outdoor facilities, both temporarily and permanently built.

Classes of certification

The World Skate certification system comprises two (2) classes of certification:

Recreational (R-Class certification): identifies facilities, or sections of facilities, fit to skateboarding recreational and initiation activities by offering safe and functional areas for every level of skateboarding practice. While these facilities are essential to modern city life, they aren't fit to run official World Skate sanctioned events.

Competition (C-Class certification): identifies facilities, or portions of facilities, fit to host competitions at various levels depending on the certified rating class.

Certifications are issued with reference to specific disciplines recognized by World Skate as follows:

1. PARK-STYLE

A park-style course is composed of interconnected radial transitions and banked walls, built at various declinations, depths and heights, which are configured in a layout that provides athletes with the necessary amount of riding speed for consistent flow. The design must also include several integrated technical features providing athletes with a larger variety of trick options.

2. STREET-STYLE

A street-style course is composed of features and elements typically found in an urban environment such as stairs, rails, ledges, and banks. The configuration of these elements must allow athletes to have enough speed for consistent flow when approaching all obstacles on the course. The course must contain various individual features (or obstacles) that allow equal opportunity for athletes to perform tricks despite one's stance (regular and goofy).

While C-Class are specifically designed to host competitions of a specific discipline, R-Class courses, or sections of courses, can include design features for both disciplines.

Facility rating

The World Skate rating system aims to provide a quantifiable, easy to understand, evaluation of the quality of a skateboard facility. The rating evaluation comprises the quality of design and construction, and it is expressed in stars numbered from 1 to 5. Different sections of the same facility may have different class certifications and ratings.

Evaluation criteria include the followings:

Sport technical criteria	Skatepark footprint
	Creativity of design
	Functionality and versatility of the design
	Quality and number of flow-lines
	Quality and variety of materials
	Quality of Construction and finishing
	Availability of additional space for competition time facilities
	Lighting system availability
Social utility criteria	Availability and quality of permanent support facilities (Skate shop, club house, toilets etc.)
	Availability and quality of resting and socializing areas
	Urban landscape integration
	Level of landscape integration
	Proximity to public transport
	Parking lot availability

The rating of a skateboard facility will be provisionally assigned during the design phase and will be confirmed or re-evaluated upon completion of construction.

Olympic Games competition facilities

The Skateboarding facilities serving as “Field Of Play” (FOP) for the Olympic Games are considered the pinnacle of design and construction quality. For this reason, Olympic Tier FOPs are required to achieve a 5 Star C-Class certification.

Safety standard compliance

While adhering to the principles contained in this document, every skateboard facility falls under the applicable rules of its local and national safety standards.

General characteristics

LOCATION

The skatepark should be located in, or near, an urban area and be adequately integrated into the environment and existing infrastructure of services in the area. The facility must be easily accessible by spectators and by all users of different categories (athletes, media, public, etc.), according to a plan that considers local traffic and transportation, urban regulations, civic customs and habits.

In relation to this, it is necessary that parking facilities are available and adequate for the number of users, athletes, spectators, and staff expected both for regular daily use and for extended use during events.

Designated and suitable parking areas reserved for people with disabilities must be provided in compliance with local regulations on easy, safe and practical access to the venue.

FENCING

World Skate doesn't require any permanent fencing for a facility to be certified. However, World Skate international competition standards require the field of play, as well as the event area, to be fenced during practice and competition time. Inquire World Skate for the skateboarding competition handbook for reference.

Size of competition Facilities

While there are no footprint size requirements for a Recreation Class facility, Competition Class facilities must be designed within a specific footprint range. The minimum area requirement guarantees enough space to practice safely and the ability to have an adequate range of obstacles on the FOP. The maximum area requirement allows for the efficient use of the space during a standard competition run ranging from 45 to 60 seconds.

If the designers are required to plan for an extensive public facility, a competition area should be identified and adequately designed within the broader facility plan.

Discipline	Minimum	Maximum
Street	950 sqm/10.000 sqf	1900 sqm/20.500 sqf
Park	800 sqm/8600 sqf	1700 sqm/18300 sqf
<i>* Exceptions may be granted for skateparks offering efficient flow lines. This applies in particular to temporary competition skateparks especially when built indoors. Exceptions are considered and granted case by case with particular reference to facilities built before June 1st 2022</i> <i>* The minimum area is the planimetric area (footprint) that can be used for the practice (including skateable decks), spectators' and support staff areas are not included</i>		

SIDE BY SIDE SKATEPARKS

When FOPs for different disciplines areas are built next to each other, a minimum 10 meters wide and preferably flat aisle must be available between them. This is especially needed if the facility is meant to host multi discipline competitions. This area can be either a skateable area of the facility, connecting the two FOPs, or rather a non-paved buffer zone between the two FOPs.

SHAPE OF A SKATEPARK

For both street-style and park-style courses, the shape and layout are left to the creative freedom of the designer and are not required to adhere to any standard shape. Unique and creative designs are encouraged, as well as their integration into a given site's natural geography. It remains the exclusive right of World Skate to assess the characteristics and suitability of design. However, in order to prevent any potential organisational issues, the design of the proposed course and its surrounding areas, should keep in mind the needs, logistics and characteristics of a skateboard competition.

Structure and Characteristics of the Competition Class Facility

The number, size and design of the elements and sections in a skatepark are crucial for defining the quality and intended use of the course.

An “obstacle” is defined as a single ramp, slope, curb, rail or other feature of a skatepark. The obstacles can be designed in continuity (typical format of a park-style skatepark) or in a more isolated configuration (typical format of a street-style skatepark).

While skatepark design must always comply with domestic safety regulations and standards, the designer is free to size, combine, characterise and distribute the obstacles at his/her own discretion. Nonetheless, the designer is encouraged to create alternative shapes that promote the progression of skatepark design and skateboarding as a whole.

While staying compliant with applicable domestic safety regulations, the designer is given the freedom to choose the quantity and quality of the obstacles that create a unique skatepark. The inventions, modifications and integration of new obstacle shapes and their functional layout within a skatepark, is considered a virtue, and is a highly valued quality of skatepark designers. The non-standardisation and ongoing evolution of skatepark design is essential for skateboarding to thrive and progress.

For this reason, this standard does not intend to provide precise or binding prescriptions about the nature and quantity of structures presented in a skatepark but limits itself to outlining the minimum parameters of surface area with the necessary height of obstacles.

Dimensions and Type of Obstacles

PARK-STYLE

In order to allow the widest range and variety of skateboarding styles, a course must include a number of sections offering different features and depths:

- Shallow end: Lower section with assorted heights not exceeding 1.8 meters
- Deep end: Deep section with a height of no less than 2.4 meters, including a vertical section

Provided that the facility includes a shallow and a deep section as described above, all intermediate depths/heights between those of the deep and shallow sections are allowed. Both shallow and deep end areas within the course should contain various features such as hips, spines, banks, vertical walls, volcanos, and love seats etc. The edging or coping may include both metal pipe and/or concrete swimming pool style coping (pool coping). A reasonable level of tolerance will be adopted in evaluating measurements in countries using imperial standard units.

STREETSTYLE

Street-style courses should include a wide range of features and elements such as rails, ledges, banks, stairs, walls, and gaps etc. The selection, positioning and design of these features must allow athletes of different ability levels to perform various types of tricks and use the skatepark without any limitation imposed by their natural stance.

- Big section: Largest stair section or gap should be between 1.2 m and 1.6 m in height and include either rails, “Hubba” ledges, or both. While a big section, as described above, must be featured in every skatepark, stair sets and gaps bigger than 1.6m are allowed, but not demanded
- Lower sections: Smaller stair and bank sections should be less than 0.8 m in height and should also include rails, ledges or both

Provided that the facility includes both a big and a small section as described above, all intermediate heights between small and big sections are allowed. A reasonable level of tolerance will be adopted in evaluating measurements in countries using imperial standard units.

Flow Line

The term flow line refers to a common characteristic found in any skatepark that can be described as follows:

“The ability to skate through the whole course in various ways with an adequate speed to perform tricks of different types, with various amplitudes and technical levels, using a limited effort to continue without any forced interruption caused by design of the course”

The quality of the flow and its efficiency depends on:

- The positioning of features and elements throughout the skatepark
- Geometric characteristics (height, inclination, width, curvature, etc.) of features and elements
- Materials and finishing of rolling surfaces

Efficient flow lines provide athletes with adequate speed enabling the execution of multiple tricks in succession, without the need to stop or step off the skateboard. Well-designed flow lines also help to enable a safe and efficient circulation in the skatepark when many athletes are using the course at the same time.

The quantity and quality of the lines available in a skatepark must take absolute priority in the design phase and will be subject to a careful evaluation by World Skate.

Skateable surfaces

The term “skateable surfaces” refers to all the rolling surfaces within the facility, including:

- Horizontal floors
- The flooring of banked/sloped surfaces
- Surface of curved sections

All skateable surfaces must be perfectly smooth, not slippery, and ensure the sufficient adherence of skateboard wheels.

FLOORING TYPES ALLOWED

Outdoor permanent facilities

Outdoor permanent facilities are required to offer skateable concrete surfaces with a perfect finishing. Different materials may be used for aesthetic purposes or to create intentionally-various technical or performance challenges. These features must be limited only to a small portion of the skatepark floors and to a limited number of obstacles.

Temporary competition facilities

Indoor and outdoor temporary competition facilities designed to host international events (Continental Championships excluded) must predominantly offer concrete skateable surfaces. This applies with specific focus to areas and obstacles required to offer the degree of rigidity, rebound and elasticity needed for elite level skateboarding. The combination of materials used, along with their selective employment, must always be approved by World Skate.

Indoor permanent facilities

Permanent indoor facilities not meant to host International Events (Continental Championships excluded) can offer wood, MDF or HPL skateable surfaces. When using any other materials, the surfaces must show adherence characteristics and rigidity comparable to cement. The support structure must be firm and not be flexible or elastic.

SURFACE REGULARITY OF THE FLAT AREAS

The surface must be perfectly smooth. The deviations allowed in the finished surfaces and in the sliding surfaces must comply with the standards below.

SURFACE REGULARITY OF THE CURVED SECTIONS

The surface of the curved sections must correspond to the section defined in the project. Assays made with a curvilinear template on the sliding surface, must not show deviations greater than 1% of the radius of curvature, with a maximum of 2 cm.

SLOPES OF THE PAVEMENT

In indoor installations the surface must be horizontal. In outdoor facilities, in order to allow stormwater management, slopes of at least 1% are recommended with a maximum admission of 2%. In all cases, areas that naturally produce water stagnation must be avoided during the design phase. Where this is not possible to achieve, the facility must be equipped with rainwater drainage systems.

FRICTION

The surface must grant an adequate level of grip to skateboard wheels. We suggest performing grip tests before starting construction.

SMOOTHNESS

The surface must have a high degree of smoothness in order to minimize the rolling friction of the skateboard wheels. The requirements are currently being studied by World Skate and will be published in due course.

COLOUR

The colour of the flooring should not have overly dark or bright colour tones and should consider athlete safety, sun reflections and exposure issues related to television shoots and event broadcasts. The possible use of paints, pigments or resins must not compromise the optimal adhesion and smoothness of the surface of the FOP.

DRAINAGE

The flooring must have an efficient drainage system, especially in the park-style areas. The manhole covers and drainage, when present, must not alter the continuity and characteristics of the rolling surface, nor constitute a safety hazard for athletes (the manhole covers, and drainage must be equipped with an anti-lift system).

INDOOR INSTALLATIONS

For indoor facilities, with decks up to 300 cm high, the clearance above the highest platform must be at least 250 cm. In the case of platforms higher than 300 cm, at least 300 cm of clearance must be maintained from platform to ceiling.

LIGHTING

While permanent lighting is not required to receive a baseline certification, equipping the facility with a lighting system is generally strongly recommended for any public and competition facility.

The course must be lit by the means of a fixed or mobile artificial lighting system. Particular attention must be paid to avoiding direct glares or spotlight effects on the athletes. There must be a minimum illumination of 150 lux on the horizontal plane of the FOP, with a coefficient of uniformity (minimum luminance / average luminance) equal to 0.7. Security lighting system capable of automatically and instantly switching on in case of a power shortage. For further details refer to domestic safety regulations.

SUPPORT SERVICES FOR COMPETITIONS

When planning a *Competition Class* facility, the designer must take into consideration the need for a series of temporary infrastructures required for hosting competitions. While a more detailed description can be found in the World Skate competition handbook, a streamlined list with a basic description is provided below:

Item	N° / Area	Description
Sanitary Facilities	TBD	Sanitary facilities must be available throughout the whole duration of the event. Gender designated and separated sanitary facilities must be provided to athletes, spectators and staff. Quantity of the facility must follow local regulation.
Judging Booth	14-24 sqm	Sheltered, climatized and located in the vicinity of the competition area, providing a direct and comprehensive view of the FOP, without any interference from unauthorized staff, athletes or spectators.
Sports Presentation Booth	8-16 sqm	Sheltered and located in the vicinity of the competition area, the size of the booth depends on the size and complexity of sports presentation operations.
Athletes (and Support Staff) Lounge	50-100 sqm	Competitors and National Federation staff must be granted a restricted access area to relax and rest. The athletes and support staff lounge must be close to the FOP and provide safety, shade, and sufficient seating. The size of the athlete's lounge should be appropriate for the expected number of athletes participating in competition.
First Aid Support Area	9sqm (min)	A designated sheltered, safe and quiet area must be available for first aid and medical staff.
Anti-Doping Rooms	15-20 sqm	For the duration of the competition, a specific area must be equipped as the WADA requirements compliant anti-doping station.
Spectators, VIP, Media and Guest Areas	TBD	The facility must be equipped with areas, designated paths, and services for spectators (stands), media (office), guests and VIPs (lounge), and also consider the presence of people with disabilities.
Areas for Media and Television Installations	TBD	In case of high level competition, the facility must offer areas, routes and services for the press and television crews.
Additional Areas	TBD	Additional support service areas such as catering and parking must be available.

The certification process

The World Skate Facility Department is the sole entity responsible for the World Skate Certification for Skateboarding Facilities. While a World Skate Competition Class certification is required for facilities aiming to host official events, the Recreation Class certification should be sought to guarantee that facilities of any size and purpose meet the highest standards of skatepark design and construction.

The following phases must be completed in order to obtain a World Skate Facility Certification.

PHASE 1 - DESIGN REVIEW AND APPROVAL

The certification process always starts with a design review. Following the submission of the required documents, the World Skate Facility Department will provide a report highlighting the following details:

- Potential certification class and rating
- Recommendations for improvements (where needed)

In the case of necessary design improvements, the World Skate Facility Department will conduct a second review as included in the original review fee.

A “design approval” doesn’t directly lead to a certified facility. Skateparks can only be certified after the build has been completed, World Skate has verified its completion and the facility has been tested by a World Skate official.

PHASE 2 - FACILITY INSPECTION

No facility can be certified prior to a site inspection. A World Skate official will be appointed to personally inspect the newly completed facility. During inspection the facility will be checked against the approved designs. The skatepark will be scrutinized with specific attention made to the quality of construction, details and surface finishing.

PHASE 3 - CERTIFICATION RELEASE

Upon receiving the Facility Inspection Report, the World Skate Facility Department will issue a final document with the class and rating certification. Suggestions, comments and prescriptions may be attached to the Certification document. While suggestions and comments are made for reference only, prescriptions will outline the binding actions to be undertaken for the final validation of the certificate.

VALIDITY OF A CERTIFICATION

Due to the natural wear and degradation of construction materials, a World Skate Facility certification is valid for 5 years. After the initial 5-year period, Facilities can apply for renewal of their certification.



Visit Oxnard Wayfinding Proposal

CITY OF OXNARD AMERICAN RESCUE PLAN ACT (ARPA) FUNDS

This proposal submitted July 8, 2021, requests funds from the City of Oxnard by way of the American Rescue Plan Act (ARPA) in accordance with Sections 602(c)(1) of the Coronavirus State Fiscal Recovery Fund and 603(c)(1) of the Coronavirus Local Fiscal Recovery Fund, which provide that funds may be used to aid impacted industries such as tourism, travel and hospitality.

OBJECTIVE

Provide aid to Oxnard's hospitality industries and business districts that were closed during the COVID-19 public health emergency by way of investment in an upgraded wayfinding information system.

Despite losses due to Covid-19 business closures and community lockdowns, California is well-positioned for recovery. Tourism Economics projects domestic visitor spending in California will reach 76% of 2019 levels this year. In 2022, domestic spending will hit 94% of 2019 levels, and total visitor spending, including resurgent international travel, will hit 87%. It is imperative that Oxnard position itself to capture market share as Statewide destinations compete to regain travelers.

STRATEGIC APPROACH

Support the tourism experience and related economic benefits through investment in information systems that physically and experientially contribute to higher profits in the private sector, greater visitation and regional revitalization and growth.

*Wayfinding is part of a larger toolbox of a **coordinated marketing program**, with secondary attractions typically seeing the greatest benefits.*

*Creates repeat visitation and extended stays by increasing awareness of the **depth of destinations**.*

*International Downtown Association has identified wayfinding as one of its **Top 10 economic strategies** for America's downtowns.*



INCREASE IN OVERNIGHT STAYS, REPEAT VISITATION AND DAILY EXPEDITURES

3600 Harbor Blvd. #469, Oxnard, Ca 93035

VisitOxnard.com

PROPOSED INITIATIVE

WAYFINDING PROGRAM

Visit Oxnard proposes a partnership with MERGE Design to design and implement a citywide wayfinding program.

CONSTRUCTION COST COMPARISON

Many regions and cities consider funding capital construction projects for singular attractions to help revitalize a community or to help spur economic development. Wayfinding offers a much lower capital cost, while promoting and supporting existing attractions.

Minor League Baseball Stadium	\$15,000,000 - \$20,000,000
Waterpark	\$8,000,000 - \$15,000,000
Streetscape Project	\$1,500,000 - \$5,000,000
Downtown Movie Theater	\$1,500,000 - \$2,000,000
Community Wayfinding Program	\$250,000 - \$1,500,000



Source: Various Reports / Statistical comparison compiled by MERJE

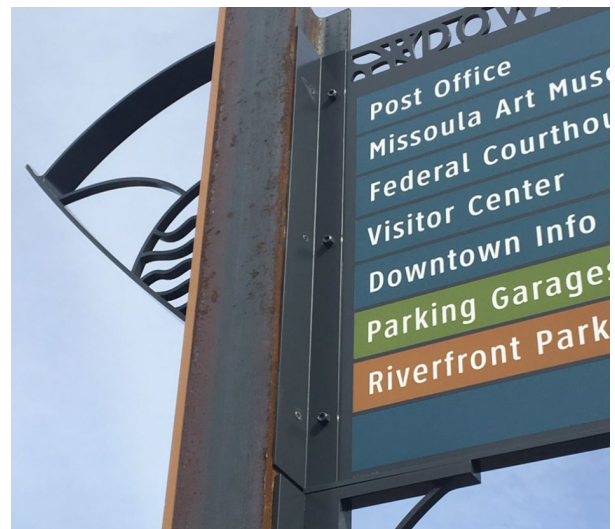
As experiential graphic designers, MERJE Design creates memorable places and meaningful visitor experiences. MERJE assists clients in reaching their strategic goals by creating a sense of place, reinforcing their brand identity and promoting their uniqueness, with distinctive designs reflective of their character and culture. These solutions present welcoming environments, encourage discovery of new destinations and promote return visits.

WAYFINDING COSTS

- 1) Hire Design / Planning Team
- 2) Implementation
- 3) Maintenance
- 4) Internal Project Management (staff time)

BUDGETS FOR #1 & #2

Small Community	\$350k - \$500k
Mid-Size City	\$500k - \$750k
Large Downtown	\$750k - \$1.4m
Regional	\$1.4m - \$1.9m





PROPOSED INITIATIVE

Phases of the above listed program are proposed to begin in two separate fiscal years: FY 2022-2023 and FY 2023-2024 as outlined below.

INVESTMENT TOTALS – START DATE – FY 2022-2023

PHASE I

Hire Design / Planning Team – Assessment and Design Phase	\$45,000
Familiarization Tour	5,000
	<u>\$50,000</u>

INVESTMENT TOTALS – START DATE – FY 2023-2024

PHASE II

Implementation – Mid- to Large-Size City	\$950,000
	<u>\$950,000</u>

TOTAL	<u>\$1,000,000</u>
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Not included in the above figures is an annual maintenance contract to ensure that signage is maintained and/or replaced if damaged.

ESTIMATE

ITEM #	TASK	%	COST
1	FINANCE	2.5	17500
2	DESIGN: PLANS/SPECS/ PERMIT	10	70000
3	PROJECT MANAGEMENT	5	35000
4	HAZARD MATERIAL TESTING	1.5	10500
5	MOBILIZATION	8	56000
6	CONSTRUCTION CONTINGENCY	10	70000
7	INTERNAL CONTINGENCY	10	70000
8	SELECTIVE DEMOLITION		37000
9	ROUGH CARPENTRY		25000
10	FINISH CARPENTRY		40000
11	WOOD ROOF REPLACEMENT		170000
12	SHEET METAL COMPONENTS		20000
13	SEALANT/ FLASHING		15000
14	WINDOWS / GLAZING		65000
15	INTERIOR PAINTING		32000
16	EXTERIOR PAINTING		55000
17	HAZARD MATERILA ABATMENT		42000
18	NEW LEVEL FLOOR IN CHURCH		51000
19	NEW FLOORING IN CHURCH		9000
20	RESTROOMS IN CHURCH		40000
21	ADA RAMP sw ENTRANCE		17000
22	PLUMBING		6000
23	ELECTRICAL		15000
24	HVAC/ EMS		5000
25	FOUNDATION VENTALATION/ WATERPROOF		23000
26	LANDSCAPE IMPROVEMENTS		27000
27	WINE BUILDING FLOORING		7000
SUB TOTAL:			701000
DEVELOPMENT COST:			329000
TOTAL PROJECT ESTIMNATE:			1030000

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505-AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is adopting as final the interim final rule published on May 17, 2021, with amendments. This rule implements the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: The provisions in this final rule are effective April 1, 2022.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Director, Coronavirus State and Local Fiscal Recovery Funds, Office of Recovery Programs, Department of the Treasury, (844) 529-9527.

SUPPLEMENTARY INFORMATION:

I. Introduction

Overview

Since the first case of coronavirus disease 2019 (COVID-19) was discovered in the United States in January 2020, the pandemic has caused severe, intertwined public health and economic crises. In March 2021, as these crises continued, the American Rescue Plan Act of 2021 (ARPA)¹ established the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to provide state, local, and Tribal governments² with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery. The U.S. Department of the Treasury (Treasury) issued an interim final rule implementing the SLFRF program on May 10, 2021³ and has since disbursed over \$240 billion to state, local, and Tribal governments and received over 1,500 public comments on the interim final rule. Treasury is now issuing this final rule which responds to public comments, implements the ARPA statutory provisions on eligible and ineligible uses of SLFRF funds, and

makes several changes to the provisions of the interim final rule, summarized below in the section Executive Summary of Major Changes.

Since Treasury issued the interim final rule in May 2021, both the public health and economic situations facing the country have evolved. On the public health front, the United States has made tremendous progress in the fight against COVID-19, including a historic vaccination campaign that has reached over 80 percent of adults with at least one dose and is reaching millions of children as well.⁴ However, the disease continues to present an imminent threat to public health, especially among unvaccinated individuals. As the Delta variant spread across the country this summer and fall, the United States faced another severe wave of cases, deaths, and strain on the healthcare system, with the risk of hospitalization and mortality exponentially greater to unvaccinated Americans. COVID-19 has now infected over 50 million and killed over 800,000 Americans since January 2020; tens of thousands of Americans continue to be infected each day.⁵ Even as the nation recovers, new and emerging COVID-19 variants may continue to pose threats to both public health and the economy. Moving forward, state, local, and Tribal governments will continue to play a major role in responding through vaccination campaigns, testing, and other services.

The economic recovery similarly has made tremendous progress but faces continued risks from the disease and the disruptions it has caused. In the early months of the pandemic, the United States experienced the sharpest economic downturn on record, with unemployment spiking to 14.8 percent in April 2020.⁶ The economy has gradually added back jobs, with growth accelerating in the first half of 2021.⁷ However, as the Delta variant spread, the intensified health risks and renewed disruptions slowed growth, demonstrating the continued risks from the virus. By fall 2021, the economy had

exceeded its pre-pandemic size⁸ and unemployment had fallen below 5 percent,⁹ but despite this progress, too many Americans remain unemployed, out of the labor force, or unable to pay their bills, with this pain particularly acute among lower-income Americans and communities of color. Again, moving forward, state, local, and Tribal governments will remain on the frontlines of the economic response and rebuilding a stronger economy in the aftermath of the pandemic.

However, as state, local, and Tribal governments continue to face substantial needs to respond to public health and economic conditions, they have also experienced severe impacts from the pandemic and resulting recession. State, local, and Tribal governments cut over 1.5 million jobs in the early months of the pandemic amid sharp declines in revenue and remain over 950,000 jobs below their pre-pandemic levels.¹⁰ As the Great Recession demonstrated, austerity among state, local, and Tribal governments can hamper overall economic growth and severely curtail the ability of governments to serve their constituents.

Recognizing these imperatives, the SLFRF program provides vital resources for state, local, and Tribal governments to respond to the pandemic and its economic effects and to replace revenue lost due to the public health emergency, preventing cuts to government services. Specifically, the ARPA provides that SLFRF funds¹¹ 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

⁸ U.S. Bureau of Economic Analysis, Real Gross Domestic Product [GDPC1], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/GDPC1> (last visited December 7, 2021).

⁹ U.S. Bureau of Labor Statistics, *supra* note 6.

¹⁰ 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 December 7, 2021).

¹¹ The ARPA adds section 602 of the Social Security Act, which creates the State Fiscal Recovery Fund, and section 603 of the Social Security Act, which creates the Local Fiscal Recovery Fund (together, SLFRF). Sections 602 and 603 contain substantially similar 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.

¹ Public Law 117-2. <https://www.congress.gov/117/plaws/publ2/PLAW-117-publ2.pdf>.

² Throughout this Supplementary Information, Treasury uses “state, local, and Tribal governments” or “recipients” to refer generally to governments receiving SLFRF funds; this includes states, territories, Tribal governments, counties, metropolitan cities, and nonentitlement units of local government.

³ 86 FR 26786 (May 17, 2021).

⁴ 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 December 31, 2021).

⁵ Centers for Disease Control and Prevention, COVID Data Tracker, <http://www.covid.cdc.gov/covid-data-tracker/#data-tracker-home> (last visited December 7, 2021).

⁶ 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 December 7, 2021).

⁷ *Id.*

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 specified two types of ineligible uses of funds: funds may not be used for deposit into any pension fund or, for states and territories only, to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation.

Issued May 10, 2021, Treasury's interim final rule provided further detail on eligible uses of funds within the four statutory categories, ineligible uses of funds, and administration of the program. The interim final rule provided state, local, and Tribal governments substantial flexibility to determine how best to use payments from the SLFRF program to meet the needs of their communities. The interim final rule aimed to facilitate 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 eligible uses of funds that state, local, and Tribal governments may consider.

State, local, and Tribal governments are already deploying SLFRF funds to make an impact in their communities. The SLFRF program ensures that state, local, and Tribal governments have the resources needed to fight the pandemic, sustain and strengthen the economic recovery, maintain vital public services, and make investments that support long-term growth, opportunity, and equity. Treasury looks forward to supporting and engaging with state, local, and Tribal governments as they use these funds to make transformative investments in their communities. Finally, with so many pressing and effective ways to use SLFRF funds, there is no excuse for waste, fraud, or abuse of these funds.

Treasury received over 1,500 comments spanning nearly all aspects of the interim final rule. The final rule considers and responds to comments, provides clarification to many aspects of the interim final rule, and makes several changes to eligible uses under the program, summarized immediately below.

Executive Summary of Major Changes and Clarifications

The final rule provides broader flexibility and greater simplicity in the program, in response to public comments. Among other clarifications and changes, the final rule provides for the following:

- **Public Health and Negative Economic Impacts:** In addition to programs and services, the final rule clarifies that recipients may use funds for capital expenditures that support an eligible COVID-19 public health or economic response. For example, recipients may build certain affordable housing, childcare facilities, schools, hospitals, and other projects consistent with the requirements in this final rule and the Supplementary Information.

In addition, the final rule presumes that an expanded set of households and communities are “impacted” or “disproportionately impacted” by the pandemic, thereby allowing recipients to provide responses to a broad set of households and entities without requiring additional analysis. Further, the final rule provides a broader set of enumerated eligible uses available for these communities as part of COVID-19 public health and economic response, including making affordable housing, childcare, and early learning services eligible in all impacted communities and making certain community development and neighborhood revitalization activities eligible for disproportionately impacted communities.

Further, the final rule allows for a broader set of uses to restore and support government employment, including hiring above a recipient's pre-pandemic baseline, providing funds to employees that experienced pay cuts or furloughs, avoiding layoffs, and providing retention incentives.

- **Premium Pay:** The final rule offers more streamlined options to provide premium pay, by broadening the share of essential workers who can receive premium pay without a written justification while maintaining a focus on lower-income and frontline essential workers.

- **Revenue Loss:** The final rule offers a standard allowance for revenue loss of up to \$10 million, not to exceed a recipient's SLFRF award amount, allowing recipients to select between a standard amount of revenue loss or complete a full revenue loss calculation. Recipients that select the standard allowance may use that amount for government services.

- **Water, Sewer, and Broadband Infrastructure:** The final rule

significantly broadens eligible broadband infrastructure investments to address challenges with broadband access, affordability, and reliability, and adds additional eligible water and sewer infrastructure investments, including a broad range of lead remediation and stormwater management projects.

Structure of the Supplementary Information

In addition to this Introduction, this Supplementary Information is organized into four sections: (1) Eligible Uses, (2) Restrictions on Use, (3) Program Administration Provisions, and (4) Regulatory Analyses.

The Eligible Uses section describes the standards to determine eligible uses of funds in each of the four eligible use categories:

(1) Responding to the public health and negative economic impacts of the pandemic (which includes several sub-categories)

(2) Providing premium pay to essential workers

(3) Providing government services to the extent of revenue loss due to the pandemic, and

(4) Making necessary investments in water, sewer, and broadband infrastructure.

Each eligible use category has separate and distinct standards for assessing whether a use of funds is eligible. Standards, restrictions, or other provisions in one eligible use category do not apply to the others. Therefore, recipients should first determine which eligible use category a potential use of funds fits within, then assess whether the potential use of funds meets the eligibility standard or criteria for that category. In the case of uses to respond to the public health and negative economic impacts of the pandemic, recipients should also determine which sub-category the eligible use fits within (*i.e.*, public health, assistance to households, assistance to small businesses, assistance to nonprofits, aid to impacted industries, or public sector capacity and workforce), then assess whether the potential use of funds meets the eligibility standard for that sub-category. Treasury does not pre-approve uses of funds; recipients are advised to review the final rule and may pursue eligible projects under it.

In some sections of the rule, Treasury identifies specific uses of funds that are eligible, called “enumerated eligible uses”; for example, Treasury provides many enumerated eligible uses of funds to respond to the public health and negative economic impacts of the pandemic. Uses of funds that are not specifically named as eligible in this

final rule may still be eligible in two ways. First, under the revenue loss eligible use category, recipients have broad latitude to use funds for government services up to their amount of revenue loss due to the pandemic. A potential use of funds that does not fit within the other three eligible use categories may be permissible as a government service, which recipients can fund up to their amount of revenue loss. For example, transportation infrastructure projects are generally ineligible as a response to the public health and negative economic impacts of the pandemic; however, a recipient could fund these projects as a government service up to its amount of revenue loss, provided that other restrictions on use do not apply. See sections Revenue Loss and Restrictions on Use for further information. Second, the eligible use category for responding to the public health and negative economic impacts of the pandemic provides a non-exhaustive list of enumerated eligible uses, which means that the listed eligible uses include some, but not all, of the uses of funds that could be eligible. The Eligible Uses section provides a standard for determining if other uses of funds, beyond those specifically enumerated, are eligible. If a recipient would like to pursue a use of funds that is not specifically enumerated, the recipient should use the standard and other guidance provided in the section Public Health and Negative Economic Impacts to assess whether the use of funds is eligible.

Next, the Restrictions on Use section describes limitations on how funds may be used. Treasury has divided the Restriction on Use section into (A) statutory restrictions under the ARPA, which include (1) offsetting a reduction in net tax revenue, and (2) deposits into pension funds, and (B) other restrictions on use, which include (1) debt service and replenishing reserves, (2) settlements and judgments, and (3) general restrictions. These restrictions apply to all eligible use categories; however, some restrictions apply only to certain types of recipient governments, and recipients are advised to review the final rule to determine which restrictions apply to their type of government (e.g., state, territory, Tribal government, county, metropolitan city, or nonentitlement unit of government). To reiterate, for recipient governments covered by a specific restriction, that restriction applies to all eligible use categories and any use of funds under the SLFRF program. Specifically:

- For states and territories only, funds may not be used to offset directly or

indirectly a reduction in net tax revenue resulting from a change in state or territory law.

- For all recipients except Tribal governments, funds may not be used for deposits into a pension fund.
- For all recipients, funds may not be used for debt service or replenishing financial reserves.
- All recipients must also comply with three general restrictions. First, a recipient may not use SLFRF funds for a program, service, or capital expenditure that conflicts with or contravenes the statutory purpose of ARPA, including a program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID–19. Second, recipients may not use SLFRF funds in violation of the conflict-of-interest requirements contained in the Award Terms and Conditions, including any self-dealing or violation of ethics rules. Lastly, recipients should be aware that federal, state, and local laws and regulations, outside of SLFRF program requirements, also apply, including for example, environmental laws and federal civil rights and nondiscrimination requirements, which include prohibitions on discrimination on the basis of race, color, national origin, sex (including sexual orientation and gender identity), religion, disability, age, or familial status (having children under the age of 18).

The Program Administration Provisions section describes the processes and requirements for administering the program on an ongoing basis, specifically as relates to the following: Distribution of funds, timeline for using funds, transfer of funds from a recipient to different organizations, use of funds for program administration, reporting on use of funds, and remediation and recoupment of funds used for ineligible purposes. Of note, SLFRF funds may only be used for costs incurred within a specific time period, beginning March 3, 2021, with all funds obligated by December 31, 2024 and all funds spent by December 31, 2026. Recipients are advised to also consult Treasury's Reporting and Compliance Guidance for additional information on program administration processes and requirements, including applicability of the Uniform Guidance.

Finally, the section Regulatory Analyses provides Treasury's analysis of the impacts of this rulemaking, as required by several laws, regulations, and Executive Orders.

Throughout this Supplementary Information, statements using the terms “should” or “must” refer to requirements, except when used in

summarizing opinions expressed in public comments. Statements using the term “encourage” refer to recommendations, not requirements.

II. Eligible Uses

A. Public Health and Negative Economic Impacts

Background

Since the first case of COVID–19 was discovered in the United States in January 2020, the disease has infected over 50 million and killed over 800,000 Americans.¹² The disease—and necessary measures to respond—have had an immense public health and economic impact on millions of Americans across many areas of life, as detailed below in the respective sections on Public Health and Negative Economic Impacts. Since the release of the interim final rule in May 2021, the country has made major progress in fighting the disease and rebuilding the economy but faces continued risks, as illustrated by the spread of the Delta variant and the resulting slowdown in the economic recovery. The SLFRF program, and Treasury's interim final rule, provide substantial flexibility to recipients to respond to pandemic impacts in their local community; this flexibility is designed to help state, local, and Tribal governments adapt to the evolving public health emergency and tailor their response as needs evolve and to the particular local needs of their communities.

Indeed, state, local, and Tribal governments face continued needs to respond at scale to the public health emergency. This includes continued public health efforts to slow the spread of the disease, to increase vaccination rates and provide vaccinations to new populations as they become eligible, to protect individuals living in congregate facilities, and to address the broader impacts of the pandemic on public health. Similarly, while a strong economic recovery is underway, the economy remains 3.9 million jobs below its pre-pandemic level, pointing to the continued need for response efforts, with low-income workers and communities of color facing elevated rates of unemployment and economic hardship.¹³ Long-standing disparities in health and economic outcomes in

¹² Centers for Disease Control and Prevention, COVID Data Tracker, <http://www.covid.cdc.gov/covid-data-tracker/#data-tracker-home> (last visited December 31, 2021).

¹³ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS] <https://fred.stlouisfed.org/series/PAYEMS> (last visited December 7, 2021).

underserved¹⁴ communities, that amplified and exacerbated the impacts of the pandemic, also present continued barriers to full and equitable recovery.

As state, local, and Tribal governments work to meet the public health and economic needs of their communities, these governments are also confronting the need to rebuild their own capacity. Facing severe budget challenges during the pandemic, many state, local, and Tribal governments have been forced to make cuts to services or their workforces, including cutting over 1.5 million jobs from February to May 2020, or delay critical investments. As of fall 2021, state, local, and Tribal government employment remained over 950,000 jobs below pre-pandemic levels.¹⁵ In the recovery from the Great Recession, cuts to state, local, and Tribal governments became a meaningful drag on economic growth for several years, and the SLFRF program provides the resources needed to re-invest in vital public services and workers to avoid this outcome.¹⁶

1. General Provisions: Structure and Standards

Background: Sections 602(c)(1)(A) and 603(c)(1)(A) of the Social Security Act establish that recipients may use funds “to respond to the public health emergency with respect to COVID–19 or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.” The interim final rule established three categories within this eligible use: (1) Public health responses for those impacted by the pandemic, including the general public; (2) responses to the negative economic impacts that were experienced by those impacted as a result of the pandemic; and (3) additional services, either as a public health response or a response to the negative economic impacts of the

pandemic, for disproportionately impacted communities.

The interim final rule established the method to determine which specific programs or services may be eligible to respond to the public health emergency or to respond to the negative economic impacts of the public health emergency within this framework. The interim final rule included multiple enumerated uses that are eligible within each of these categories when provided to eligible populations, including populations that the interim final rule presumed to have been *impacted* (in the case of public health responses and responses to negative economic impacts) or *disproportionately impacted* (in the case of disproportionately impacted communities). Finally, the interim final rule also allowed recipients to designate additional individuals or classes as impacted or disproportionately impacted. The standards for each of these criteria under the interim final rule are discussed below.

To assess whether a program or service would be eligible to respond to the public health emergency or its negative economic impacts, the interim final rule stated that, “the recipient [is required] 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 [. . .] [E]ligible 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.” The enumerated eligible uses were presumed to meet this criterion.

With respect to uses not specifically enumerated in the interim final rule as eligible public health responses, the interim final rule stated that, “[t]o 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.”

With respect to uses not specifically enumerated in the interim final rule as eligible responses to a negative economic impact of the public health emergency, the interim final rule stated that “[e]ligible 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 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 to or address this harm.¹⁷ 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.” The interim final rule went on to say that: “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.”

Throughout this final rule, Treasury refers to households, communities, small businesses, nonprofits, and industries that experienced public health or negative economic impacts of the pandemic as “impacted.” The first section in the interim final rule under this eligible use category included public health responses for these impacted classes. The second category in the interim final rule under this eligible use category included responses to the negative economic impacts that were experienced by these impacted classes as a result of the pandemic.

The interim final rule further recognized that certain populations have experienced disproportionate health or negative economic impacts during the pandemic, as pre-existing disparities in these communities amplified the impacts of the pandemic. For example, the interim final rule recognized that the negative economic effects of the pandemic were particularly pronounced among lower-income families, who were more likely to experience income loss and more likely to have a job that required in-person work. The interim final rule recognized the role of pre-existing social vulnerabilities and disparities in driving the disparate health and economic outcomes and presumed that programs designed to address these health or economic disparities are responsive to the public health or negative economic impacts of the COVID–19 public health emergency, when provided in disproportionately impacted communities. In addition to identifying certain populations and communities

¹⁴ Treasury uses “underserved” to refer to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. In the interim final rule, Treasury generally used the term “disadvantaged” to refer to these same populations and communities.

¹⁵ 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 December 7, 2021).

¹⁶ 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>.

¹⁷ 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 section 602 and 603 of the Social Security Act.

presumed to be disproportionately impacted, it also empowered recipients to identify other disproportionately impacted households, populations, communities, or small businesses. The interim final rule provided that, 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.

Throughout this final rule, Treasury refers to those households, communities, small businesses, and nonprofits that experienced disproportionate public health or negative economic impacts of the pandemic as “disproportionately impacted.” The third category in the interim final rule under this eligible use included public health responses and responses to the negative economic impacts for these disproportionately impacted classes.

The interim final rule provided significant flexibility for recipients to determine which households, populations, communities, or small businesses have been impacted and/or disproportionately impacted by the pandemic and to identify appropriate responses. The interim final rule included several provisions to provide simple methods for recipients to identify impacts and design programs to address those impacts. First, the interim final rule allowed recipients to demonstrate a negative economic impact on a population or class and provide assistance to households or small businesses that fall within that population or class. In such cases, the recipient need only demonstrate that an individual household or business is within the class that experienced a negative economic impact, rather than requiring a recipient to demonstrate that each individual household or small business experienced a negative economic impact, because the impact was already identified for the class.

Second, in the interim final rule, Treasury presumed that certain populations have been impacted or disproportionately impacted and are thus eligible for services that respond to these impacts or disproportionate impacts. Specifically, the interim final rule permitted recipients to presume that households that experienced unemployment, increased food or housing insecurity, or are low- or moderate-income experienced a negative economic impact from the pandemic. The interim final rule also permitted recipients to presume that

certain services provided in Qualified Census Tracts (QCTs), to individuals living in QCTs, or by Tribal governments are responsive to disproportionate impacts of the pandemic. In addition to the populations presumed to be impacted or disproportionately impacted, under the interim final rule, recipients could identify other impacted households or classes, as described above, as well as other populations, households, or geographic areas that are disproportionately impacted by the pandemic.

Third, as mentioned previously, the interim final rule included a non-exhaustive list of uses of funds that Treasury identified as responsive to the impacts or disproportionate impacts of the pandemic. Treasury refers to these as “enumerated eligible uses.”

To summarize, the interim final rule identified certain populations that are presumed to be *impacted* by the pandemic (and specific enumerated uses of funds that are responsive to that impact) and populations that are presumed to be *disproportionately impacted* by the pandemic (and specific enumerated uses of funds that are responsive to those disproportionate impacts). In addition, the interim final rule provided standards for recipients to assess whether additional uses of funds, beyond the enumerated eligible uses, are eligible for impacted and disproportionately impacted populations and permitted recipients to identify other households or classes that experienced impacts of the pandemic or disproportionate impacts of the pandemic.

Rule Structure

Public Comment: Many commenters expressed concern regarding the structure of the eligible uses, indicating they found the structure of the public health and negative economic impacts section of the interim final rule to be confusing or difficult to navigate. Other commenters indicated that they understood the enumerated uses to be the only eligible uses and/or the presumed eligible populations to be the only eligible populations. Several commenters expressed frustration about the number of eligible uses specifically enumerated in the interim final rule, which they considered too few, and commenters proposed a wide range of additional enumerated eligible uses (for further discussion, see the section Public Health and section Negative Economic Impacts). Commenters expressed concern with pursuing uses of funds not explicitly enumerated in the eligible use section or uncertainty

regarding the broad flexibility provided under the interim final rule to pursue additional programs that respond to the public health or negative economic impacts of the pandemic or the process for doing so.

Treasury Response: Treasury recognizes that many commenters felt the structure of the interim final rule could be clarified. These comments are consistent with many of the questions that Treasury has received from recipients, which requested clarification regarding the category their desired response fits into. Treasury observes that these comments and questions generally fall into four categories: (1) How to identify the correct public health or negative economic impact category for a particular response, (2) how to identify whether a particular use is eligible, (3) how to identify an impacted or disproportionately impacted class, and (4) whether an enumerated use can be provided to a class other than those presumed impacted or disproportionately impacted. In response to comments, Treasury is adjusting the structure of the public health and negative economic impacts eligible use section of the final rule to improve clarity and make it easier for recipients to interpret and apply the final rule.

Specifically, Treasury is restructuring the rule to aid recipients in determining whether a particular response is eligible and how the particular response might be eligible under a particular category. This restructuring reinforces the fundamental criteria that a use of funds is eligible based on its responsiveness to a public health or negative economic impact experienced by individuals, households, small businesses, nonprofits, or impacted industries (together “beneficiaries”).¹⁸ This restructuring is intended to make the rule easier to navigate and to implement, including any criteria or conditions on particular uses of funds.

The reorganization of the public health and negative economic impacts section of the final rule is also intended to clarify the enumerated eligible uses described in the interim final rule. The reorganization itself is not intended to change the scope of the enumerated uses that were included in the interim final rule or that were allowable under the interim final rule. In some cases, specific enumerated uses are being altered, and those changes are discussed

¹⁸ Note that small businesses, nonprofits, and industries may also function as subrecipients. For additional information on these distinctions see section Distinguishing Subrecipients versus Beneficiaries.

as changes within the section on that enumerated use.

The final rule streamlines and aligns services and standards that are generally applicable or are provided for public health purposes. Under this approach, eligible uses to respond to the public health emergency are organized based on the type of public health problem: (1) COVID-19 mitigation and prevention, (2) medical expenses, (3) behavioral health care, and (4) preventing and responding to violence. Under this approach, eligible uses to respond to the negative economic impacts of the public health emergency are organized based on the type of beneficiary: (1) Assistance to households, (2) assistance to small businesses, and (3) assistance to nonprofits, alongside a fourth standalone eligibility category for aid to travel, tourism, hospitality, and other impacted industries. The first three categories, assistance to households, small businesses, and nonprofits, include enumerated eligible uses for impacted and disproportionately impacted beneficiaries. This change in structure is intended to provide a framework that clearly identifies the intended beneficiaries of uses of funds and provides clarity about what types of assistance are “responsive to the pandemic or its negative economic impacts” for these beneficiaries.

a. Standards for Identifying a Public Health or Negative Economic Impact

Standards: Designating a Public Health Impact

Public Comment: Many commenters expressed uncertainty about how to determine whether a use of funds, beyond those specifically enumerated as eligible, might be an eligible public health response. For example, many commenters submitted questions asking whether specific uses of funds would be eligible. Others described what they considered to be impacts of the pandemic and argued that uses of funds to respond to these issues should be eligible. Some commenters requested that Treasury provide additional detail to guide their assessments of eligible uses of funds. For example, a commenter requested more clarification around exactly what and whose medical expenses can be covered. These comments ranged in their specificity and covered the full range of the enumerated eligible uses.

Treasury Response: Treasury is clarifying that when assessing whether a program or service is an eligible use to respond to the public health impacts of the COVID-19 public health emergency, the Department will

consider the two eligibility requirements discussed below. These standards apply to all proposed public health uses.

First, there must be a negative public health impact or harm experienced by an individual or a class. For ease of administration, the interim final rule allowed, and the final rule maintains the ability for, recipients to identify a public health impact on a population or group of individuals, referred to as a “class,” and to provide assistance to that class. In determining whether an individual is eligible for a program designed to address a harm experienced by a class, the recipient need only document that the individual is within the class that experienced a public health impact, see section Standards: Designating Other Impacted Classes. In the case of some impacts, for example impacts of COVID-19 itself that are addressed by providing prevention and mitigation services, such a class could reasonably include the general public.

Second, the program, service, or other intervention must address or respond to the identified impact or harm. The final rule maintains the interim final rule requirement that eligible uses under this category must be in response to the disease itself or other public health harms that it caused.¹⁹

Responses must be reasonably designed to benefit the individual or class that experienced the public health impact or harm. Uses of funds should be assessed based on their responsiveness to their intended beneficiaries and the ability of the response to address the impact or harm experienced by those beneficiaries.

Responses must also be related and reasonably proportional to the extent and type of public health impact or harm experienced. Uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Reasonably proportional refers to the scale of the response compared to the scale of the harm. It also refers to the targeting of the response to beneficiaries compared to the amount of harm they experienced. In evaluating whether a

use is reasonably proportional, recipients should consider relevant factors about the harm identified and the response. For example, recipients may consider the size of the population impacted and the severity, type, and duration of the impact. Recipients may also consider the efficacy, cost, cost-effectiveness, and time to delivery of the response.

If a recipient intends to fund capital expenditures in response to the public health impacts of the pandemic, recipients should refer to the section Capital Expenditures for details about the eligibility of capital expenditures.

Standards: Designating a Negative Economic Impact

Public Comment: Many commenters expressed uncertainty about how to determine whether uses of funds, beyond those specifically enumerated as eligible, might be eligible responses to negative economic impacts. For example, many commenters submitted questions asking whether specific uses of funds would be eligible. Others described what they considered to be impacts of the pandemic and argued that uses of funds to respond to these issues should be eligible. Some commenters requested that Treasury provide additional detail to guide their assessments of eligible uses of funds. These comments ranged in their specificity and covered the full range of eligible uses to respond to negative economic impacts. Several commenters asked for clarification about what types of food assistance would be considered eligible. Another commenter requested that the establishment of outdoor dining be eligible. Many commenters inquired about homeless shelters as an eligible use of SLFRF funds.

Commenters also expressed uncertainty about the ability to establish classes, including geographic areas, that experienced a negative economic impact or disagreed with the requirement that an individual entity be impacted by the pandemic in order to receive assistance. For example, a commenter argued that interventions should not be limited to individuals or businesses that experienced an economic impact and should instead be used broadly to support economic growth. These commenters argued that an expenditure that supports a more robust economy may help combat the pandemic’s negative economic impacts, and it can do so even if funding is provided to individuals or entities that did not themselves experience a negative economic impact during the pandemic.

Treasury Response: The final rule maintains the standard articulated in

¹⁹ In designing an intervention to mitigate COVID-19, the recipient should consider guidance from public health authorities, particularly the Centers for Disease Control and Prevention (CDC), in assessing appropriate COVID-19 mitigation and prevention strategies (see Centers for Disease Control and Prevention, COVID-19, <https://www.cdc.gov/coronavirus/2019-ncov/index.html>). A program or service that imposes conditions on participation in or acceptance of the service that would undermine efforts to stop the spread of COVID-19 or discourage compliance with practices in line with CDC guidance for stopping the spread of COVID-19 is not a permissible use of funds.

the interim final rule. For clarity, the final rule re-articulates that when assessing whether a program or service is an eligible use to respond to the negative economic impacts of the COVID-19 public health emergency, Treasury will consider the two eligibility requirements discussed below.

First, there must be a negative economic impact, or an economic harm, experienced by an individual or a class. 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. A recipient should first consider whether an economic harm exists and then whether this harm was caused or made worse by the COVID-19 public health emergency. This approach is consistent with the text of the statute, which provides that funds in this category must be used to “respond to the public health emergency with respect to . . . its negative economic impacts.”

While economic impacts may either be immediate or delayed, individuals or classes that did not experience a negative economic impact from the public health emergency would not be eligible beneficiaries under this category. As noted above, the interim final rule permitted recipients to presume that households that experienced unemployment, increased food or housing insecurity, or are low- or moderate-income experienced a negative economic impact from the pandemic. For discussion of the final rule’s approach to this presumption, see section Populations Presumed Eligible.

The final rule also maintains several provisions included in the interim final rule and subsequent guidance that are intended to ease administration of identifying that the beneficiary experienced a negative economic impact or harm. For example, the interim final rule allowed, and the final rule maintains the ability for, recipients to demonstrate a negative economic impact on a population or group, referred to as a “class,” and to provide assistance to households, small businesses, or nonprofits that fall within that class. In such cases, the recipient need only demonstrate that the household, small business, or nonprofit is within the class that experienced a negative economic impact, see section Standards: Designating Other Impacted Classes. This would allow, for example, an internet access assistance program for all households with children to support those households’ ability to participate in healthcare, work, and

educational activities like extending learning opportunities, among other critical activities. In that case, the recipient would only need to identify a negative economic impact to the class of “households with children” and would not need to document or otherwise demonstrate that each individual household served experienced a negative economic impact.

Second, the response must be designed to address the identified economic harm or impact resulting from or exacerbated by the public health emergency. In selecting responses, the recipient must assess whether, and the extent to which, the use would respond to or address this harm or impact. This approach is consistent with the text of the statute, which provides that funds may be used to “respond to” the “negative economic impacts” of the public health emergency “including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.” The list of potential responses (“assistance” or “aid”) suggests that responses should address the “negative economic impacts” of particular types of beneficiaries (e.g., households or small businesses).

Responses must be reasonably designed to benefit the individual or class that experienced the negative economic impact or harm. Uses of funds should be assessed based on their responsiveness to their intended beneficiary and the ability of the response to address the impact or harm experienced by that beneficiary.²⁰

Responses must also 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.²¹ Reasonably proportional refers to the scale of the response compared to the scale of the harm. It also refers to the targeting of the response to beneficiaries compared to the amount of harm they experienced; for example, it may not be reasonably proportional for a cash assistance program to provide assistance in a very small amount to a group that

experienced severe harm and in a much larger amount to a group that experienced relatively little harm. In evaluating whether a use is reasonably proportional, recipients should consider relevant factors about the harm identified and the response. For example, recipients may consider the size of the population impacted and the severity, type, and duration of the impact. Recipients may also consider the efficacy, cost, cost-effectiveness, and time to delivery of the response.

Finally, recipients should be aware of the distinction between beneficiaries of funds and subrecipients; a recipient may provide services to beneficiaries through subrecipients that did not experience a negative economic impact, see section Distinguishing Subrecipients versus Beneficiaries. That is, a recipient may award SLFRF funds to an entity that did not experience a negative economic impact in order to implement a program or provide a service to beneficiaries on its behalf. Such transfers, when implementing a public health or negative economic impact response, should be responsive to and designed to benefit individuals, households, small businesses, nonprofits, or impacted industries that did experience a public health or negative economic impact.

Determining the Appropriate Eligible Use Category

Public Comment: Some commenters expressed uncertainty about how to analyze negative economic impacts to different entities (e.g., households, small businesses, nonprofits). For example, commenters asked whether a nonprofit, which did not experience a negative economic impact itself, could be granted funds to provide services to individuals experiencing homelessness, who did experience negative economic impacts. Other commenters proposed providing assistance to support the expansion of small businesses, under the theory that this would create more job opportunities for unemployed workers who experienced negative economic impacts.

Treasury Response: In the final rule, Treasury is clarifying that recipients should assess a potential use of funds based on which beneficiary experienced the negative economic impact, in other words, the households, small businesses, nonprofits, or impacted industries that experienced the negative economic impact.

Treasury notes that recipients may award SLFRF funds to many different types of organizations to carry out eligible uses of funds and serve beneficiaries on behalf of a recipient.

²⁰ For example, expenses such as excessive compensation to employees or expenses which have already been reimbursed through another federal program, are not reasonably designed to address a negative economic impact to a beneficiary.

²¹ For example, a program or service that imposes conditions on participation in or acceptance of the service that would undermine efforts to stop the spread of COVID-19 or discourage compliance with practices in line with CDC guidance for stopping the spread of COVID-19 is not a permissible use of funds.

When a recipient provides funds to another entity to carry out eligible uses of funds and serve beneficiaries the entity becomes a subrecipient (see section Distinguishing a Subrecipient versus a Beneficiary). For example, a recipient may grant funds to a nonprofit organization to provide food assistance (an eligible use) to low-income households (the beneficiaries). Recipients only need to assess whether the beneficiaries experienced a negative economic impact and whether the eligible use responds to that impact, consistent with the two-part framework described above; the organization carrying out the eligible use does not need to have experienced a negative economic impact if it is serving as the vehicle for reaching the beneficiaries. When making determinations about how to implement a program, recipients should consider whether that method of program implementation is an effective and efficient method to implement the program and do so in accordance with the Uniform Guidance provisions that govern procurements and sub-granting of federal funds, as applicable.

As noted above, recipients should analyze eligible uses based on the beneficiary of the assistance or the entity that experienced a negative economic impact. Assistance to a small business or to an impacted industry must respond to a negative economic impact experienced by that small business or industry. Recipients may not provide assistance to small businesses or impacted industries that did not experience a negative economic impact, although recipients can identify negative economic impacts for classes, rather than individual businesses, and may also presume that small businesses in certain areas experienced impacts; see section General Provisions: Structure and Standards and section Assistance to Small Businesses for details.

Several examples illustrate the application of these concepts. For example, a recipient could provide assistance to households via a contract with a business to create subsidized jobs for the long-term unemployed; in this case the business is a subrecipient and need not have experienced a negative economic impact, but the recipient would need to identify a specific connection between the assistance provided and addressing the negative economic impact experienced by the unemployed households. The recipient could, for instance, document the subsidized jobs created under the contract and their reservation for long-term unemployed individuals. Similarly, a recipient might provide

assistance to a small business that experienced a pandemic-related loss of revenue. This small business is a beneficiary and may use those funds in many ways, potentially including hiring or retaining staff. However, general assistance to a business that did not experience a negative economic impact under the theory that this assistance generally grows the economy and therefore enhances opportunities for unemployed workers would not be an eligible use, because such assistance is not reasonably designed to impact the individuals or classes that experienced a negative economic impact. In other words, there is not a reasonable connection between the assistance provided and an impact on the beneficiaries. Such an activity would be attenuated from and thus not reasonably designed to benefit the households that experienced the negative economic impact.

b. Populations Presumed Eligible

Presumed Eligibility: Impacted and Disproportionately Impacted Households and Communities

Background: As noted above, the interim final rule allowed recipients to presume that certain households were impacted or disproportionately impacted by the pandemic and thus eligible for responsive programs or services. Specifically, under the interim final rule, recipients could presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low- or moderate-income experienced negative economic impacts resulting from the pandemic, and recipients may provide services that respond to these impacts.

The interim final rule also recognized that pre-existing health, economic, and social disparities contributed to disproportionate pandemic impacts in certain communities and allowed for a broader list of enumerated eligible uses to respond to the pandemic in disproportionately impacted communities. Under the interim final rule, recipients were allowed to presume that families residing in QCTs or receiving services provided by Tribal governments were disproportionately impacted by the pandemic.

Definition of Low- and Moderate-Income

Public Comment: As noted earlier, many commenters sought a definition for “low- and moderate-income” to provide recipients greater clarity on which specific households could be

presumed to be impacted by the pandemic.

Treasury Response: The final rule maintains the presumptions identified in the interim final rule and defines low- and moderate-income for the purposes of determining which households and populations recipients may presume to have been impacted. To simplify the administration of this presumption, the final rule adopts a definition of low- and moderate-income based on thresholds established and used in other federal programs.

Definitions. The final rule defines a household as *low income* if it has (i) income at or below 185 percent of the Federal Poverty Guidelines (FPG) for the size of its household based on the most recently published poverty guidelines by the Department of Health and Human Services (HHS) or (ii) income at or below 40 percent of the Area Median Income (AMI) for its county and size of household based on the most recently published data by the Department of Housing and Urban Development (HUD).²²

The final rule defines a household as *moderate income* if it has (i) income at or below 300 percent of the FPG for the size of its household based on the most recently published poverty guidelines by HHS or (ii) income at or below 65 percent of the AMI for its county and size of household based on the most recently published data by HUD.²³

Recipients may determine whether to measure income levels for specific households or for a geographic area based on the type of service to be provided. For example, recipients developing a program that serves specific households (e.g., a subsidy for internet access, a childcare program) may measure income at the household level. Recipients providing a service that reaches a general geographic area (e.g., a park) may measure median income of that area.

Further, recipients should generally use the income threshold for the size of the household to be served (e.g., when providing childcare to a household of five, recipients should reference the income threshold for a household of five); however, recipients may use the income threshold for a default household size of three if providing

²² AMI is also often referred to as median family income for the area. Since AMI is synonymous with this term and used more generally, the final rule refers to AMI.

²³ For the six New England states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, HUD provides AMI for towns rather than counties. Recipients in these states should use the AMI corresponding to their town when determining thresholds for both low and moderate income.

services that reach a general geographic area or if doing so would simplify administration of the program to be provided (e.g., when developing a park, recipients should use the income threshold for a household size of three and compare it to median income of the geographic area to be served).

Note that recipients can also identify and serve other classes of households that experienced negative economic impacts or disproportionate impacts from the pandemic; recipients can identify these classes based on their income levels, including above the levels defined as low- and moderate-income in the final rule. For example, a recipient may identify that households in their community with incomes above the final rule threshold for low-income

nevertheless experienced disproportionate impacts from the pandemic and provide responsive services. See section General Provisions: Standards for Identifying Other Eligible Populations for details on applicable standards.

Applicable levels. For reference, the FPG is commonly referred to as the federal poverty level (FPL) and is related to—although distinct from—the U.S. Census Bureau's poverty threshold. The final rule uses the FPG when referring specifically to the HHS guidelines, as these are the quantitative metrics used for determining low- and moderate-income households.

The FPG by household size for 2021 is included in the table below. Recipients should refer to HHS Poverty

Guidelines for this information, which is updated annually and available on the HHS website.²⁴ For calculating the thresholds of 40 percent and 65 percent of AMI, recipients should refer to the annual HUD Section 8 50 percent income limits by county and household size published by HUD and available on the HUD website; in particular, recipients should calculate the 40 percent threshold as 0.8 times the 50 percent income limit, and recipients should calculate the 65 percent threshold as 1.3 times the 50 percent income limit.²⁵ Finally, for median income of Census Tracts and other geographic areas, recipients should refer to the most recent American Community Survey 5-year estimates available through the Census website.²⁶

2021 FEDERAL POVERTY GUIDELINES

Household size	48 contiguous states and the District of Columbia	Alaska	Hawaii
1	\$12,880	\$16,090	\$14,820
2	17,420	21,770	20,040
3	21,960	27,450	25,260
4	26,500	33,130	30,480
5	31,040	38,810	35,700
6	35,580	44,490	40,920
7	40,120	50,170	46,140
8	44,660	55,850	51,360

For families/households with more than 8 persons, add the following amounts for each additional person:

48 Contiguous States and the District of Columbia: \$4,540.

Alaska: \$5,680.

Hawaii: \$5,220.

Source: "HHS Poverty Guidelines for 2021," available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

Rationale. In defining low income, the final rule uses both the FPG and AMI to account for national trends and regional differences. The metric of 185 percent of FPG aligns with some other programs; for instance, under the National School Lunch Program, students with household incomes under 185 percent of FPG qualify for free or reduced-price lunch, and schools often use eligibility for free or reduced-price lunch as an indicator of low-income status under Title 1–A of the Elementary and Secondary Education Act. Eligibility for other programs, such as the Federal Communications Commission's e-Rate

program and the Special Supplemental Nutrition Program for Women, Infants and Children employ this metric as well. In addition, 185 percent of the FPG for a family of four is \$49,025, which is approximately the wage earnings for a two-earner household in which both earners receive the median wage in occupations, such as waiters and waitresses and hotel clerks, that were heavily impacted by COVID–19.²⁷ This measure is targeted toward those at the bottom of the income distribution and thus helps to promote use of SLFRF funds towards populations with the greatest needs. At the same time, with

approximately one-quarter of Americans below 185 percent of the poverty threshold, this approach is broad enough to facilitate use of SLFRF funds across many jurisdictions.²⁸ Because regions have different cost and income levels, this definition also allows for upward adjustment based on AMI for those regions where 40 percent of AMI exceeds 185 percent of FPG. The metric of 40 percent of AMI is based on the midpoint of values often used to designate certain categories of low-income households; specifically, it is the midpoint of the 30 percent income limit and the 50 percent income limit

²⁴ U.S. Department of Health and Human Service, HHS Poverty Guidelines for 2021, available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

²⁵ U.S. Department of Housing and Urban Development, FY 2021 Section 8 Income Limits, available at <https://www.huduser.gov/portal/datasets/il/il21/Section8-FY21.xlsx>. Recipients may refer to the list of counties (and New England towns) identified by state and metropolitan area for identifying the appropriate area. U.S. Department of Housing and Urban Development, FY 2021 List of Counties (and New England Towns) Identified by

State and Metropolitan Area, available at <https://www.huduser.gov/portal/datasets/il/il21/area-definitions-FY21.pdf>.

²⁶ The U.S. Census Bureau provides an interactive map: U.S. Census Bureau, Median Household Income State Selection Map, available at https://data.census.gov/cedsci/map?q=Median%20Household%20Income&g=0100000US%2404000%24001&tid=ACST5Y2019.S1901&cid=S1901_C01_012E&vintage=2019. The U.S. Census Bureau also provides an interactive table: U.S. Census Bureau, Median Household Income In The Past 12 Months (In 2019 Inflation-Adjusted Dollars),

available at <https://data.census.gov/cedsci/table?q=b19013&tid=ACST5Y2019.B19013&hidePreview=true>.

²⁷ See U.S. Bureau of Labor Statistics, Occupational Employment and Wage Estimates, https://www.bls.gov/oes/current/oes_nat.htm (last visited December 7, 2021).

²⁸ U.S. Census Bureau, Poverty Status by State, <https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pov/pov-46.html> (last visited December 7, 2021).

used in programs such as the Community Development Block Grant (CDBG) Program.

In defining moderate income, the final rule uses both the FPG and AMI to account for national trends and regional differences. While there are different definitions of moderate income, 300 percent of FPG falls within the range commonly used by researchers.²⁹ Analysis of median wages among a sample of occupations likely impacted by the pandemic also suggests that an income cutoff of 300 percent of FPG would include many households with workers in such occupations.³⁰ Moreover, the metric of 300 percent of FPG covers households that, while above the poverty line, often lack economic security.³¹ Treasury determined the AMI threshold for moderate income by maintaining the same ratio of FPG multiplier to AMI multiplier as in the definition of low income. This anchors the threshold to the existing definitions of moderate income from the literature while taking into account geographical variation in income and expenses in the same manner as the definition of low income.

Eligibility Presumptions

Public Comment: Many commenters believed that a broader range of groups should be considered presumptively impacted and disproportionately impacted, arguing that many households had been affected by the pandemic and that broader presumed eligibility would help recipients provide assistance quickly and effectively.

Treasury also received many comments on the presumption that

families living in QCTs or receiving services from Tribal governments were disproportionately impacted by the pandemic. While many commenters supported the interim final rule's recognition of disproportionate impacts of the pandemic on low-income communities, many commenters disagreed with treating QCTs as the only presumed eligible group of disproportionately impacted households, apart from households served by Tribal governments. While acknowledging a potential increase in administrative burden, commenters recommended that Treasury presume other households or geographic areas, in addition to QCTs, were disproportionately impacted; suggestions included all low- and moderate-income households, geographic areas designated as Opportunity Zones, Difficult Development Areas (DDAs), areas with a certain amount of Real Estate Advantage Program (REAP) recipients, or use of eligibility criteria from the Community Reinvestment Act. One commenter generally recommended that a clearer definition of "disproportionately impacted" should be provided and that any definition should include communities of color and people of limited means. Another recommended specific eligibility for people that had recently interacted with the criminal justice system. Many commenters representing Tribal governments and groups recommended a presumption of eligibility for all Tribal uses of funds, clarification that off reservation members remained eligible, and broad flexibility on use of funds.

Additionally, commenters noted that some areas are technically eligible to be QCTs but fall short because of the aggregate population of eligible tracts. One commenter noted that these areas should be considered the same as QCTs for the purpose of SLFRF funds. Some commenters argued that rural counties typically have few QCTs despite high levels of poverty and disruption caused by the COVID-19 pandemic. Other rural commenters recommended that the designation be by county rather than at a more granular level, arguing that the QCT designation is biased towards urban areas and understates the harm done to rural America. Many commenters representing Tribal governments supported the presumption that services provided by Tribal governments respond to disproportionate impacts.

Treasury Response

Summary: While households residing in QCTs or served by Tribal

governments were presumed to be disproportionately impacted, Treasury emphasizes that under the interim final rule recipients could also identify other households, populations, or geographic areas that were disproportionately impacted by the pandemic and provide services to respond.

The final rule maintains the presumptions identified in the interim final rule, as well as recipients' ability to identify other impacted or disproportionately impacted classes. The final rule also allows recipients to presume that low-income households were disproportionately impacted, and as discussed above, defines low- and moderate-income. Finally, under the final rule recipients may also presume that households residing in the U.S. territories or receiving services from territorial governments were disproportionately impacted.

Households presumed to be impacted: Impacted households are those that experienced a public health or negative economic impact from the pandemic.

With regard to public health impacts, recipients may presume that the general public experienced public health impacts from the pandemic for the purposes of providing services for COVID-19 mitigation and behavioral health. In other words, recipients may provide a wide range of enumerated eligible uses in these categories to the general public without further analysis. As discussed in the introduction, COVID-19 as a disease has directly affected the health of tens of millions of Americans, and efforts to prevent and mitigate the spread of the disease are needed and in use across the country. Further, the stress of the pandemic and resulting recession have affected nearly all Americans. Accordingly, the final rule presumes that the general public are impacted by and eligible for services to respond to COVID-19 mitigation and prevention needs, as well as behavioral health needs.

With regard to negative economic impacts, as with the interim final rule, under the final rule recipients may presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low- or moderate-income experienced negative economic impacts resulting from the pandemic. The final rule's definition of low- and moderate-income, by providing standard metrics based on widely available data, is intended to simplify administration for recipients.

Households presumed to be disproportionately impacted: Disproportionately impacted households are those that experienced a

²⁹ For instance, Melissa Kearney et al. (2013) cap the "struggling lower middle-income class" at 250 percent of the federal poverty level, while Isabel Sawhill and Edward Rodrigue (2015) define the "middle class" as those with incomes of at least 300 percent of the poverty line. Melissa Kearney et al., "A Dozen Facts about America's Struggling Lower-Middle Class," The Hamilton Project (December 2013), https://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/THP_12LowIncomeFacts_Final.pdf; Isabel Sawhill and Edward Rodrigue, "An Agenda for Reducing Poverty and Improving Opportunity," Brookings Institution, https://www.brookings.edu/wp-content/uploads/2016/07/Sawhill_FINAL.pdf.

³⁰ Data on median annual wages from: U.S. Bureau of Labor and Statistics, Occupational Employment and Wage Statistics, available at https://www.bls.gov/oes/current/oes_nat.htm (last visited December 7, 2021).

³¹ For instance, households earning between 200 and 300 percent of the FPG have significantly higher rates of food and housing insecurity than those earning above 300 percent of the FPG. Table 1, Kyle J. Caswell and Stephen Zuckerman, Food Insecurity, Housing Hardship, and Medical Care Utilization, Urban Institute (June 2018), https://www.urban.org/sites/default/files/publication/98701/2001896_foodinsecurity_housinghardship_medicalcareutilization_finalized.pdf.

disproportionate, or meaningfully more severe, impact from the pandemic. As discussed in the interim final rule, pre-existing disparities in health and economic outcomes magnified the impact of the COVID-19 public health emergency on certain households and communities. As with the interim final rule, under the final rule recipients may presume that households residing in QCTs or receiving services provided by Tribal governments were disproportionately impacted by the pandemic. In addition, under the final rule recipients may presume that low-income households were disproportionately impacted by the pandemic. Finally, under the final rule recipients may also presume that households residing in the U.S. territories or receiving services from territorial governments were disproportionately impacted.

Treasury notes that households presumed to be disproportionately impacted would also be presumptively impacted, as these households have not only experienced pandemic impacts but have experienced disproportionate pandemic impacts; as a result, these households are presumptively eligible for responsive services for both impacted and disproportionately impacted households.

Many different geographic, income-based, or poverty-based presumptions could be used to designate disproportionately impacted populations. The combination of permitting recipients to use QCTs, low-income households, and services provided by Tribal or territorial governments as presumptions balances these varying methods. Specifically, QCTs are a commonly used designation of geographic areas based on low incomes or high poverty rates of households in the community; for recipients providing geographically targeted services, QCTs may provide a simple metric with readily available maps for use. However, Treasury recognizes that QCTs do not capture all underserved populations, including for reasons noted by commenters. By allowing recipients to also presume that low-income households were disproportionately impacted, the final rule provides greater flexibility to serve underserved households or communities. Data on household incomes is also readily available at varying levels of geographic granularity (e.g., Census Tracts, counties), again permitting flexibility to adapt to local circumstances and needs. Finally, Treasury notes that, as discussed further below, recipients may also identify other households, populations, and

communities disproportionately impacted by the pandemic, in addition to those presumed to be disproportionately impacted.

Additionally, Tribal and territorial governments may face both disproportionate impacts of the pandemic and administrability challenges with operationalizing the income-based standard; therefore, Treasury has presumed that services provided by these governments respond to disproportionate pandemic impacts. Given a lack of regularly published data on household incomes in most territories,³² as well as a lack of poverty guidelines developed for these jurisdictions,³³ it may be highly challenging to assess disproportionate impact in these communities according to an income- or poverty-based standard. Similarly, data on incomes in Tribal communities are not readily available.³⁴ Finally, as described in the sections on Public Health and Negative Economic Impacts, Tribal communities have faced particularly severe health and economic impacts of the pandemic. Similarly, available research suggests that preexisting health and economic disparities in the territories amplified the impact of the pandemic on these communities.³⁵

Categorical Eligibility

Public Comment: Several commenters suggested that the final rule permit recipients to rely on a beneficiary's eligibility for other federal benefits programs as an easily administrable proxy for identifying a group or population that experienced a negative economic impact as a result of the COVID-19 public health emergency (i.e., categorical eligibility). In other words, a recipient would determine that individuals or households are eligible for an SLFRF-funded program based on the individual or household's eligibility in another program, typically another federal benefit program. Commenters noted that categorical eligibility is a common policy in program

administration that can significantly ease administrative burden on both program administrators and beneficiaries.

Treasury Response: Treasury agrees that allowing recipients to identify impacted and disproportionately impacted beneficiaries based on their eligibility for other programs with similar income tests would ease administrative burden. To the extent that the other program's eligibility criteria align with a population or class that experienced a negative economic impact of the pandemic, this approach is also consistent with the process allowed under the final rule for recipients to determine that a class has experienced a negative economic impact, and then document that an individual receiving services is a member of the class. For these reasons, the final rule recognizes categorical eligibility for the following programs and populations:

- *Impacted households.* Treasury will recognize a household as impacted if it otherwise qualifies for any of the following programs:
 - Children's Health Insurance Program (CHIP)
 - Childcare Subsidies through the Child Care and Development Fund (CCDF) Program
 - Medicaid
 - National Housing Trust Fund (HTF), for affordable housing programs only
 - Home Investment Partnerships Program (HOME), for affordable housing programs only
- *Disproportionately impacted households.* Treasury will recognize a household as disproportionately impacted if it otherwise qualifies for any of the following programs:
 - Temporary Assistance for Needy Families (TANF)
 - Supplemental Nutrition Assistance Program (SNAP)
 - Free and Reduced-Price Lunch (NSLP) and/or School Breakfast (SBP) programs
 - Medicare Part D Low-income Subsidies
 - Supplemental Security Income (SSI)
 - Head Start and/or Early Head Start
 - Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
 - Section 8 Vouchers
 - Low-Income Home Energy Assistance Program (LIHEAP)
 - Pell Grants
 - For services to address educational disparities, Treasury will recognize Title

³² For instance, the American Community Survey does not include all territories. U.S. Census Bureau, Areas Published, <https://www.census.gov/programs-surveys/acs/geography-acs/areas-published.html> (last visited November 9, 2021).

³³ U.S. Department of Health and Human Services, *supra* note 24.

³⁴ For instance, data from the American Community Survey is based on geographical location rather than Tribal membership. U.S. Census Bureau, My Tribal Area, https://www.census.gov/Tribal/Tribal_glossary.php.

³⁵ Lina Stoylar et al., Challenges in the U.S. Territories: COVID-19 and the Medicaid Financing Cliff, Kaiser Family Foundation (May 18, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/challenges-in-the-u-s-territories-covid-19-and-the-medicaid-financing-cliff/>.

I eligible schools³⁶ as disproportionately impacted and responsive services that support the school generally or support the whole school as eligible

c. Standards for Identifying Other Eligible Populations

Standards: Designating Other Impacted Classes

Public Comment: Treasury received multiple comments requesting additional clarification about how classes of impacted individuals may be designated, as well as questions asking whether recipients must demonstrate a specific public health or negative economic impact to each entity served (e.g., each household receiving assistance under a program). There were several comments requesting that specific geographic designations, like a county or Impact Zone, be eligible to use as a determining boundary.

Treasury Response: The interim final rule allowed, and the final rule maintains, the ability for recipients to demonstrate a public health or negative economic impact on a class and to provide assistance to beneficiaries that fall within that class. Consistent with the scope of beneficiaries included in sections 602(c)(1)(A) and 603(c)(1)(A) of the Social Security Act, Treasury is clarifying that a recipient may identify such impacts for a class of households, small businesses, or nonprofits. In such cases, the recipient need only demonstrate that the household, small business, or nonprofit is within the relevant class. For example, a recipient could determine that restaurants in the downtown area had generally experienced a negative economic impact and provide assistance to those small businesses to respond. When providing this assistance, the recipient would only need to demonstrate that the small businesses receiving assistance were restaurants in the downtown area. The recipient would not need to demonstrate that each restaurant served experienced its own negative economic impact.

In identifying an impacted class and responsive program, service, or capital expenditure, recipients should consider the relationship between the definition of the class and proposed response. Larger and less-specific classes are less likely to have experienced similar harms and thus the responses are less

likely to be responsive to the harms identified. That is, as the group of entities being served by a program has a wider set of fact patterns, or the type of entities, their circumstances, or their pandemic experiences differ more substantially, it may be more difficult to determine that the class has actually experienced the same or similar negative economic impact and that the response is appropriately tailored to address that impact.

Standard: Designating Other Disproportionately Impacted Classes

Summary of Interim Final Rule: As noted above, the interim final rule provided a broad set of enumerated eligible uses of funds in disproportionately impacted communities, including to address pre-existing disparities that contributed to more severe pandemic impacts in these communities. The interim final rule presumed that these services are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments. Recipients may also provide these services to “other populations, households, or geographic areas disproportionately impacted by the pandemic” and, in identifying these disproportionately impacted communities, should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the group identified.

Public Comment: A significant number of commenters expressed uncertainty regarding the process for determining eligibility for disproportionately impacted communities beyond QCTs. A commenter noted that a clearer definition of “disproportionately impacted” should be delineated and that any definition should include communities of color and people of limited means. Some commenters suggested a template or checklist to see if an area meets the standard for disproportionately impacted communities outside of QCTs. Some commenters stated that QCT and non-QCT beneficiaries should be treated the same.

Treasury Response: Under the interim final rule, presuming eligibility for services in QCTs, for populations living in QCTs, and for Tribal governments was intended to ease administrative burden, providing a simple path for recipients to offer services in underserved communities, and is not an exhaustive list of disproportionately impacted communities. To further clarify, the final rule codifies the

interpretive framework discussed above, including presumptions of groups disproportionately impacted, as well as the ability to identify other disproportionately impacted populations, households, or geographies (referred to here as disproportionately impacted classes).

As discussed in the interim final rule, in identifying other disproportionately impacted classes, 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. For example, the interim final rule considered data regarding the rate of COVID-19 infections and deaths in low-income and socially vulnerable communities, noting that these communities have experienced the most severe health impacts, compared to national averages. Similarly, the interim final rule considered the high concentration of low-income workers performing essential work, the reduced ability to socially distance, and other pre-existing public health challenges, all of which correlate with more severe COVID-19 outcomes. The interim final rule also considered the disproportionate economic impacts of the pandemic, citing, for example, the rate of job losses among low-income persons as compared to the general population. The interim final rule then identified QCTs, a common, readily accessible, and geographically granular method of identifying communities with a large proportion of low-income residents, as presumed to be disproportionately impacted by the pandemic.

In other words, the interim final rule identified disproportionately impacted populations by assessing the impacts of the pandemic and finding that some populations experienced meaningfully more severe impacts than the general public. Similarly, to identify disproportionately impacted classes, recipients should compare the impacts experienced by that class to the typical or average impacts of the pandemic in their local area, state, or nationally.

Recipients may identify classes of households, communities, small businesses, nonprofits, or populations that have experienced a disproportionate impact based on academic research or government research publications, through analysis of their own data, or through analysis of other existing data sources. To augment their analysis, or when quantitative data is not readily available, recipients may also consider qualitative research and sources like resident interviews or

³⁶ Title I eligible schools means schools eligible to receive services under section 1113 of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6313), including schools served under section 1113(b)(1)(C) of that Act.

feedback from relevant state and local agencies, such as public health departments or social services departments. In both cases, recipients should consider the quality of the research, data, and applicability of analysis to their determination.

In designing a program or service that responds to a disproportionately impacted class, a recipient must first identify the impact and then identify an appropriate response. To assess disproportionate impact, recipients should rely on data or research that measures the public health or negative economic impact. An assessment of the effects of a response (e.g., survey data on levels of resident support for various potential responses) is not a substitute for an assessment of the impact experienced by a particular class. Data about the appropriateness or desirability of a response may be used to assess the reasonableness of a response, once an impact or disproportionate impact has been identified but should not be the basis for assessing impact.

2. Public Health Background

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.³⁷ Since that time, and through present day, the United States has faced numerous waves of the virus that have brought acute strain on health care and public health systems. At various points in the pandemic, hospitals and emergency medical services have seen significant influxes of patients; response personnel have faced shortages of personal protective equipment; testing for the virus has been scarce; and congregate living facilities like nursing homes have seen rapid spread.

Since the initial wave of the COVID-19 pandemic, the United States has faced several additional major waves that continued to impact communities and stretch public health services. The summer 2020 wave impacted communities in the south and southwest. As the weather turned colder and people spent more time indoors, a wave throughout fall and winter 2020 impacted communities in almost every region of the country as the virus reached a point of uncontrolled spread and over 3,000 people died per day due to COVID-19.³⁸

³⁷ 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>.

³⁸ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID-

In December 2020, the Food and Drug Administration (FDA) authorized COVID-19 vaccines for emergency use, and soon thereafter, mass vaccination in the United States began. At the time of the interim final rule publication in May 2021, the number of daily new infections was steeply declining as rapid vaccination campaigns progressed across the country. By summer 2021, COVID-19 cases had fallen to their lowest level since early months of the pandemic, when testing was scarce. However, throughout late summer and early fall, the Delta variant, a more infectious and transmissible variant of the SARS-CoV-2 virus, sparked yet another surge. From June to early September, the seven-day moving average of reported cases rose from 12,000 to 165,000.³⁹

As of December 2021, COVID-19 in total has infected over 50 million and killed over 800,000 Americans.⁴⁰ Preventing and mitigating the spread of COVID-19 continues to require a major public health response from federal, state, local, and Tribal governments.

First, state, local, and Tribal governments across the country have mobilized to support the national vaccination campaign. As of December 2021, more than 80 percent of adults have received at least one dose, with more than 470 million total doses administered.⁴¹ Additionally, more than 15 million children over the age of 12 have received at least one dose of the vaccine and over 47 million people have received a booster dose.⁴² Vaccines for younger children, ages 5 through 11, have been approved and are reaching communities and families across the country. As new variants continue to emerge globally, the national effort to administer vaccinations and other COVID-19 mitigation strategies will be a critical component of the public health response.

In early reporting on uses of SLFRF funds, recipients have indicated that they plan to put funds to immediate use to support continued vaccination campaigns. For example, one recipient has indicated that it plans to use SLFRF

19 Cases and Deaths in the US Reported to CDC, by State/Territory, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last visited December 7, 2021).

³⁹ *Id.*

⁴⁰ Centers for Disease Control and Prevention, COVID Data Tracker, <http://www.covid.cdc.gov/covid-data-tracker/#data-tracker-home> (last visited December 31, 2021).

⁴¹ 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 December 7, 2021).

⁴² *Id.*

funds to support a vaccine incentive program, providing \$100 gift cards to residents at community vaccination clinics. The program aimed to target communities with high public health needs.⁴³ Another recipient reported that it is partnering with multiple agencies, organizations, and providers to distribute COVID-19 vaccinations to homebound residents in assisted living facilities.⁴⁴

State, local, and Tribal governments have also continued to execute other aspects of a wide-ranging public health response, including increasing access to COVID-19 testing and rapid at-home tests, 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, for example, implementing infection prevention measures or making ventilation improvements.

In particular, state, local, and Tribal governments have mounted significant efforts to safely reopen schools. A key factor in school reopening is the ability to implement COVID-19 mitigation strategies such as providing masks and other hygiene resources, improving air-quality and ventilation, increasing outdoor learning and eating spaces, testing and contact tracing protocols, and a number of other measures.⁴⁵ For example, one recipient described plans to use SLFRF funds to further invest in school health resources that were critical components of school reopening and reducing the spread of COVID-19 in schools. Those investments include the increasing school nurses and social

⁴³ Columbus, Ohio Recovery Plan, <https://www.columbus.gov/recovery/>.

⁴⁴ Luzerne County, Pennsylvania Recovery Plan, <https://www.luzernecounty.org/DocumentCenter/View/26304/Final-Interim-Recovery-Plan-Performance-Report-83121>.

⁴⁵ This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Guidance for COVID-19 Prevention in K-12 Schools (November 5, 2021), available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>.

workers, improved ventilation systems, and other health and safety measures.

The need for public health measures to respond to COVID-19 will continue moving forward. This includes the continuation of vaccination campaigns for the general public, booster doses, and children. This also includes monitoring the spread of COVID-19 variants, understanding the impact of these variants, developing approaches to respond, and monitoring global COVID-19 trends. 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 tens of millions of Americans who have been infected.

The COVID-19 pandemic also negatively impacted other areas of public health, particularly mental health and substance use. In January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.⁴⁶ The mental health impacts of the pandemic have been particularly acute for adults ages 18 to 24, racial and ethnic minorities, caregivers for adults, and essential workers, with all reporting significantly higher rates of considering suicide.⁴⁷ The proportion of children’s emergency department visits related to mental health has also risen noticeably.⁴⁸ Similarly, rates of substance use and overdose deaths have spiked: Preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from April 2020 to April 2021, bringing the estimated overdose death toll for a 12-month period over 100,000 for the first time ever.⁴⁹ The CDC also found that 13 percent of adults started or increased

substance use to cope with stress related to COVID-19 and 26 percent reported having symptoms of trauma- and stressor-related disorder (TRSD) related to the pandemic.⁵⁰

Another public health challenge exacerbated by the pandemic was violent crime and gun violence, which increased during the pandemic and has disproportionately impacted low-income communities.⁵¹ According to the Federal Bureau of Investigation (FBI), although the property crime rate fell 8 percent in 2020, the violent crime rate increased 6 percent in 2020 compared to 2019 data.⁵² In particular, the estimated number of aggravated assault offenses rose 12 percent, while murder and manslaughter increased 30 percent from 2019 to 2020.⁵³ The proportion of homicides committed with firearms rose from 73 percent in 2019 to 76 percent in 2020.⁵⁴ Exposure to violence can create serious short-term and long-term harmful effects to health and development, and repeated exposure to violence may be connected to negative health outcomes.⁵⁵ Addressing community violence as a public health issue may help prevent and even reduce additional harm to individuals, households, and communities.⁵⁶

Many communities are using SLFRF funds to invest in holistic approaches in violence prevention that are rooted in targeted outreach and addressing root causes. For example, the City of St. Louis is planning to invest in expanding a “community responder” model designed to provide clinical help and to divert non-violent calls away from the police department. Additionally, the city will expand access to mental health services, allowing residents to seek support at city recreation centers,

libraries, and other public spaces.⁵⁷ Similarly, Los Angeles County will further invest in its “Care First, Jails Last” program which seeks to replace “arrest and incarceration” responses with health interventions.⁵⁸

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.⁵⁹ 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.⁶⁰

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 308 deaths per 100,000 compared to the U.S. average of 238 deaths per 100,000, as of December 2021.⁶¹ 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 325 deaths per 100,000 as of December 2021.⁶² Over the course of the

⁵⁷ St. Louis, MO Recovery Plan, <https://www.stlouis-mo.gov/government/recovery/covid-19/arpa/plan/>.

⁵⁸ Los Angeles County, CA Recovery Plan, <http://file.lacounty.gov/SDSInter/bos/supdocs/160391.pdf>.

⁵⁹ 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>.

⁶⁰ 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 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.

⁶¹ 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 December 7, 2021).

⁶² 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 and Deaths in the United States, by Social

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⁴⁶ 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](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;); Mark É. 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>.

⁴⁷ *Id.*

⁴⁸ 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>.

⁴⁹ 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 December 6, 2021).

⁵⁰ Panchal, *supra* note 46; Mark É. Czeisler et al., *supra* note 46.

⁵¹ The White House, FACT SHEET: More Details on the Biden-Harris Administration’s Investments in Community Violence Interventions (April 7, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/07/fact-sheet-more-details-on-the-biden-harris-administrations-investments-in-community-violence-interventions/>.

⁵² Federal Bureau of Investigation, FBI Releases 2020 Crime Statistics (September 27, 2021) <https://www.fbi.gov/news/pressrel/press-releases/fbi-releases-2020-crime-statistics>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ The Educational Fund to Stop Gun Violence, Community Gun Violence, <https://efsgv.org/learn/type-of-gun-violence/community-gun-violence/> (last visited November 9, 2021).

⁵⁶ Giffords Law Center, Healing Communities in Crisis: Lifesaving Solutions to the Urban Gun Violence Epidemic (March 2016), <https://giffords.org/wp-content/uploads/2019/01/Healing-Communities-in-Crisis.pdf>.

pandemic, 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.⁶³ Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID–19 mortality.⁶⁴ 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 face greater risk of exposure.⁶⁵

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.⁶⁶ 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.⁶⁷

Vulnerability Index, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited December 7, 2021).

⁶³ 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 December 7, 2021).

⁶⁴ 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 December 7, 2021).

⁶⁵ 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>.

⁶⁶ 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/hblog20200319.757883/full>.

⁶⁷ See, e.g., Centers for Disease Control and Prevention, *supra* note 62; Benfer & Wiley, *supra* note 66; Nathaniel M. Lewis et al., Disparities in COVID–19 Incidence, Hospitalizations, and Testing,

Summary of the Interim Final Rule Approach to Public Health

Summary: As discussed above, the interim final rule provided flexibility for recipients to pursue a wide range of eligible uses to “respond to” the COVID–19 public health emergency. Uses of funds to “respond to” the public health emergency address the SARS-CoV–2 virus itself, support efforts to prevent or decrease spread of the virus, and address other impacts of the pandemic on public health. The interim final rule implemented these provisions by identifying a non-exhaustive list of programs or services that may be funded as responding to COVID–19 (“enumerated eligible uses”), along with considerations for evaluating other potential uses of funds not explicitly listed. Enumerated eligible uses are discussed below. For guidance on how to determine whether a particular use is allowable, beyond those enumerated, see section Standards: Identifying a Public Health Impact.

Enumerated eligible uses under this section built and expanded upon permissible expenditures under the Coronavirus Relief Fund; for clarity, the interim final rule expressly listed as eligible uses the uses permissible under the Coronavirus Relief Fund, with minor exceptions.⁶⁸ The interim final rule also recognized that the nature of the COVID–19 public health emergency, and responsive policy measures, programs, and services, had changed over time and is expected to continue evolving.

The interim final rule categorized enumerated eligible uses to respond to the public health emergency into several categories: (1) COVID–19 mitigation and prevention, (2) medical expenses, (3) behavioral health care, (4) public health and safety staff, (5) expenses to improve the design and execution of health and public health programs, and (6) eligible uses to address disparities in public health outcomes. For each category in turn, this section describes public comments received and Treasury’s responses, as well as comments received

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>.

⁶⁸ 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 in the final rule, with the following two exceptions: (1) The standard for eligibility of public health and safety payrolls has been updated (see section Public Sector Capacity and Workforce in General Provisions: Other) and (2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see section Restrictions on Use: Debt Service).

proposing additional enumerated eligible uses.

Reorganizations and Cross-References: In some cases, enumerated eligible uses included in the interim final rule under responding to the public health emergency have been re-categorized in the organization of the final rule to enhance clarity. For discussion of eligible uses for public health and safety staff and to improve the design and execution of public health programs, please see section Public Sector Capacity and Workforce in General Provisions: Other. For discussion of eligible uses to address disparities in public health outcomes, please see section Assistance to Households in Negative Economic Impacts.

Conversely, discussion of eligible assistance to small businesses and nonprofits to respond to public health impacts has been moved from Assistance to Small Businesses and Assistance to Nonprofits in Negative Economic Impacts to this section. This change is consistent with the interim final rule, which provides that appropriate responses to address the public health impacts of COVID–19 may be provided to any type of entity.

a. COVID–19 Mitigation and Prevention

COVID–19 public health response and mitigation tactics. Recognizing the broad range of services and programming needed to contain COVID–19, the interim final rule provided an extensive list of enumerated eligible uses to prevent and mitigate COVID–19 and made clear that the public health response to the virus is expected to continue to evolve over time, necessitating different uses of funds.

Enumerated eligible uses of funds in this category included: 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; ventilation improvements in congregate settings, health care settings, or other key locations; enhancement of

public health data systems; other public health responses; and 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 enumerated uses are consistent with guidance from public health authorities, including the CDC.

Public Comment: Many commenters were supportive of expansive enumerated eligible uses for mitigating and preventing COVID-19, noting the wide range of activities that governments may undertake and the continued changing landscape of pandemic response. Some commenters requested that Treasury engage in ongoing consideration of and consultation on evolving public health needs and resulting eligible expenses. Some commenters noted that their jurisdiction does not have an official public health program, for example smaller jurisdictions or those that do not have a health department, and requested clarification on whether their public health expenses would still be eligible in compliance with program rules.

Treasury Response: In the final rule, Treasury is maintaining an expansive list of enumerated eligible uses to mitigate and prevent COVID-19, given the wide-ranging activities that governments may take to further these goals, including “other public health responses.” Note that the final rule discusses several of these enumerated uses in more detail below.

Treasury is further clarifying that when providing COVID-19 prevention and mitigation services, recipients can identify the impacted population as the general public. Treasury presumes that all enumerated eligible uses for programs and services, including COVID-19 mitigation and prevention programs and services, are reasonably proportional responses to the harm identified unless a response is grossly disproportionate to the type or extent of harm experienced. Note that capital expenditures are not considered “programs and services” and are not presumed to be reasonably proportional responses to an identified harm except as provided in section Capital Expenditures in General Provisions: Other. In other words, recipients can provide any COVID-19 prevention or mitigation service to members of the general public without any further analysis of impacts of the pandemic on those individuals and whether the service is responsive.

This approach gives recipient governments an extensive set of eligible

uses that can adapt to local needs, as well as evolving response needs and developments in understanding of transmission of COVID-19. Treasury emphasizes how the enumerated eligible uses can adapt to changing circumstances. For example, when the interim final rule was released, national daily COVID-19 cases were at relatively low levels and declining;⁶⁹ as the Delta variant spread and cases peaked in many areas of the country, particularly those with low vaccination rates, government response needs and tactics evolved, and the SLFRF funds provided the ability to quickly and nimbly adapt to new public health needs. Treasury also notes that funds may be used to support compliance with and implementation of COVID-19 safety requirements, including vaccination requirements, testing programs, or other required practices.

Recipient governments do not need to have an official health or public health program in order to utilize these eligible uses; any recipient can pursue these eligible uses, though Treasury recommends consulting with health and public health professionals to support effective implementation.

The CDC has provided recommendations and guidelines to help mitigate and prevent COVID-19. The interim final rule and final rule help support recipients in stopping the spread of COVID-19 through these recommendations and guidelines.⁷⁰ The final rule reflects changing circumstances of COVID-19 and provides a broad range of permissible uses for mitigating and preventing the spread of the disease, in a manner consistent with CDC guidelines and recommendations.

The purpose of the SLFRF funds is to mitigate the fiscal effects stemming from the COVID-19 public health emergency, including by supporting efforts to stop the spread of the virus. The interim final rule and final rule implement this objective by, in part, providing that recipients may use SLFRF funds for COVID-19 mitigation and prevention.⁷¹ A program or service that imposes conditions on participation in or acceptance of the service that would undermine efforts to stop the spread of COVID-19 or discourage compliance with recommendations and guidelines

⁶⁹ See Centers for Disease Control and Prevention, COVID Data Tracker, https://covid.cdc.gov/covid-data-tracker/#trends_dailycases (last visited December 7, 2021).

⁷⁰ See Centers for Disease Control and Prevention, COVID-19, <https://www.cdc.gov/coronavirus/2019-ncov/index.html> (last visited November 8, 2021).

⁷¹ See § 35.6(b); Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 26786.

in CDC guidance for stopping the spread of COVID-19 is not a permissible use of funds. In other words, recipients may not use funds for a program that undermines practices included in the CDC’s guidelines and recommendations for stopping the spread of COVID-19. This includes programs that impose a condition to discourage compliance with practices in line with CDC guidance (e.g., paying off fines to businesses incurred for violation of COVID-19 vaccination or safety requirements), as well as programs that require households, businesses, nonprofits, or other entities not to use practices in line with CDC guidance as a condition of receiving funds (e.g., requiring that businesses abstain from requiring mask use or employee vaccination as a condition of receiving SLFRF funds).

Vaccination programs and vaccine incentives. At the time of the interim final rule release, many vaccination programs were using mass vaccination tactics to rapidly reach Americans en masse for first vaccine doses.⁷² Since that time, the FDA has authorized booster vaccine doses for certain groups and certain vaccines and has also authorized vaccines for youths.^{73 74} The inclusion of “vaccination programs” as an eligible use allows for adaptation as the needs of programs change or new groups become eligible for different types of vaccinations.

Public Comment: Since the release of the interim final rule, many recipient governments have also requested clarification on whether vaccine incentives are a permissible use of funds.

Treasury Response: Treasury issued guidance clarifying that “[vaccine] programs that provide incentives reasonably expected to increase the number of people who choose to get vaccinated, or that motivate people to get vaccinated sooner than they otherwise would have, are an allowable

⁷² 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 October 18, 2021).

⁷³ U.S. Food and Drug Administration, Coronavirus (COVID-19) Update: FDA Takes Additional Actions on the Use of a Booster Dose for COVID-19 Vaccines, <https://www.fda.gov/news-events/press-announcements/fda-authorizes-pfizer-biontech-covid-19-vaccine-emergency-use-children-5-through-11-years-age> (last visited November 8, 2021).

⁷⁴ U.S. Food and Drug Administration, FDA Authorizes Pfizer-BioNTech COVID-19 Vaccine for Emergency Use in Children 5 through 11 Years of Age, <https://www.fda.gov/news-events/press-announcements/fda-authorizes-pfizer-biontech-covid-19-vaccine-emergency-use-children-5-through-11-years-age> (last visited November 8, 2021).

use of funds so long as such costs are reasonably proportional to the expected public health benefit.”⁷⁵ This use of funds remains permissible under the final rule.

Capital Expenditures

Public Comment: Many commenters requested clarification around the types and scope of permissible capital investments in public facilities to meet pandemic operational needs; ventilation improvements in congregate settings, health care settings, or other key locations; and whether support for prevention and mitigation in congregate facilities could include facilities renovations, improvements, or construction of new facilities, or if the facilities must solely be used for COVID-19 response.

Treasury Response: For clarity, Treasury has addressed the eligibility standard for capital expenditures, or investments in property, facilities, or equipment, in one section of this Supplementary Information; see section Capital Expenditures in General Provisions: Other. In recognition of the importance of capital expenditures in the COVID-19 public health response, Treasury enumerates that the following projects are examples of eligible capital expenditures, as long as they meet the standards for capital expenditures in section Capital Expenditures in General Provisions: Other:

- Improvements or construction of COVID-19 testing sites and laboratories, and acquisition of related equipment;
- Improvements or construction of COVID-19 vaccination sites;
- Improvements or construction of medical facilities generally dedicated to COVID-19 treatment and mitigation (e.g., emergency rooms, intensive care units, telemedicine capabilities for COVID-19 related treatment);
- Expenses of establishing temporary medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs;
- Acquisition of equipment for COVID-19 prevention and treatment, including ventilators, ambulances, and other medical or emergency services equipment;
- Improvements to or construction of emergency operations centers and acquisition of emergency response

equipment (e.g., emergency response radio systems);

- Installation and improvements of ventilation systems;
- Costs of establishing public health data systems, including technology infrastructure;
- Adaptations to congregate living facilities, including skilled nursing facilities, other long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities, as well as public facilities and schools (excluding construction of new facilities for the purpose of mitigating spread of COVID-19 in the facility); and
- Mitigation measures in small businesses, nonprofits, and impacted industries (e.g., developing outdoor spaces).

Other clarifications on COVID-19 mitigation: *Medical care, supports for vulnerable populations, data systems, carceral settings.* Based on public comments and questions received from recipients following the interim final rule, Treasury is making several further clarifications on enumerated eligible uses in this category.

Public Comment: Several commenters requested clarification on eligible uses of funds for medical care; Treasury addresses those comments in the section Medical Expenses below.

Public Comment: Recipients posed questions on the type and scope of activities eligible as “supports for vulnerable populations to access medical or public health services.”

Treasury Response: Enumerated eligible uses should be considered in the context of the eligible use category or section where they appear; in this case, “supports for vulnerable populations to access medical or public health services” appears in the section COVID-19 Mitigation and Prevention. As such, these eligible uses should help vulnerable or high-risk populations access services that mitigate COVID-19, for example, transportation assistance to reach vaccination sites, mobile vaccination or testing programs, or on-site vaccination or testing services for homebound individuals, those in group homes, or similar settings.

Public Comment: Some commenters asked whether “enhancement of public health data systems” could include investments in software, databases, and other information technology resources that support responses to the COVID-19 public health emergency but also provide benefits for other use cases and long-term capacity of public health departments and systems.

Treasury Response: These are permissible uses of funds under the interim final rule and remain eligible under the final rule.

Assistance to Businesses and Nonprofits To Implement COVID-19 Mitigation Strategies

Background: As detailed above, Treasury received many public comments describing uncertainty about which eligible use category should be used to assess different potential uses of funds. As a result, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity, consistent with the principle that uses of funds should be assessed based on their intended beneficiary. For example, COVID-19 mitigation and prevention serves the general public or specific populations within the public. However, in the interim final rule, assistance to small businesses, nonprofits, and impacted industries to implement COVID-19 mitigation and prevention strategies was categorized in the respective sections within Negative Economic Impacts. The final rule consolidates all COVID-19 mitigation and prevention within Public Health.

Public Comment: Treasury has received multiple comments and questions about which eligible use permits the recipient to provide assistance to businesses and nonprofits to address the public health impacts of COVID-19.

Treasury Response: In the final rule, these services have been re-categorized under COVID-19 mitigation and prevention to reflect the fact that this assistance responds to public health impacts of the pandemic rather than the negative economic impacts to a small business, nonprofit, or impacted industry. When providing COVID-19 mitigation and prevention services, recipients can identify the impacted entity as small businesses, nonprofits, or businesses in impacted industries in general. As with all enumerated eligible uses, recipients may presume that all COVID-19 mitigation and prevention programs and services are reasonably proportional responses to the harm identified unless a response is grossly disproportionate to the type or extent of harm experienced. Note that capital expenditures are not considered “programs and services” and are not presumed to be reasonably proportional responses to an identified harm except as provided in section Capital Expenditures in General Provisions: Other. In other words, recipients can provide any COVID-19 prevention or mitigation service to small businesses, nonprofits, and businesses in impacted

⁷⁵ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRFAQ.pdf>. Note that programs may provide incentives to individuals who have already received a vaccination if the incentive is reasonably expected to increase the number of people who choose to get vaccinated or motivate people to get vaccinated sooner and the costs are reasonably proportional to the expected public health benefit.

industries without any further analysis of impacts of the pandemic on those entities and whether the service is responsive.

In some cases, this means that an entity not otherwise eligible to receive assistance to respond to negative economic impacts of the pandemic, for example an entity that did not experience a negative economic impact, may still be eligible to receive assistance under this category for COVID-19 mitigation and prevention services.

Uses of funds can include loans, grants, or in-kind assistance to small businesses, nonprofits, or other entities to implement COVID-19 prevention or mitigation tactics, such as vaccination; testing; contact tracing programs; physical plant changes to enable greater use of outdoor spaces or ventilation improvements; enhanced cleaning efforts; and barriers or partitions. For example, this would include assistance to a restaurant to establish an outdoor patio, given evidence showing much lower risk of COVID-19 transmission outdoors.⁷⁶ Uses of funds can also include aid to travel, tourism, hospitality, and other impacted industries to implement COVID-19 mitigation and prevention measures to enable safe reopening, for example, vaccination or testing programs, 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.

Recipients providing assistance to small businesses, nonprofits, or impacted industries that includes capital expenditures (*i.e.*, expenditures on property, facilities, or equipment) should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards for these expenditures. Recipients providing assistances in the form of loans should review the section Treatment of Loans Made with SLFRF Funds in General Provisions: Other.

Recipients should also be aware of the difference between beneficiaries of assistance and subrecipients when working with small businesses, nonprofits, or impacted industries. As noted above, Treasury presumes that the general public, as well as small businesses, nonprofits, and impacted industries in general, has been impacted by the COVID-19 disease itself and is

eligible for services that mitigate or prevent COVID-19 spread. As such, a small business, nonprofit, or impacted industry receiving assistance to implement COVID-19 mitigation measures is a beneficiary of assistance (*e.g.*, granting funds to a small business to develop an outdoor patio to reduce transmission). In contrast, if a recipient contracts with, or grants funds to, a small business, nonprofit, or impacted industry to carry out an eligible use for COVID-19 mitigation on behalf of the recipient, the entity is a subrecipient (*e.g.*, contracting with a small business to operate COVID-19 vaccination sites). For further information on distinguishing between beneficiaries and subrecipients, as well as the impacts of the distinction on reporting and other requirements, see section Distinguishing Subrecipients versus Beneficiaries.

b. Medical Expenses

Background: The interim final rule also included as an enumerated eligible use medical expenses, including medical care and services to address the near-term and potential longer-term impacts of the disease on individuals infected.

Public Comment: Some commenters sought clarification on the types of medical expenses eligible and for whom, including whether funds could be used under this category for expanding health insurance coverage (*e.g.*, subsidies for premiums, expanding a group health plan), improvements to healthcare facilities or establishment of new medical facilities, direct costs of medical services, and costs to a self-funded health insurance plan (*e.g.*, a county government health plan) for COVID-19 medical care.

Treasury Response: In the final rule, Treasury is maintaining this enumerated eligible use category and clarifying that it covers costs related to medical care provided directly to an individual due to COVID-19 infection (*e.g.*, treatment) or a potential infection (*e.g.*, testing). This can include medical costs to uninsured individuals; deductibles, co-pays, or other costs not covered by insurance; costs for uncompensated care at a health provider; emergency medical response costs; and, for recipients with a self-funded health insurance plan, excess health insurance costs due to COVID-19 medical care. These are medical expenses due to COVID-19 and distinguish this category of eligible uses from other related eligible uses, like COVID-19 mitigation and prevention and health insurance expenses to households, to provide greater clarity for recipients in determining which

category of eligible uses they should review to assess a potential use of funds. For discussion of eligibility for programs to expand health insurance coverage, see section Assistance to Households.

c. Behavioral Health Care

Background: Recognizing that the public health emergency, necessary mitigation measures like social distancing, and the economic downturn have exacerbated mental health and substance use challenges for many Americans, the interim final rule included an enumerated eligible use for mental health treatment, substance use treatment, and other behavioral health services, including a non-exhaustive list of specific services that would be eligible under this category.

Public Comment: Many commenters expressed support for the interim final rule's recognition of behavioral health impacts of the pandemic and eligible uses under this category. Several commenters requested clarification on the types of eligible services under this category, specifically whether both acute and chronic care are included as well as services that often do not directly accept insurance payments, like peer support groups. Some commenters highlighted the importance of cultural competence in providing effective behavioral health services. Some commenters suggested that funding should be available broadly and quickly for this purpose, recommending that funding available for behavioral health not be tied to the amount of revenue loss experienced by the recipient.

Treasury Response: In the final rule, Treasury is maintaining this enumerated eligible use category and clarifying that it covers an expansive array of services for prevention, treatment, recovery, and harm reduction for mental health, substance use, and other behavioral health challenges caused or exacerbated by the public health emergency. The specific services listed in the interim final rule also remain eligible.⁷⁷

Treasury is further clarifying that when providing behavioral health services, recipients can identify the impacted population as the general public and, as with all enumerated eligible uses, presume that all programs and services are reasonably proportional responses to the harm identified unless a response is grossly disproportionate to the type or extent of harm experienced. In contrast, capital expenditures are not

⁷⁶ See Centers for Disease Control and Prevention, Participate in Outdoor and Indoor Activities, <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/outdoor-activities.html> (last visited November 8, 2021).

⁷⁷ 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.

considered “programs and services” and are not presumed to be reasonably proportional responses to an identified harm except as provided in section Capital Expenditures in General Provisions: Other.

In other words, recipients can provide behavioral health services to members of the general public without any further analysis of impacts of the pandemic on those individuals and whether the service is responsive. Recipients may also use this eligible use category to respond to increased rates of behavioral health challenges at a population level or, at an individual level, new behavioral health challenges or exacerbation of pre-existing challenges, including new barriers to accessing treatment.

Services that respond to these impacts of the public health emergency may include services across the continuum of care, including both acute and chronic care, such as prevention, outpatient treatment, inpatient treatment, crisis care, diversion programs (e.g., from emergency departments or criminal justice system involvement), outreach to individuals not yet engaged in treatment, harm reduction, and supports for long-term recovery (e.g., peer support or recovery coaching, housing, transportation, employment services).

Recipients may also provide services for special populations, for example, enhanced services in schools to address increased rates of behavioral health challenges for youths, mental health first responder or law enforcement-mental health co-responder programs to divert individuals experiencing mental illness from the criminal justice system, or services for pregnant women with substance use disorders or infants born with neonatal abstinence syndrome. Finally, recipients may use funds for programs or services to support equitable access to services and reduce racial, ethnic, or socioeconomic disparities in access to high-quality treatment.

Eligible uses of funds may include services typically billable to insurance⁷⁸ or services not typically billable to insurance, such as peer support groups, costs for residence in supportive housing or recovery housing, and the 988 National Suicide Prevention Lifeline or other hotline services. Recipients may also use funds in conjunction with other federal grants or programs (see section Program Administration Provisions), though

eligible services under SLFRF are not limited to those eligible under existing federal programs.

Given the public health emergency’s exacerbation of the ongoing opioid and overdose crisis, Treasury highlights several ways that funds may be used to respond to opioid use disorder and prevent overdose mortality.⁷⁹ Specifically, eligible uses of funds include programs to expand access to evidence-based treatment like medications to treat opioid use disorder (e.g., direct costs or incentives for emergency departments, prisons, jails, and outpatient providers to offer medications and low-barrier treatment), naloxone distribution, syringe service programs, outreach to individuals in active use, post-overdose follow up programs, programs for diversion from the criminal justice system, and contingency management interventions.

Finally, for clarity, Treasury has addressed the eligibility standard for capital expenditures, or investments in property, facilities, or equipment, in one section of this Supplementary Information; see section Capital Expenditures in General Provisions: Other. Examples of capital expenditures related to behavioral health that Treasury recognizes as eligible include behavioral health facilities and equipment (e.g., inpatient or outpatient mental health or substance use treatment facilities, crisis centers, diversion centers), as long as they adhere to the standards detailed in the Capital Expenditures section.

d. Preventing and Responding to Violence

Background: The interim final rule highlighted that some types of violence had increased during the pandemic and that the ability of victims to access services had decreased, noting as an example the challenges that individuals affected by domestic violence face in accessing services. Accordingly, the interim final rule enumerated as an eligible use, in disproportionately impacted communities, evidence-based community violence intervention programs. Following the release of the interim final rule, Treasury received several recipient questions regarding whether and how funds may be used to respond to an increase in crime,

violence, or gun violence in some communities during the pandemic. Treasury released further guidance identifying how enumerated eligible uses and eligible use categories under the interim final rule could support violence reduction efforts, including rehiring public sector staff, behavioral health services, and services to address negative economic impacts of the pandemic that may aid victims of crime. The guidance also identified an expanded set of enumerated eligible uses to address increased gun violence.

Public Comment: Several commenters expressed support for this use of funds.

Treasury Response: In the final rule, Treasury is maintaining enumerated eligible uses in this area and clarifying how to apply eligibility standards. Throughout the final rule, enumerated eligible uses should respond to an identified impact of the COVID-19 public health emergency in a reasonably proportional manner to the extent and type of harm experienced. Many of the enumerated eligible uses—like behavioral health services, services to improve employment opportunities, and services to address educational disparities in disproportionately impacted communities—that respond to the public health and negative economic impacts of the pandemic may also have benefits for reducing crime or aiding victims of crime. For example, the pandemic exacerbated the impact of domestic violence, sexual assault, and human trafficking; enumerated eligible uses like emergency housing assistance, cash assistance, or assistance with food, childcare, and other needs could be used to support survivors of domestic violence, sexual assault, or human trafficking who experienced public health or economic impacts due to the pandemic.

Public Comment: Several commenters expressed support for community violence intervention programs or argued that traditional public safety approaches had negatively impacted the social determinants of health in their communities. Several commenters recommended inclusion of approaches like mental health or substance use diversion programs.

Treasury Response: Treasury recognizes the importance of comprehensive approaches to challenges like violence. The final rule includes an enumerated eligible use for community violence intervention programs in all communities, not just the disproportionately impacted communities eligible under the interim final rule. Given the increased rate of violence during the pandemic, Treasury has determined that this enumerated

⁷⁸ However, SLFRF funds may not be used to reimburse a service that was also billed to insurance.

⁷⁹ In line with the Department of Health and Human Services, Overdose Prevention Strategy, <https://www.hhs.gov/overdose-prevention/>, and the Office of National Drug Control Policy, Administration’s Statement on Drug Policy Priorities for Year One (April 1, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/03/BidenHarris-Statement-of-Drug-Policy-Priorities-April-1.pdf>.

eligible use is responsive to the impacts of the pandemic in all communities. The final rule incorporates guidance issued after the interim final rule on specifically types of services eligible, including:

- Evidence-based practices like focused deterrence, street outreach, violence interrupters, and hospital-based violence intervention models, complete with wraparound services such as behavioral therapy, trauma recovery, job training, education, housing and relocation services, and financial assistance; and
- Capacity-building efforts at community violence intervention programs like funding more intervention workers, increasing their pay, providing training and professional development for intervention workers, and hiring and training workers to administer the programs.

Public Comment: Some commenters sought further clarification on whether some of the enumerated eligible uses are considered responsive to all crime, violent crime, or gun violence.

Treasury Response: Enumerated eligible uses that respond to an increase in gun violence may be pursued in communities experiencing an increase in gun violence associated with the pandemic, specifically: (1) Hiring law enforcement officials—even above pre-pandemic levels—or paying overtime where the funds are directly focused on advancing community policing strategies for gun violence, (2) additional enforcement efforts to reduce gun violence exacerbated by the pandemic, including prosecuting gun traffickers, dealers, and other parties contributing to the supply of crime guns, as well as collaborative federal, state, and local efforts to identify and address gun trafficking channels, and (3) investing in technology and equipment to allow law enforcement to more efficiently and effectively respond to the rise in gun violence resulting from the pandemic, for example technology to assist in the identification of guns whose serial numbers have been damaged.

3. Negative Economic Impacts

a. Assistance to Households Background

While the U.S. economy is now on the path to a strong recovery, 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 education, and travel declined

precipitously, over 22 million jobs were lost in March and April 2020.⁸⁰ One year later, in April 2021, the economy still remained over 8 million jobs below its pre-pandemic peak,⁸¹ and the unemployment rate hovered around 6 percent.⁸²

In the months since Treasury issued the interim final rule in May 2021, the economy has made large strides in its recovery. The economy gained over 4 million jobs in the seven months from May to November 2021;⁸³ the unemployment rate fell more than 1.5 percentage points to 4.2 percent, which is the lowest rate since February 2020;⁸⁴ and the size of the nation's economy surpassed the pre-pandemic peak in the second quarter of 2021.⁸⁵

While the economy has made immense progress in its recovery since May 2021, the economy has also faced setbacks that illustrate the continued risks to the recovery. As the Delta variant spread across the country this summer and fall, the United States faced another severe wave of cases, deaths, and strain on the healthcare system, which contributed to a slowdown in the pace of recovery in the third quarter.⁸⁶ Supply chain disruptions have also demonstrated the difficulties of restarting a global economy.⁸⁷ Moreover, although many Americans have returned to work as of November 2021, the economy remains 3.9 million jobs below its pre-pandemic peak,⁸⁸ and 2.4 million workers have dropped out of the labor market altogether relative to February 2020.⁸⁹ Thus, despite much

progress, there is a continued need to respond to the pandemic's economic effects to ensure a full, broad-based, and equitable recovery.

Indeed, the pandemic's economic impacts continue to affect some demographic groups more than others. Rates of unemployment remain 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 4.2 percent in November 2021, but certain groups saw much higher rates: 6.7 percent for Black workers, 5.2 percent for Hispanic or Latino workers, and 5.7 percent for workers without a high school diploma.⁹⁰ Job losses have also been particularly steep among low-wage workers, with these workers remaining furthest from recovery as of the end of 2020.⁹¹ A severe recession, and its concentrated impact among low-income workers, has amplified food and housing insecurity, with an estimated nearly 20 million adults living in households where there is sometimes or often not enough food to eat and an estimated 12 million adults living in households that were not current on rent.⁹²

While economic effects have been seen across many communities, there are additional disparities by race and income. For example, approximately

Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CLF16OV> (last visited December 7, 2021).

⁹⁰ U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (December 6, 2021), <https://www.bls.gov/news.release/empsit.t01.htm> (last visited December 7, 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 (December 6, 2021), <https://www.bls.gov/web/empsit/cpseea04.htm> (last visited December 7, 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 (December 6, 2021), <https://www.bls.gov/web/empsit/cpseea05.htm> (last visited December 7, 2021).

⁹¹ 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 (July 2021), <https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf>.

⁹² 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-economys-effects-on-food-housing-and> (last visited December 17, 2021).

⁸⁰ 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 December 7, 2021).

⁸¹ *Id.*

⁸² 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 December 7, 2021).

⁸³ U.S. Bureau of Labor Statistics, *supra* note 80.

⁸⁴ U.S. Bureau of Labor Statistics, *supra* note 82.

⁸⁵ U.S. Bureau of Economic Analysis, Real Gross Domestic Product [GDP1], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/GDP1> (last visited December 7, 2021).

⁸⁶ U.S. Department of the Treasury, Economy Statement by Catherine Wolfram, Acting Assistant Secretary for Economy Policy, for the Treasury Borrowing Advisory Committee (November 1, 2021), available at <https://home.treasury.gov/news/press-releases/jy0453>.

⁸⁷ Yuka Hayashi, IMF Cuts Global Growth Forecast Amid Supply-Chain Disruptions, Pandemic Pressures, Wall Street Journal (October 12, 2021), available at <https://www.wsj.com/articles/imf-cuts-global-growth-forecast-amid-supply-chain-disruptions-warns-of-inflation-risks-11634043601>.

⁸⁸ U.S. Bureau of Labor Statistics, *supra* note 80.

⁸⁹ U.S. Bureau of Labor Statistics, Civilian Labor Force Level [CLF16OV], retrieved from FRED,

half of low-income, Black, and Hispanic parents reported difficulty covering costs related to food, housing, utility, or medical care.⁹³ Over the course of the pandemic, inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without childcare during the day.⁹⁴ Women of color have been hit especially hard: The labor force participation rate for Black women has fallen by 3.6 percentage points⁹⁵ during the pandemic as compared to 1.3 percentage points for Black men⁹⁶ and 1.7 percentage points for White women.⁹⁷

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.⁹⁸ 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 scores⁹⁹ and reduced familial and childhood wellbeing.¹⁰⁰ These potential long-term economic consequences underscore the continued need for robust policy support.

Low- and moderate-income households, those with income levels at or below 300 percent of the federal poverty level (FPL), face particular hardships and challenges. These households report much higher rates of food insecurity and housing hardships than households with higher incomes. For example, households with incomes at or below 300 percent FPL are several times more likely to have reported struggling with food insecurity compared to households with income above 300 percent FPL.¹⁰¹ Similarly, low- and moderate-income households reported being housing insecure¹⁰² at rates more than twice as high as higher-income households, and low- and moderate-income households reported housing quality hardship¹⁰³ at rates statistically significantly greater than the rate for higher-income households.¹⁰⁴ The economic crisis caused by the pandemic worsened economic outcomes for workers in many low- and moderate-income households. Industries that employed low-wage workers experienced a disproportionate level of job loss. For example, from February 2020 to February 2021, the hospitality and leisure industry lost nearly 3.5 million jobs.¹⁰⁵ While the

entire industry was impacted, 72 percent of the job losses occurred in the lowest wage service occupations compared to only a 6 percent rate of job loss in the highest wage management and finance jobs.¹⁰⁶ Similar trends exist in other heavily impacted industries. In public education, the lowest wage occupations, service and transportation jobs, saw a job loss rate of 20 and 26 percent, respectively.¹⁰⁷ During that same time period, the highest wage occupations in public education, management, actually saw jobs increase by 7 percent.¹⁰⁸

While many households suffered negative economic outcomes as a result of the COVID-19 pandemic and economic recession, households with low incomes were impacted in disproportionate and exceptional ways. From January 2020 to March 2021, low-wage workers experienced job loss at a rate five times higher than middle-wage workers, and high-wage workers actually experienced an increase in job opportunities.¹⁰⁹ Because workers in low-income households were more likely to lose their job or experience reductions in pay, those same households were also more likely to experience economic hardships like trouble paying utility bills, affording rent or mortgage payments, purchasing food, and paying for medical expenses.¹¹⁰ The disproportionate negative impacts the pandemic has had on low-income families extend beyond financial insecurity. For example, low-income families have reported higher levels of social isolation, stress, and other negative mental health outcomes during the pandemic. While over half of all U.S. adults report that their mental health was negatively affected by the pandemic, adults with low incomes reported major negative mental health impacts at a rate nearly twice that of adults with high incomes.¹¹¹

2021), available at <https://www.epi.org/publication/swa-2020-employment-report/>.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ R. Chetty, J. Friedman, N. Hendren, M. Stepner, & Team, T. O. I., *The Economic Impacts of COVID-19: Evidence from a New Public Database Built Using Private Sector Data* (No. w27431; p. w27431) (2020), National Bureau of Economic Research, <https://doi.org/10.3386/w27431>.

¹¹⁰ M. Despard, Michal Grinstein-Weiss, Yung Chun, and Stephen Roll, *COVID-19 job and income loss leading to more hunger and financial hardship*, Brookings Institute (July 13, 2020), <https://www.brookings.edu/blog/upfront/2020/07/13/covid-19-job-and-income-loss-leading-to-more-hunger-and-financial-hardship/>.

¹¹¹ N. Panchal, R. Kamal, C. Muñana, & P. Chidambaram, *The Implications of COVID-19 for Mental Health and Substance Use*, Kaiser Family Foundation (February 10, 2021), <https://www.kff.org/covid19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/>.

⁹³ Michael Karpman, Dulce Gonzalez, Genevieve M. Kenney, *Parents Are Struggling to Provide for Their Families during the Pandemic*, Urban Institute (May 2020), https://www.urban.org/research/publication/parents-are-struggling-provide-their-families-during-pandemic?utm_source=urban_researcher&utm_medium=email&utm_campaign=covid_parents&utm_term=lp.

⁹⁴ Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. See, e.g., Gema Zamarró & María 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>.

⁹⁵ 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 December 7, 2021).

⁹⁶ 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 December 7, 2021).

⁹⁷ 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 December 7, 2021).

⁹⁸ 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, 2011), <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/>.

⁹⁹ Chi Chi Wu, *Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession*, National Consumer Law Center (Dec. 2013), https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.

¹⁰⁰ Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., *Children of the Great Recession*, Russell Sage Foundation (Aug. 2016), available at <https://www.russellsage.org/publications/children-great-recession>.

¹⁰¹ Kyle J. Casewell and Stephen Zuckerman, *Food Insecurity, Housing Hardship, and Medical Care Utilization*, Urban Institute (June 2018), available at https://www.urban.org/sites/default/files/publication/98701/2001896_foodinsecurity_housinghardship_medicalcareutilization_finalized.pdf.

¹⁰² Housing insecurity is defined as not paying the full amount of rent or mortgage and/or utility bills (gas, oil, or electricity) sometime in the previous 12 months.

¹⁰³ Housing quality hardship is defined as an affirmative response to one or more questions related to problems with a respondent's physical dwelling: Pests and/or insects; leaking roof or ceiling; windows that are broken or cannot shut; exposed electrical wires; broken plumbing (toilet, hot water, other); holes in walls, ceiling, or floor; no appliances (refrigerator or stove); and no phone (of any kind).

¹⁰⁴ *Id.*

¹⁰⁵ Elise Gould and Melat Kassa, *Low-wage, low-hours workers were hit hardest in the COVID-19 recession: The State of Working America 2020 employment report*, Economic Policy Institute (May

Summary of Interim Final Rule and Final Rule Structure

Summary: The interim final rule provided a non-exhaustive list of enumerated eligible uses to respond to the negative economic impacts of the pandemic through assistance to households, as well as a standard for assessing whether uses of funds beyond those enumerated are eligible.

The interim final rule described enumerated eligible uses for assistance to households in several categories: (1) Assistance to unemployed workers, (2) state Unemployment Insurance Trust Funds, (3) assistance to households, and (4) expenses to improve the efficacy of economic relief. Note that the interim final rule posed several questions to the public on enumerated eligible uses for assistance to households; comments on these questions are addressed in the relevant subject matter section below.

In addition, in recognition that pre-existing health, economic, and social disparities contributed to disproportionate pandemic impacts in certain communities, the interim final rule also provided a broader list of enumerated eligible uses to respond to the pandemic in disproportionately impacted communities, specifically: (1) Building stronger communities through investments in housing and neighborhoods, (2) addressing educational disparities, and (3) promoting healthy childhood environments. In the interim final rule, under the Public Health section, recipients could also provide services to address health disparities and increase access to health and social services; these eligible uses have been re-organized into the Assistance to Households section to consolidate responses in disproportionately impacted communities and enhance clarity.

This section addresses enumerated eligible uses in the final rule to respond to negative economic impacts to households. As a reminder, recipients may presume that a household or population that experienced unemployment, experienced increased food or housing insecurity, or is low or moderate income experienced negative economic impacts resulting from the pandemic, and recipients may provide services to them that respond to these impacts, including these enumerated eligible uses.

For guidance on how to determine whether a particular use, beyond those enumerated, is eligible; further detail on

which households and communities are presumed eligible for services; and how to identify eligible households and communities beyond those presumed eligible, see section General Provisions: Structure and Standards.

Reorganizations and Cross-

References: The final rule reorganizes all enumerated eligible uses for impacted and disproportionately impacted households into the section Assistance to Households, with the exception that expenses to improve the efficacy of economic relief has been re-categorized into a different section of the final rule for increased clarity; for discussion of that use category, see section General Provisions: Other.

Note that in conducting this reorganization, and based on further analysis and in response to comments, Treasury has determined that several enumerated uses included in the interim final rule for disproportionately impacted communities are directly responsive to negative economic impacts experienced by impacted households. In the final rule, these uses have been moved from “disproportionately impacted” to “impacted” households accordingly, making these services available to both disproportionately impacted and impacted households. These uses include assistance applying for public benefits or services; programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including childcare, early learning services, programs to provide home visits, and services for families involved in the child welfare system and foster youth; programs to address the impacts of lost instructional time for students;¹¹² and programs or services that address housing insecurity, lack of affordable housing, or homelessness.

The following activities remain enumerated eligible uses for disproportionately impacted households: Remediation of lead paint or other lead hazards; housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity; and programs or services that address educational disparities, including assistance to high-poverty school districts to advance equitable funding across districts and geographies and evidence-based services to address the academic, social, emotional, and mental health needs of students.

¹¹² For which recipients may presume that any student who did not have access to in-person instruction for a significant period of time was impacted by the pandemic.

Enumerated Eligible Uses for Impacted Households

The interim final rule included several enumerated eligible uses to provide assistance to households or populations facing negative economic impacts due to COVID-19. Enumerated eligible uses included: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; cash assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training. It also posed a question as to what other types of services or costs Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19.

This section addresses each of these enumerated eligible uses in turn, with the exception of job training, which has been re-categorized for increased clarity to the eligible use for “assistance to unemployed and underemployed workers.” In general, commenters supported inclusion of these enumerated eligible uses to address key economic needs among households due to the pandemic, and Treasury is maintaining these eligible uses in the final rule, in line with commenters' recommendations.

1. Food assistance. The interim final rule included an enumerated eligible use for food assistance. Some commenters expressed support for this eligible use and emphasized the importance of aid to address food insecurity. Some commenters raised questions as to whether food assistance funds could be used to augment services provided through organizations like food banks, churches, and other food delivery services, or generally be sub-awarded to these organizations.

Treasury Response: Treasury is maintaining this enumerated eligible use without change. Recipients may, as was the case under the interim final rule, administer programs through a wide range of entities, including nonprofit and for-profit entities, to carry out eligible uses on behalf of the recipient government (see section Distinguishing Subrecipients versus Beneficiaries). Further, Treasury is clarifying that capital expenditures related to food banks and other facilities primarily dedicated to addressing food insecurity are eligible; recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General

Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

2. *Emergency housing assistance.* The interim final rule included an enumerated eligible use for rent, mortgage, or utility assistance and counseling and legal aid to prevent eviction or homelessness.

Public Comment: Several commenters supported the inclusion of eviction prevention activities as an eligible use given the high number of households behind on rent and potentially at risk of eviction. Following release of the interim final rule, Treasury had also received requests for elaboration on the types of eligible services in this category. Some commenters also recommended including assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, as an enumerated eligible use.

Treasury Response: In response to requests for elaboration on the types of eligible services for eviction prevention, Treasury has provided further guidance that these services include “housing stability services that enable eligible households to maintain or obtain housing, such as housing counseling, fair housing counseling, case management related to housing stability, outreach to households at risk of eviction or promotion of housing support programs, housing related services for survivors of domestic abuse or human trafficking, and specialized services for individuals with disabilities or seniors that support their ability to access or maintain housing,” as well as “legal aid such as legal services or attorney’s fees related to eviction proceedings and maintaining housing stability, court-based eviction prevention or eviction diversion programs, and other legal services that help households maintain or obtain housing.”¹¹³ Treasury also emphasized that recipients may work with court systems, nonprofits, and a wide range of other organizations to implement strategies to support housing stability and prevent evictions.

In the final rule, Treasury is maintaining these enumerated eligible uses, including those described in the interim final rule and later guidance, in line with commenters’ recommendations. To enhance clarity, Treasury is also elaborating on some types of services included under this eligible use category; this remains a

non-exhaustive list of eligible services. For example, eligible services under this use category include: Rent, rental arrears, utility costs or arrears (e.g., electricity, gas, water and sewer, trash removal, and energy costs, such as fuel oil), reasonable accrued late fees (if not included in rental or utility arrears), mortgage payment assistance, financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing-related costs related to a period of forbearance, delinquency, or default, mortgage principal reduction, facilitating mortgage interest rate reductions, counseling to prevent foreclosure or displacement, relocation expenses following eviction or foreclosure (e.g., rental security deposits, application or screening fees). Treasury is clarifying that assistance to households for delinquent property taxes, for example to prevent tax foreclosures on homes, was permissible under the interim final rule and continues to be so under the final rule. In addition, Treasury is also clarifying that recipients may administer utility assistance or address arrears on behalf of households through direct or bulk payments to utility providers to facilitate utility assistance to multiple consumers at once, so long as the payments offset customer balances and therefore provide assistance to households.

This eligible use category also includes emergency assistance for individuals experiencing homelessness, either individual-level assistance (e.g., rapid rehousing services) or assistance for groups of individuals (e.g., master leases of hotels, motels, or similar facilities to expand available shelter).

Further, Treasury is clarifying that transitional shelters (e.g., temporary residences for people experiencing homelessness) are eligible capital expenditures. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

Note that this enumerated eligible use describes “emergency housing assistance,” or assistance for responses to the immediate or near-term negative economic impacts of the pandemic. The final rule also clarifies and expands the ability of recipients to use SLFRF funds to address the general lack of affordable housing and housing challenges underscored by the pandemic. For discussion of affordable housing eligible uses, including services that primarily increase access to affordable, high-quality housing and support stable

housing and homeownership over the long term, see the eligible use for “promoting long-term housing security: Affordable housing and homelessness.”

3. *Emergency assistance for pressing needs: Burials, home repairs, weatherization, or other needs.* The interim final rule included an enumerated eligible use for emergency assistance for burials, home repairs, weatherization, and other needs; these types of programs may provide emergency assistance for pressing and unavoidable household needs. Treasury did not receive comments on this eligible use and is maintaining it in the final rule.

Background on Home Repairs and Weatherization: The economic downturn has meant fewer households had the resources needed to make necessary home repairs and improvements. In May 2021, 28 percent of landlords reported deferring maintenance and 27 percent of tenants reported maintenance requests going unanswered.¹¹⁴ While small and cosmetic repairs can often wait, deferring major repairs, such as plumbing needs, can result in unsafe and unhealthy living environments and, eventually, the need for more expensive repairs and fixes.

In addition to repairs, many homes are in need of weatherization. Weatherization assistance helps low- and moderate-income Americans save energy, reduce their utility bills, and keeps them and their homes safe. One in three households is energy insecure,¹¹⁵ meaning they do not have the ability to meet their energy needs.¹¹⁶ Weatherization efforts are particularly important for low- and moderate-income households. Households of color, renters, and households with low or moderate incomes are all more likely to report energy insecurity.¹¹⁷ These

¹¹⁴ Jung Hyun Choi, Laurie Goodman, and Daniel Pang, *The Pandemic Is Making It Difficult for Mom-and-Pop Landlords to Maintain Their Properties*, Urban Institute (July 23, 2021), <https://www.urban.org/urban-wire/pandemic-making-it-difficult-mom-and-pop-landlords-maintain-their-properties>.

¹¹⁵ U.S. Energy Information Administration, *Residential Energy Consumption Survey (2017)*, Retrieved from <https://www.eia.gov/consumption/residential/data/2015/hc/php/hc11.1.php>.

D. Hernández, *Understanding ‘energy insecurity’ and why it matters to health*, *Social Science & Medicine*, 167, 1–10 (2016), <https://doi.org/10.1016/j.socscimed.2016.08.029>.

¹¹⁶ Hernández, D. (2016). *Understanding ‘energy insecurity’ and why it matters to health*. *Social Science & Medicine*, 167, 1–10. <https://doi.org/10.1016/j.socscimed.2016.08.029>.

¹¹⁷ U.S. Energy Information Administration, *Residential Energy Consumption Survey (RECS)* <https://www.eia.gov/consumption/residential/data/2015/hc/php/hc11.1.php>. (last visited November 9, 2021)

¹¹³ See FAQ 2.21. Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

disparities are partially a result of economic hardship but are also caused by inequitable access to housing with proper insulation, up to date heating, cooling, and ventilation systems, and functioning and up to date lighting and appliances.¹¹⁸ While programs that address the effects of energy hardships, like the Low-Income Home Energy Assistance Program (LIHEAP), are critical, weatherization attempts to address root causes by addressing issues that lead to energy insecurities.

4. *Internet access or digital literacy assistance.* The interim final rule included an enumerated eligible use for assistance to households for internet access or digital literacy assistance. This enumerated eligible use, which responds to the negative economic impacts of the pandemic on a household by providing assistance that helps them secure internet access or increase their ability to use computers and the internet, is separate from the eligible use category for investments in broadband infrastructure, under Sections 602(c)(1)(D) and 603(c)(1)(D), which is used to build new broadband networks through infrastructure construction or modernization. For discussion of broadband infrastructure investment in the final rule, see section Broadband Infrastructure in Infrastructure.

Background: 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 other critical activities, school, healthcare, and work. Recognizing the need for such connectivity, SLFRF funds can be used to make necessary investments in broadband infrastructure that increase access over the long term, as well as the necessary supports to purchase internet access or gain digital literacy skills needed to complete activities of daily living during the pandemic.

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 service for every facet of daily life including work, study, and healthcare.¹¹⁹ 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.

However, 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).¹²⁰ According to a 2021 Pew Research Center study, 20 percent of non-broadband users say that the monthly cost of home broadband is the primary reason they do not have broadband at home, and 40 percent say that cost is one reason for their lack of home broadband.¹²¹ Further, according to another survey, 22 percent of parents with homebound schoolchildren during the COVID-19 pandemic say that it is very or somewhat likely that their children will have to rely on public wi-fi to finish their schoolwork because there is no reliable internet connection at home; this percentage nearly doubles for lower-income parents, 40 percent of whom noted that their children will have to rely on public wi-fi.¹²² The same survey showed that 36 percent of lower-income parents with homebound children say their child will not be able to complete their schoolwork because they do not have access to a computer at home.¹²³

Public Comment: Many commenters highlighted the importance of broadband access during the pandemic, including for remote work and

education, and argued that affordability presents a major barrier to broadband adoption by households; in other words, many households live in areas that have broadband infrastructure and service available but are unable to purchase service for their household due to the high cost. These commenters argued that broadband must be affordable to be accessible.

Commenters proposed several potential responses to affordability concerns. Some commenters recommended that building “gap networks,” or broadband networks built at low cost to provide affordable service in areas where it is lacking, be eligible as assistance to households to respond to the negative economic impacts of the pandemic, even if they do not meet the technical standards for eligibility under the eligible use category of broadband infrastructure investment, especially the required speed standards for new service. These commenters argued that the networks have shown promise as a timely means to expand access to affordable broadband internet during the pandemic, even if they may not provide service speeds needed for more intensive internet uses. Another commenter requested eligible uses include funding cellular towers to decrease costs. One commenter recommended that affordability should be addressed through other programs but not SLFRF given that affordability and availability may require nuanced solutions that would be complex to combine.

Treasury Response: The interpretive framework and enumerated eligible uses allow recipients flexibility to address identified pandemic impacts, including through solutions that take into account the particularized issues in their community. Given extensive commenter feedback on the importance of affordability to achieving broadband access, and the centrality of broadband to participating in work, education, healthcare, and other activities during the pandemic, affordability programs are an appropriate eligible use to respond to the negative economic impacts of the pandemic and Treasury is maintaining the enumerated eligible use for assistance to households for internet access and digital literacy programs in the final rule.

Building or constructing new broadband networks is an infrastructure investment and is governed by a separate clause in the statute. Treasury has addressed comments on “gap networks” that require infrastructure build-out in the section Broadband Infrastructure in Infrastructure.

¹¹⁸ A. Dreihobl, & L. Ross, Lifting the high energy burden in America's largest cities: How energy efficiency can improve low income and underserved communities, American Council for an Energy Efficient Economy (2016), <https://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf>.

¹¹⁹ See, e.g., Nation Telecommunications and Information Administration, More than Half of

American Households Used the Internet for Health-Related Activities in 2019, NTIA Data Show (December 7, 2020), <https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show>; Nation Telecommunications and Information Administration, Nearly a Third of American Employees Worked Remotely in 2019, NTIA Data Show (September 3, 2020) <https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show>; and generally, Nation Telecommunications and Information Administration, Digital Nation Data Explorer (June 10, 2020), <https://www.ntia.gov/data/digital-nation-data-explorer>.

¹²⁰ BroadbandSearch Blog Post, How Do U.S. Internet Costs Compare To The Rest Of The World?, available at <https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide>.

¹²¹ Pew Research Center, Mobile Technology and Home Broadband 2021 (June 3, 2021), <https://www.pewresearch.org/internet/2021/06/03/mobile-technology-and-home-broadband-2021/>.

¹²² Pew Research Center, 53% of Americans Say the Internet Has Been Essential During the COVID-19 Outbreak (April 30, 2020), <https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/>.

¹²³ *Id.*

Public Comment: Some commenters also use the term “gap networks” to refer to equipment installed as part of wi-fi systems, such as routers, repeaters, and access points; this equipment provides consumer access to an existing broadband network and does not require new network build-out or construction. These commenters recommended that Treasury permit, as assistance to households for internet access, investments in public wi-fi networks, free wi-fi in public housing communities, and other equipment that offers internet access to end users by utilizing existing broadband networks.

Other commenters recommended that eligible uses in this category include providing devices and equipment necessary to access the internet, like computers and routers, directly to low-income households.

Treasury Response: Treasury has determined that these services, which expand internet access without constructing new networks, are an appropriate enumerated eligible use as assistance to households to respond to a negative economic impact, and they are permitted under the final rule. Treasury is clarifying that eligible uses under this category can also include a wide range of programs and services to expand internet access and digital literacy, such as subsidies for the cost of internet service, other programs that support adoption of internet service where available, digital literacy programs, or programs that provide devices and equipment to access the internet (e.g., programs that provide equipment like tablets, computers, or routers) to households. Recipients seeking to use funds for equipment should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures (e.g., equipment, property, and facilities).

5. Cash assistance. The interim final rule included as an enumerated eligible use cash assistance and provided that cash transfers must be “reasonably proportional” to the negative economic impact they address and may not be “grossly in excess of the amount needed to address” the impact. In assessing whether a transfer is reasonably proportional, recipients may “consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID-19 crisis,” and transfers “grossly in excess of such amounts” are not eligible.

Public Comment: Several commenters expressed support for this eligible use, noting that this is a common policy tool

for some governments to support the well-being of households and individuals in their communities. Some commenters requested that Treasury set a specific dollar amount for permissible cash transfers, and Treasury has also received recipient questions on whether specific types of transfers, such as those to a substantial share of the population in the jurisdiction, would be a permissible use of funds.

Treasury Response: Treasury is maintaining this enumerated eligible use in the final rule, in line with commenters’ recommendations. Because the final rule is intended to provide flexibility to recipients to respond to the particularized pandemic impacts in their communities, which may vary in type and intensity, setting a specific dollar threshold for eligible cash transfers would fail to recognize the particularized needs of communities and limit recipients’ flexibility to tailor their response to those needs.

To provide greater clarity, Treasury is elaborating on the analysis that recipients may undertake to assess the eligibility of specific cash assistance programs or transfers. Cash transfers, like all eligible uses in this category, must respond to the negative economic impacts of the pandemic on a household or class of households. For the reasons discussed above, recipients may presume that low- and moderate-income households (as defined in the final rule), as well as households that experienced unemployment, food insecurity, or housing insecurity, experienced a negative economic impact due to the pandemic.

Recipients may also identify other households or classes of households that experienced a negative economic impact of the pandemic and provide cash assistance that is reasonably proportional to, and not grossly in excess of, the amount needed to address the negative economic impact. For example, in the ARPA, Congress authorized Economic Impact Payments to households at certain income levels, identifying and responding to a negative economic impact of the pandemic on these households.

Finally, Treasury has reiterated in the final rule that responses to negative economic impacts should be reasonably proportional to the impact that they are intended to address. Uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Reasonably proportional refers to the scale of the response compared to the scale of the harm. It also refers to the targeting of the response to beneficiaries compared to the amount of harm they

experienced; for example, it may not be reasonably proportional for a cash assistance program to provide assistance in a very small amount to a group that experienced severe harm and in a much larger amount to a group that experienced relatively little harm.

6. Survivor’s benefits. The interim final rule included an enumerated eligible use for survivor’s benefits to surviving family members of individuals who have died from COVID-19, including cash assistance to widows, widowers, or dependents.

Public Comment: Treasury did not receive any comments on the inclusion of survivor’s benefits as an enumerated use for impacted households in the interim final rule.

Treasury Response: This use of funds remains eligible under the final rule. Consistent with the general reorganization noted above, the final rule organizes survivor’s benefits under assistance to households to clarify that households are the intended beneficiaries of survivor’s benefits.

7. Assistance accessing or applying for public benefits or services. Recognizing that eligible households often face barriers to accessing public benefits or services that improve health and economic outcomes, the interim final rule included as an enumerated eligible use in disproportionately impacted communities, public benefits navigators to assist community members with navigating and applying for available federal, state, and local public benefits or services. Treasury also clarified in subsequent guidance after the interim final rule that this eligible use category would include outreach efforts to increase uptake of the Child Tax Credit.

Background: The under-enrollment of eligible households in social assistance programs is a well-recognized and persistent challenge. There are many reasons why a household may not be receiving a particular benefit even though they are eligible. For many federal programs, enrollment processes vary from state-to-state. Sometimes, households are simply unaware that they are eligible for a particular benefit.¹²⁴ For example, despite having one of the highest rates of participation of any benefits program, nearly 20 percent of eligible individuals do not participate in the Supplementary Nutritional Assistance Program

¹²⁴ Amy Finkelstein & Matthew J Notowidigdo, Take-Up and Targeting: Experimental Evidence from SNAP, *The Quarterly Journal of Economics*, vol. 134(3), pages 1505–1556 (2019), <https://www.nber.org/papers/w24652>.

(SNAP).¹²⁵ In other cases, policies like public charge and asset testing can discourage otherwise eligible households.¹²⁶ While the gap between households that need assistance and the number of households participating in public benefit programs has always existed, narrowing that gap and ensuring households receive the support they need is critical in mitigating the negative economic impacts of the pandemic.

Public Comment: Treasury has also received feedback from recipients and stakeholders noting the need to increase awareness and uptake of assistance programs, including gaps that remain in enrollment of eligible households in programs to address the negative economic impacts of the pandemic.¹²⁷

Treasury Response: Treasury has determined that this impact of the pandemic is widely experienced across many jurisdictions and programs or services to increase awareness and uptake of assistance programs would respond to the pandemic's negative economic impact in all communities. As such, in the final rule, this use is eligible for any impacted household or class of households, not only in disproportionately impacted communities.

8. Promoting healthy childhood environments. The interim final rule included programs and services that promote healthy childhood environments as an enumerated eligible use for disproportionately impacted households. The interim final rule listed three programs or services included under this use: Childcare; 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 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. The interim final rule also included an enumerated eligible use for early learning services in disproportionately impacted communities, to address disparities in education.

Public Comment: Childcare and Early Learning: Treasury received multiple comments that were supportive of the provision of childcare. Treasury has also received multiple comments and questions indicating that recipients have identified a need for childcare for a broader range of households and communities, for example those that may need childcare in order to return to work, in addition to households and communities disproportionately impacted by the pandemic. Several commenters expressed uncertainty about how childcare facilities should interact with the boundaries of a QCT. Finally, one commenter recommended that pre-K or early learning services encompass care for infants and toddlers, arguing that these types of care are often more expensive or challenging to access for families.

Background: Childcare and Early Learning: As daycares and schools closed in-person activities during the pandemic, many working families were left without childcare during the day.¹²⁸ Although daycare centers and schools have since reopened in many communities, there remains a persistent childcare shortage as childcare employment levels have not fully rebounded since the sharp decline in childcare employment at the beginning of the pandemic.¹²⁹ As a result, working parents in communities across the country, and more specifically women, may face challenges entering or reentering the labor force.¹³⁰

¹²⁸ Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. See, e.g., Gema Zamarró & Mari'a 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>.

¹²⁹ See, e.g., Center For The Study Of Child Care Employment (CSCCE), Child Care Sector Jobs: BLS Analysis (November 8, 2021), <https://csce.berkeley.edu/child-care-sector-jobs-bls-analysis/>; Emma K. Lee, and Zachary Parolin, The Care Burden during COVID-19: A National Database of Child Care Closures in the United States, *Socius* (January 2021), doi:10.1177/23780231211032028.

¹³⁰ Jason Furman, Melissa Schettini Kearney, and Wilson Powell, The Role of Childcare Challenges in the US Jobs Market Recovery During the COVID-19 Pandemic, NBER Working Paper No. 28934 (June 2021), <https://www.nber.org/papers/w28934>.

Low-income households are also more likely to lose access to quality childcare.¹³¹ The widespread closure of childcare centers combined with a lack of access to paid family leave means parents in low-income households are more likely to experience a reduction of income or leave their jobs due to a lack of childcare options.¹³²

Additionally, childcare providers serving primarily low-income families were less likely to remain open during the pandemic because of tighter profit margins and general community financial insecurity, compared to childcare providers serving primarily high-income families.^{133 134}

In addition to disruptions to childcare, early learning services were also significantly impacted by the pandemic, and the disruption of these services had widespread ramifications for learning loss, parental support, and equity. Early learning centers have seen declined enrollment across the board, though there was a larger dip in enrollment for low-income households.¹³⁵ This lower enrollment coincides with a diminishing workforce, as similarly to childcare, early childhood educators have been leaving the profession due to long hours, low pay,¹³⁶ and health and safety concerns.¹³⁷ As a result, children's school readiness has suffered, leading to potential long-term impacts on life outcomes.¹³⁸ The impact also extended

¹³¹ U.S. Census Bureau, Phase 3.2 Household Pulse Survey: Table 2. Childcare Arrangements in the Last 4 Weeks for Children Under 5 Years Old, by Selected Characteristics, (Washington: 2021), available at <https://www.census.gov/programs-surveys/household-pulse-survey/data.html>.

¹³² *Id.*

¹³³ N. Kalluri, C. Kelly, & A. Garg, Child Care During the COVID-19 Pandemic: A Bad Situation Made Worse, *Pediatrics* (2021), <https://doi.org/10.1542/peds.2020-041525>.

¹³⁴ National Association for the Education of Young Children, Am I Next? Sacrificing to Stay Open, Child Care Providers Face a Bleak Future Without Relief (December 2020), <https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDF>.

¹³⁵ G. G. Weisenfeld, Impacts of Covid-19 on Preschool Enrollment and Spending, New Brunswick, NJ: National Institute for Early Education Research (2021), https://nieer.org/wp-content/uploads/2021/03/NIEER_Policy_Brief_Impacts-of-Covid-19on_Preschool_Enrollment_and_Spending_3_16_21.pdf.

¹³⁶ Heather Long, 'The pay is absolute crap': Child-care workers are quitting rapidly, a red flag for the economy, *Washington Post* (September 19, 2021), <https://www.washingtonpost.com/business/2021/09/19/childcare-workers-quit/>.

¹³⁷ Monash University, The emotional toll of COVID-19 among early childhood educators (August 5, 2020) <https://lens.monash.edu/@education/2020/08/05/1381001/the-emotional-toll-of-covid-19-among-early-childhood-educators>.

¹³⁸ Daphna Bassok and Anna Shapiro, Understanding COVID-19-era enrollment drops

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¹²⁵ United States Department of Agriculture, Trends in Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2016 to Fiscal Year 2018 (May 2021), <https://fns-prod.azureedge.net/sites/default/files/resource-files/Trends2016-2018.pdf>.

¹²⁶ Jeremy Barofsky et al., Spreading Fear: The Announcement Of The Public Charge Rule Reduced Enrollment In Child Safety-Net Programs, *Health Affairs* (October 2020), <https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2020.00763>.

¹²⁷ See, e.g., U.S. Department of the Treasury, By ZIP Code: Number of Children under Age 18 with a Social Security Number Who Are Not Found on a Tax Year 2019 or 2020 Tax Return but who Appear on a Tax Year 2019 Form 1095 and Associated Number of Policy Holders (June 2021), <https://home.treasury.gov/system/files/131/Estimated-Counts-of-Children-Unclaimed-for-CTC-by-ZIP-Code-2019.pdf>.

to parents. Parents, especially mothers, may face challenges reentering or remaining in the workforce if early learning services are unavailable.

Treasury Response: Childcare and Early Learning Services: Treasury agrees with commenters' analysis that challenges accessing or affording childcare have been widespread during the pandemic, affecting many jurisdictions and populations across the country. Disruptions to early care and learning services similarly have had broad impact and likely result in negative impacts for young children and their parents. As such, these enumerated eligible uses are generally responsive to the negative economic impacts of the pandemic in all communities, not just in disproportionately impacted communities. Under the final rule, childcare and early learning services are available to impacted households or classes of households, not just those disproportionately impacted. These eligible uses can include new or expanded services, increasing access to services, efforts to bolster, support, or preserve existing providers and services, and similar activities.

Further, Treasury is clarifying that improvements to or new construction of childcare, daycare, and early learning facilities are eligible capital expenditures. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

Public Comment: Home Visiting: Treasury has also received questions about whether the provision of home visiting services would be responsive to the health and mental health needs of impacted new mothers, citing the positive mental health impacts shown on the mother as well as improved outcomes for children.

Background: Home Visiting: Pregnant and recently pregnant individuals are at an increased risk for serious illness from COVID-19.¹³⁹ Furthermore, pregnant individuals with COVID-19 are more likely to experience preterm birth (delivering the baby earlier than 37

weeks).¹⁴⁰ In addition to heightened health risks from COVID-19, pregnant individuals may have experienced significant changes to their prenatal care during the pandemic¹⁴¹ or may also have experienced increased mental health challenges, including high levels of depression, anxiety, loneliness, and post-traumatic stress during the pandemic.¹⁴²

Home visiting services provided to families, particularly new mothers and newborns, feature regular home visits from trained nurses, social workers, and/or counselors who provide health care, mental health resources, positive parenting support, support in making personal health decisions, and awareness of other potentially helpful services. These functions have become even more essential at mitigating negative factors associated with the pandemic. Home visits give professionals a chance to flag potential domestic violence, which has risen worldwide over the course of the pandemic.¹⁴³ Racial health disparities can also be driven down by home visits. For example, Black women are more likely to avoid hospitals during the pandemic, and home visitors can help either assuage concerns around hospitals or give effective advice for alternative methods of childbirth.¹⁴⁴ Given the disproportionate effect of the pandemic on people of color, home visits are an essential equity tool that tackle major negative effects of the pandemic. These are just a few selections from the evidence that suggests many home visiting models can have a positive effect on maternal physical and mental health.¹⁴⁵

Treasury Response: Home Visiting: Given the widespread impact of

¹⁴⁰ *Id.*

¹⁴¹ Sarah Javaid, Sarah Barringer, Sarah D Compton, Elizabeth Kaselitz, Maria Muzik, Cheryl A. Moyer, The impact of COVID-19 on prenatal care in the United States: Qualitative analysis from a survey of 2519 pregnant women, *Midwifery*, Volume 98, 2021, 102991, ISSN 0266-6138, <https://doi.org/10.1016/j.midw.2021.102991>.

¹⁴² A Basu, HH Kim, R Basaldua, KW Choi, L Charron, et al., A cross-national study of factors associated with women's perinatal mental health and wellbeing during the COVID-19 pandemic, *PLOS ONE* 16(4): e0249780, (2021), <https://doi.org/10.1371/journal.pone.0249780>.

¹⁴³ Amanda Taub, A New Covid-19 Crisis: Domestic Abuse Rises Worldwide, *New York Times* (April 6, 2020), <https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html>.

¹⁴⁴ Xenia Shih Bion, Efforts to Reduce Black Maternal Mortality Complicated by COVID-19, *California Health Care Foundation* (April 20, 2020), <https://www.chcf.org/blog/efforts-reduce-black-maternal-mortality-complicated-covid-19/>.

¹⁴⁵ U.S. Department of Health and Human Services, Home Visiting Evidence of Effectiveness, <https://homvee.acf.hhs.gov/outcomes/maternal%20health/In%20Brief>.

COVID-19 on pregnant and recently pregnant individuals, Treasury is re-categorizing home visiting services as an eligible use for impacted communities, not just disproportionately impacted communities. Under the final rule, these eligible uses are available to impacted households or classes of households.

Public Comment: Child Welfare: While the interim final rule noted that certain types of assistance, particularly around child development and parenting, were eligible for child welfare-involved families, Treasury has received some recipient questions asking whether financial, educational, housing, or other supports and services are eligible uses for foster youth, including those aging out of the system, and child welfare-involved families. Other commenters asked about whether funding for kinship care would be eligible.

Background: Child Welfare: The COVID-19 pandemic placed meaningful strain on the child welfare and foster care system. Court hearings were delayed,¹⁴⁶ essential mental health care was shifted to a virtual environment, and attendance and performance in school among foster children dropped sharply.¹⁴⁷ Additionally, there was a nationwide rise of new children entering the foster care system and many states placed temporary moratoria on children aging out of the foster care system.¹⁴⁸ As these temporary moratoria expire, additional support will be needed to assist children exiting the system.

Additionally, financial and material hardship are causal factors in the increase of new children entering the foster care system, whether through loss of a caregiver, domestic violence,¹⁴⁹ or other associated costs of the pandemic. Therefore, support to decrease these hardships will support families and increase positive outcomes for youth

¹⁴⁶ National Conference of State Legislatures, Criminal Justice System Responses to COVID-19 (November 16, 2020), <https://www.ncsl.org/research/civil-and-criminal-justice/criminal-justice-and-covid-19.aspx>.

¹⁴⁷ John Burton Advocates for Youth, The Cumulative Impact of the Pandemic on Youth Who Have Been in Foster Care or Homeless (May 2020) <https://jbay.org/wp-content/uploads/2021/04/JBAY-COVID-19-Impact.pdf>.

¹⁴⁸ John Kelly, Next Week, Thousands of Foster Youth Will Age Out on the Same Day (September 21, 2021), <https://imprintnews.org/subscriber-content/thousands-of-foster-youth-will-age-out-on-the-same-day/59006>.

¹⁴⁹ Conrad-Hiebner, Aislinn, and Elizabeth Byram, The Temporal Impact of Economic Insecurity on Child Maltreatment: A Systematic Review. Trauma, Violence, & Abuse, vol. 21, no. 1, Jan. 2020, pp. 157-178, doi:10.1177/1524838018756122.

among early-grade public school students, Brookings Institution (February 22, 2021), <https://www.brookings.edu/blog/brown-center-chalkboard/2021/02/22/understanding-covid-19-era-enrollment-drops-among-early-grade-public-school-students/>.

¹³⁹ Centers for Disease Control and Prevention, Pregnant and Recently Pregnant People, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/pregnant-people.html> (last visited November 9, 2021).

and families that may otherwise become involved in the child welfare system.

Treasury Response: In the final rule, Treasury is clarifying that services to foster youth, including those aging out of the system, and child welfare-involved families may encompass a wide array of financial, educational, child development, or health supports, or other supports necessary, including supports for kinship care.

9. Addressing the impacts of lost instructional time.

Public Comment: The interim final rule included an enumerated eligible use to address educational disparities in disproportionately impacted communities, recognizing that underserved students have been more severely impacted by the pandemic and including responsive services for early learning, enhance funding to high-poverty districts, and providing evidence-based services to address the academic, social, emotional, and mental health needs of students. Some commenters expressed concerns that learning loss or the negative impacts of lost instructional time due to school closures or remote education during the pandemic had affected a significant share of students in grades kindergarten through twelve (K–12), including students who may not fall within a disproportionately impacted group.

Background: The COVID–19 pandemic resulted in the widespread closure of schools across the nation. While many schools and districts reopened to in-person instruction or implemented remote learning, the shift was not immediate or without consequence. Children who received virtual only or combined remote and in-person instruction were more likely to report experiencing negative mental- and physical health outcomes than children who received in-person instruction.¹⁵⁰

Treasury Response: Under the final rule, addressing the impact of lost instructional time and/or learning loss is an enumerated eligible use for impacted households. When providing services to address lost instructional time, recipients may presume that any K–12 student who lost access to in-person instruction for a significant period of time has been impacted by the pandemic and is thus eligible for responsive services.

Interventions or services that address the impact of lost instructional time may include offering high-quality tutoring and other extended learning opportunities, providing differentiated instruction, implementing activities to meet the comprehensive needs of students, expanding and improving language access for parents and families, providing information and assistance to parents and families on how they can effectively support students, including in a distance learning environment, improving student engagement in distance education, and administering and using high-quality assessments to assess students' academic progress, among others. In designing services under this eligible use, recipients may wish to reference guidance from the Department of Education on strategies for addressing lost instructional time.¹⁵¹

The final rule also maintains a separate enumerated eligible use for addressing educational disparities in disproportionately impacted communities. This eligible use includes services to address disparities in educational outcomes that predate the pandemic and amplified its impact on underserved students; these include, for example, enhanced funding to high-poverty districts and providing evidence-based services to address the academic, social, emotional, and mental health needs of students.

Finally, as described in the section Public Health, recipients can provide a broad range of behavioral health services, including services for children and youth in schools, to respond to the impacts of the pandemic on mental health and other behavioral health issues. When providing behavioral health services, recipients may presume that the general public was impacted by the pandemic and provide behavioral health services to members of the general public, including children and youth in schools, without any further analysis of impacts of the pandemic on those individuals and whether the service is responsive.

10. Promoting long-term housing security: affordable housing and homelessness. Under the interim final rule, recipients may use SLFRF funds to provide a set of housing services to communities that have been disproportionately impacted by the pandemic. Specifically, the interim final rule provided that programs or services that address housing insecurity, lack of affordable housing, or homelessness,

were responsive to the negative economic impacts of the pandemic when provided to disproportionately impacted households and communities. The enumerated uses included supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless and development of affordable housing to increase supply of affordable and high-quality living units. Many recipients have already announced plans to use SLFRF funds for affordable housing interventions in all of these categories. Treasury received many comments asking for additional clarity or flexibility in these uses.

As detailed below, based on multiple public comments and questions and Treasury's subsequent analysis, Treasury has determined that supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless, and the development of affordable and high-quality living units are responsive to the needs of impacted populations, not only disproportionately impacted populations. This final rule reflects this clarification and builds on the objectives stated in the interim final rule to improve access to stable, affordable housing, including through interventions that increase the supply of affordable and high-quality living units, improve housing security, and support durable and sustainable homeownership.

Finally, note that “emergency housing assistance,” or assistance for responses to the immediate negative economic impacts of the pandemic through services like financial assistance for rental arrears or mortgage payments, is also an eligible use category for assistance to households under the final rule; see the eligible use for “emergency housing assistance” above. The provision of housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity remains an eligible use under assistance to disproportionately impacted households; for discussion, see the eligible use for “housing vouchers and assistance relocating” below.

Background: Affordable Housing: It is clear that the ongoing pandemic and resulting economic crisis are having a profound, long-term negative effect on the pre-existing affordable housing crisis facing low-income households.¹⁵²

¹⁵⁰ Verlenden JV, Pampati S, Rasberry CN, et al. Association of Children's Mode of School Instruction with Child and Parent Experiences and Well-Being During the COVID–19 Pandemic—COVID Experiences Survey, United States, October 8–November 13, 2020. *MMWR Morb Mortal Wkly Rep* 2021;70:369–376. DOI: <http://dx.doi.org/10.15585/mmwr.mm7011a1external> icon.

¹⁵¹ U.S. Department of Education, Strategies for Using American Rescue Plan Funding to Address the Impact of Lost Instructional Time, August 2021. Retrieved from <https://www2.ed.gov/documents/coronavirus/lost-instructional-time.pdf>.

¹⁵² Consumer Financial Protection Bureau, Housing insecurity and the COVID–19 pandemic

Continued

The combination of a large number of higher-income households who have weathered the pandemic without significant income losses, low interest rates, and housing supply constraints exacerbated by the pandemic, have driven a sharp increase in the sale price of homes.¹⁵³ Meanwhile, many low-income renters and homeowners are struggling with lost employment and income and are behind on their housing payments.¹⁵⁴

Public Comment: Affordable Housing Outside of Low-Income Geographies: A major theme in comments was that affordable housing interventions, especially development of affordable housing, should be allowed outside of QCTs, as concentrating the supply of affordable housing in low-income geographies can have the effect of increasing both concentrated poverty and racial and economic segregation, while locking lower-income households in need of housing support out of high-opportunity neighborhoods with access to employment and amenities.

Treasury Response: Affordable Housing Outside Low-Income Geographies: As previously stated, affordable housing is not confined to low-income geographies under the interim final rule. As discussed elsewhere, the interim final rule presumed that QCTs, as well as communities served by Tribal governments, were disproportionately impacted for administrative convenience, but recipients may identify other populations, households, or geographic areas with disparate impacts of COVID-19 and provide affordable housing services to them. For example, under the interim final rule, a city could determine that its low-income residents faced disproportionate impacts of COVID-19 and develop affordable housing targeted to these households. Such a scenario could include, for example, affordable projects

in higher-income neighborhoods that would allow residents to live closer to jobs and well-resourced schools.

Additionally, as noted above, Treasury is finalizing the rule with some changes to the treatment of affordable housing development designed to clarify that permanent supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless, and the development of affordable housing to increase supply of affordable and high-quality living units, are responsive to individuals and households that were impacted by the pandemic in addition to those that were disproportionately impacted. This shift is in line with commenters' recommendations and consistent with the facts described above, which demonstrate that lack of supply of affordable housing units contributed to the pandemic's impact on housing insecurity and unsustainable housing cost burdens and that these impacts were experienced broadly across the country.

Public Comment: Eligible Activities: Many commenters asked for clarity on what types of activities (e.g., land acquisition, construction, pre-construction costs, operating costs, etc.) are eligible uses of SLFRF, and what affordability criteria must be applied to affordable housing development. Commenters encouraged Treasury to allow the full array of affordable housing activities, including particular requests for broad flexibility for Tribal communities, and to specify that "development" should include construction, preservation, rehabilitation, and operation. Other commenters requested clarification about permissible program administration approaches for affordable housing, such as contracting methods and distribution of funds.

Some commenters asked that Treasury require SLFRF funds to be focused on the lowest-income households, who suffer the most severe rent burdens and risks of housing instability, and whose housing situation has left them particularly vulnerable to COVID-19. For example, one commenter argued that SLFRF funds should only be used to support affordable housing for households making 50 percent of AMI or less and that recipients should be required to set aside significant portions of any developments for renters making 30 percent of AMI or less and persons with physical and sensory disabilities. Other commenters requested a more flexible approach to affordable housing definitions.

Treasury Response: Eligible Activities: The final rule clarifies eligibility of affordable housing development for recipients; these uses were eligible under the interim final rule, but Treasury is providing further guidance to enhance clarity and respond to recipient and commenter questions.

As with all interventions to address the negative economic impacts of the pandemic, affordable housing projects must be responsive and proportional to the harm identified. This test may be met by affordable housing development projects—which may involve large expenditures and capital investments—if the developments increase the supply of long-term affordable housing for low-income households. While there may be less costly (or non-capital) alternatives to affordable housing development, a comprehensive response to the widespread housing challenges underscored by the pandemic will require the production of additional affordable homes, and targeted affordable housing development is a cost-effective and proportional response to this need.

For purposes of this test, Treasury will presume that any projects that would be eligible for funding under either the National Housing Trust Fund (HTF) or the Home Investment Partnerships Program (HOME) are eligible uses of SLFRF funds. Note that these programs use different income limits than the definition of low- and moderate-income adopted by Treasury. Given the severity of the affordable housing shortage, and the ways in which the pandemic has exacerbated the need for affordable, high-quality dwelling units, Treasury has determined that the households served by these federal housing programs have been impacted by the pandemic and its negative economic impacts and that development of affordable housing consistent with these programs is a related and reasonably proportional response to those impacts. Additionally, affordable housing projects provided by a Tribal government are eligible uses of SLFRF if they would be eligible for funding under the Indian Housing Block Grant program, the Indian Community Development Block Grant program, or the Bureau of Indian Affairs Housing Improvement Program. Alignment with these programs, which define "affordable housing" in a manner consistent with a proportionate response to the affordable housing challenges faced by low- and moderate-income households as a result of the negative economic impacts of the pandemic, is intended to give recipients comfort and clarity as they design a

(March 2020), https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf.

¹⁵³ Joint Center For Housing Studies Of Harvard University, The State of the Nation's Housing (June 2021), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2021.pdf.

¹⁵⁴ Davin Reed and Eileen Divringi, Household Rental Debt During COVID-19: Update for 2021, Federal Reserve Bank of Philadelphia (2020), available at: <https://www.philadelphiafed.org/community-development/housing-and-neighborhoods/household-rental-debt-during-covid-19-update-for-2021>. Further, some research suggests that liquidity may be a more important predictor of default than other factors, including income or equity. See Trading Equity for Liquidity (June 2019), available at <https://www.jpmorganchase.com/content/dam/jpmc/jpmorgan-chase-and-co/institute/pdf/institute-trading-equity-for-liquidity.pdf>.

wide variety of affordable housing interventions, including production, rehabilitation, and preservation of affordable rental housing and, in some cases, affordable homeownership units. These programs allow the financing of a wide range of affordable housing activities and set clear eligibility criteria that many recipients are already familiar with.

Finally, to further support sustainable and durable homeownership, recipients may consider offering down payment assistance, such as through contributions to a homeowner's equity at origination or that establish a post-closing, mortgage reserve account on behalf of the borrower that may be utilized to make a missed or partial mortgage payment at any point during the life of the loan (e.g., if the borrower faces financial stress). Homeownership assistance that would be eligible under the Community Development Block Grant (at 24 CFR 507.201(n)) is also an eligible use of SLFRF funds.

Public Comment: Permanent Supportive Housing: Treasury has received comments encouraging the use of SLFRF funds for permanent supportive housing. This is an eligible use under the interim final rule: Both the development of affordable housing (including operating subsidies) and wraparound services such as behavioral health services, employment services, and other supportive services, are eligible responses to the public health crisis or its negative economic impacts.

Treasury Response: The final rule maintains the eligibility of permanent supportive housing as an enumerated use. Treasury is also clarifying that other affordable housing developments targeted to specialized populations are also eligible, for example recovery housing for individuals in recovery from substance use.

Public Comment: Operating Expenses: Commenters specifically asked that Treasury allow the use of SLFRF funds for operating expenses of affordable housing units, as operating subsidies are typically required to reach extremely low-income households, whose affordable rents may be lower than the ongoing cost of operating their unit.

Treasury Response: Operating expenses for eligible affordable housing were an eligible use of funds under the interim final rule and the final rule maintains this treatment. This may include capitalized operating reserves.

Rehabilitation and repair of public housing will also be considered an eligible use of SLFRF funds.

Public Comment: Affordable Housing Loans and Revolving Loan Funds: Some commenters requested that loans with

maturities beyond the period of performance or revolving loan funds that revolve beyond the period of performance be eligible uses of SLFRF funds if used for affordable housing. Some commenters pointed out that for-profit developers of low-income housing through the Low-Income Housing Tax Credit (LIHTC) may be deterred from accepting grants to bridge funding gaps in current LIHTC deals by the treatment of grants to for-profit entities in the calculation of eligible basis for the LIHTC.

Treasury Response: The final rule does not change the treatment of loans from the interim final rule. For more details see section Treatment of Loans in Program Administration Provisions. Similarly, the final rule does not change the treatment of grants to support affordable housing development, including developments supported by the LIHTC: such grants are an eligible use of funds.

Additional enumerated eligible uses for assistance to impacted households. As noted above, the interim final rule posed a question on what other types of services or costs Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19. In response, commenters proposed a wide variety of additional recommended enumerated eligible uses to assist households, ranging from general categories of services (e.g., legal and social services) to services that respond to needs widely experienced across the country (e.g., access to and affordability of health insurance) to services that are most applicable to the particularized needs of certain populations or geographic areas of the United States (e.g., senior citizens, SNAP recipients, immigrants, formerly-incarcerated individuals, responding to environmental issues in certain geographic regions). Other commenters generally requested a high degree of flexibility to respond to the particular needs of their communities.

Treasury Response: Given the large number and diversity of SLFRF recipients, Treasury's approach to assistance to households in the final rule aims to clarify additional enumerated eligible uses that respond to negative economic impacts of the pandemic experienced widely in many jurisdictions across the country, making it clear and simple for recipients to pursue these enumerated eligible uses under the final rule. In the final rule, Treasury is clarifying several additional uses, which generally respond to pandemic impacts experienced broadly across jurisdictions and populations, are eligible under the interim final rule as

assistance to households and continue to be so under the final rule, as outlined below.

11. Paid sick, medical, or family leave.

Public Comment: Some commenters argued that the pandemic increased the need for paid sick or medical leave, as staying home when ill is recommended by the CDC to prevent spread of the virus but lack of access to paid sick leave often prevents workers from staying home. Other commenters recommended paid family leave as an eligible use, arguing that shortages in access to childcare or home health assistance, as well as school closures, may increase the need for family members to serve as caretakers.

Background: The COVID-19 pandemic highlighted the importance of paid leave as well as the number of workers who do not have access to paid sick and/or family leave. When workers have access to paid leave, they are less likely to report to work sick, and therefore less likely to spread illnesses in the workplace: One study demonstrates that the emergency sick leave provision of the Families First Coronavirus Response Act (FFCRA) reduced the spread of COVID-19.¹⁵⁵

The lack of paid leave exacerbates financial hardships experienced as a result of the public health emergency. A 2018 survey by the Department of Labor found that two-thirds of employees that took unpaid or partial-paid leave experienced financial hardship.¹⁵⁶ Furthermore, because the Family and Medical Leave Act (FMLA) excludes small employers, part-time workers, and workers who have been with their employer for less than a year, 44 percent of workers do not have access to even unpaid leave.¹⁵⁷ Workers of color and workers with lower incomes are less likely to have access to paid leave.^{158 159}

¹⁵⁵ Stefan Pichler, Katherine Wen, and Nicolas R. Ziebarth, COVID-19 Emergency Sick Leave Has Helped Flatten The Curve In The United States: Study examines the impact of emergency sick leave on the spread of COVID-19, *Health Affairs* 39, no. 12 (2020): 2197–2204, <https://www.healthaffairs.org/doi/10.1377/hlthaff.2020.00863>.

¹⁵⁶ Scott Brown et al., Employee and Worksites Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys, Abt Associates (July 2020), https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHDFMLA2018SurveyResults_FinalReport_Aug2020.pdf.

¹⁵⁷ *Id.*

¹⁵⁸ Ann P. Bartel et al., Racial and ethnic disparities in access to and use of paid family and medical leave: evidence from four nationally representative datasets, U.S. Bureau of Labor Statistics (BLS) (January 2019), <https://www.bls.gov/opub/mlr/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-and-medical-leave.htm>.

For workers that are also caregivers for children, seniors, or other family members, there may be a similar need for—and benefits of—paid family leave. For example, some workers may have struggled during the pandemic to balance caring for children, as schools and daycares closed, and working. For new parents, paid parental leave results in fewer infant hospitalizations, lowering parental stress, increasing parental involvement, and improving the overall health of parent and child.¹⁶⁰ COVID-19 has also increased the levels of “caregiving intensity”¹⁶¹ and “caregiving burden”¹⁶² for those providing care to seniors or older family members.^{163 164} When surveyed, more than half of caregivers reported that COVID-19 increased both the amount of caregiving responsibilities they had as well as the negative physical and mental impacts their caregiving responsibilities had on themselves.¹⁶⁵

Treasury Response: Treasury agrees that these constitute impacts of the pandemic, and accordingly, under the final rule, creating, expanding, or financially supporting paid sick, medical, or family leave programs is an enumerated eligible use of funds to respond to the negative economic impacts of the pandemic.

12. Health insurance.

Public Comment: Several commenters recommended that uses of funds to expand access to health insurance be enumerated eligible uses; commenters believed that the heightened risk of

illness or hospitalization due to COVID-19 had increased the negative economic impacts of lacking health insurance.

Background: In 2019, prior to the pandemic, it was estimated that 11 percent of nonelderly adults lacked health insurance.¹⁶⁶ By mid-2020, job loss had resulted in an estimated 3.3 million people losing their employer sponsored insurance, resulting in an additional 2 million uninsured adults.¹⁶⁷ Participation in Medicaid, the Children’s Health Insurance Program (CHIP), and the Affordable Care Act (ACA) marketplace played an important role in minimizing the number of people who completely lost health insurance during the early phases of the pandemic; Medicaid and CHIP enrollment increased by 9 percent from February to September 2020¹⁶⁸ and 8.3 million people enrolled in insurance through the ACA marketplace.¹⁶⁹

Although the ACA, CHIP, and Medicaid have significantly reduced the number of uninsured Americans through the pandemic and the economic downturn, adequate coverage and affordability still remains an issue for many. In 2020, 21 percent of working-age adults were inadequately insured, meaning even if they had insurance, they incurred a significant amount of out-of-pocket costs.¹⁷⁰ Additionally, 37 percent of adults reported struggling with medical bills or medical debt and 71 percent of adults who did not purchase insurance cited affordability as the main factor.¹⁷¹

Treasury Response: Treasury agrees that loss of health insurance, increased financial risk from lacking health insurance, or excessive out-of-pocket healthcare costs constitute negative economic impacts of the pandemic. Under the final rule, programs or services to expand access to health insurance coverage are an enumerated eligible use as assistance to households, for example, subsidies for health insurance premiums or expansion of a recipient’s health insurance plan to cover additional employees who currently lack coverage.

13. Services for the unbanked and underbanked.

Public Comment: One commenter expressed support for the inclusion of services to increase banking access as an allowable expense under SLFRF. The commenter recommended that states be encouraged to offer opportunities for consumers to open safe and affordable accounts capable of receiving direct payments. The commenter emphasized that allowing unbanked and underbanked households to receive funds securely through no-fee, direct deposit will help connect or reconnect consumers to the mainstream financial system.

Background: Banking inequities can make it difficult for unbanked or underbanked households to access housing, jobs, and other important economic opportunities. Being unbanked or underbanked can also make it challenging for households to apply for and receive financial assistance, including services like pandemic emergency housing assistance.

Safe, affordable, and accessible financial services play a critical role in assisting households in the United States in managing income volatility and cash flow shortages.¹⁷² Currently, over 5 percent of families, or 7 million households are “unbanked,” meaning they do not have a bank account.¹⁷³ Low-income households, non-white households, and households with individuals with disabilities were even more likely to be unbanked. In 2019, 16 percent of Native American households, 14 percent of Black households, and 12 percent of Hispanic households were unbanked, compared to 2.5 percent of white households. Additionally,

¹⁵⁹ U.S. Bureau of Labor Statistics, Employee Benefits in the United States (March 2019), <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/civilian/table31a.pdf>.

¹⁶⁰ Maya Rossin-Slater et al., Local exposure to school shootings and youth antidepressant use, *Proceedings of the National Academy of Sciences*, vol 117(38), pages 23484–23489 (2020), <https://www.pnas.org/content/117/38/23484>; Ariel Marek Pihl and Gaetano Basso, Did California Paid Family Leave Impact Infant Health?, *Journal of Policy Analysis and Management*, <https://onlinelibrary.wiley.com/doi/abs/10.1002/pam.2210>.

¹⁶¹ J.C. Jacobs, A. Laporte, C.H. Van Houtven, P.C. Coyte, Caregiving intensity and retirement status in Canada, *Social Science & Medicine*, 102, 74–82 (2014), <https://www.sciencedirect.com/science/article/abs/pii/S0277953613006631>.

¹⁶² E. Lightfoot, R.P. Moone, Caregiving in times of uncertainty: Helping adult children of aging parents find support during the COVID-19 outbreak, *Journal of Gerontological Social Work*, 63(6–7), 542–552 (2020), <https://www.tandfonline.com/doi/abs/10.1080/01634372.2020.1769793>.

¹⁶³ Note: “Caregiving intensity” is defined as the amount and type of care provided by informal caregivers; “Caregiving burden” is defined as the impacts on physical and mental health, and health-related quality of life of informal caregivers.

¹⁶⁴ SA Cohen, ZJ Kunicki, MM Drohan, ML Greaney, Exploring Changes in Caregiver Burden and Caregiving Intensity due to COVID-19, *Gerontology and Geriatric Medicine* (January 2021), doi:10.1177/2333721421999279.

¹⁶⁵ *Id.*

¹⁶⁶ Jennifer Tolbert et al., Key Facts about the Uninsured Population, Kaiser Family Foundation (November 6, 2020), <https://www.kff.org/uninsured/issue-brief/key-facts-about-the-uninsured-population/>.

¹⁶⁷ Joshua Aarons et al., As the COVID-19 Recession Extended into the Summer of 2020, More Than 3 Million Adults Lost Employer-Sponsored Health Insurance Coverage and 2 Million Became Uninsured, Urban Institute (September 18, 2020), <https://www.urban.org/research/publication/covid-19-recession-extended-summer-2020-more-3-million-adults-lost-employer-sponsored-health-insurance-coverage-and-2-million-became-uninsured>.

¹⁶⁸ Centers for Medicare and Medicaid Services, Medicaid and CHIP Enrollment Trends Snapshot through September 2020 (Washington: 2021), available at <https://www.medicare.gov/sites/default/files/2021-01/september-medicare-chip-enrollment-trend-snapshot.pdf>.

¹⁶⁹ Centers for Medicare and Medicaid Services, 2021 Federal Health Insurance Exchange Weekly Enrollment Snapshot: Final Snapshot (January 12, 2021) available at <https://www.cms.gov/newsroom/fact-sheets/2021-federal-health-insurance-exchange-weekly-enrollment-snapshot-final-snapshot>.

¹⁷⁰ Sara R. Collins, Munira Z. Gunja, and Gabriella N. Aboulafia, U.S. Health Insurance Coverage in 2020: A Looming Crisis in Affordability (New York: Commonwealth Fund, 2020), available at <https://www.commonwealthfund.org/publications/issue-briefs/2020/aug/looming-crisis-health-coverage-2020-biennial>.

¹⁷¹ *Id.*

¹⁷² Federal Deposit Insurance Corporation, FDIC National Survey of Unbanked and Underbanked Households (2015), <https://www.fdic.gov/householdsurvey/2015/2015execsumm.pdf>.

¹⁷³ Federal Deposit Insurance Corporation, How America Banks: Household Use of Banking and Financial Services 2019 FDIC Survey, <https://www.fdic.gov/analysis/household-survey/2019report.pdf>.

underbanked households—those that have a bank account but rely on alternative financial services, such as money orders, payday loans, and check cashing services—account for 16 percent of all households in the United States.¹⁷⁴ As a result of the COVID-19 pandemic, new social distancing protocols have, in some instances, made it more difficult to perform financial transactions with paper instruments, like banknotes, coinage, paper checks, or money orders. Households constrained to these payment methods may face challenges receiving government assistance. Additionally, businesses have transitioned to cashless payments systems to promote contactless payments.¹⁷⁵ As a result, unbanked individuals may face additional challenges conducting financial transactions.

Treasury Response: Recognizing these challenges, Treasury is clarifying that recipients may use SLFRF funds to provide financial services that facilitate the delivery of federal, state, or local benefits (e.g., Child Tax Credit, Earned Income Tax Credit, tax refunds, or emergency housing or food assistance funds). The following includes a non-exhaustive list of uses to provide financial services to unbanked and underbanked households:

- Provide low or no cost financial services, including in conjunction with administration of benefits, such as pre-paid debit cards, e.g., via Economic Impact Payment or General Purpose Reloadable pre-paid cards or for the development of public banking infrastructure that can support benefit delivery.
- Provide transitional services to facilitate long-term access to banking and financial services.
- Provide financial literacy programs and conduct community outreach and deploy engagement resources to increase awareness about low-cost, no-overdraft fee accounts, pilot new strategies and approaches that help overcome barriers to banking access and support the gathering and sharing of information in ways that improve equity, such as community meetings, partnerships with community-based organizations, online surveys, focus groups, human-centered design

¹⁷⁴ Board of the Governors of the Federal Reserve System, Report on the Economic Well-Being of U.S. Households in 2018–May 2019, <https://www.federalreserve.gov/publications/2019-economic-well-being-of-us-households-in-2018-banking-and-credit.htm>.

¹⁷⁵ Zaheer Allam, The Forceful Reevaluation of Cash-Based Transactions by COVID-19 and Its Opportunities to Transition to Cashless Systems in Digital Urban Networks. Surveying the Covid-19 Pandemic and its Implications (2020): 107–117. doi:10.1016/B978-0-12-824313-8.00008-5.

activities, and other community engagement activities.

Assistance to Unemployed and Underemployed Workers

The interim final rule included assistance to unemployed workers as an enumerated eligible use, including “services like job training to accelerate rehiring of unemployed workers.” Treasury provided further guidance, based on recipient questions after the interim final rule, that eligible uses under this section also include “other efforts to accelerate rehiring and thus reduce unemployment, such as childcare assistance, assistance with transportation to and from a jobsite or interview, and incentives for newly employed workers[,]” as well as assistance to unemployed workers seeking to start small businesses. Finally, further guidance also provided that “public jobs programs, subsidized employment, combined education and on-the-job training programs, or job training to accelerate rehiring or address negative economic or public health impacts experienced due to a worker’s occupation or level of training” are all enumerated eligible uses as assistance to unemployed or underemployed workers.

The interim final rule defined eligible beneficiaries of assistance as “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.” This definition is based on definitions used by the Bureau of Labor Statistics to define individuals currently unemployed, as well as persons marginally attached to the labor force and working part-time for economic reasons.¹⁷⁶ The latter two classifications are types of labor underutilization, or “underemployed” workers.¹⁷⁷ Finally, the interim final rule specified that assistance to unemployed workers included both workers who lost their job during the pandemic and resulting recession and workers unemployed when the pandemic began who saw further deterioration of their economic prospects due to the pandemic.

Public Comment: Commenters generally supported the inclusion of this enumerated eligible use. One commenter recommended including assistance for underemployed workers who took jobs due to the pandemic that

did not fully utilize their skillset or did not provide the hours, wages, or job quality desired. Treasury has also received recipient questions on whether job fairs or grants to businesses to hire underserved workers are eligible uses under this category. Another commenter recommended flexibility in eligible workforce development programs, arguing that rural areas may face particular challenges.

Treasury Response: Treasury is maintaining this eligible use in the final rule, including the enumerated eligible services in the interim final rule and subsequent guidance. Treasury is also confirming that job fairs or grants to businesses to hire underserved workers are eligible uses under this section.

Treasury is also enumerating that job and workforce training centers are eligible capital expenditures, so long as they adhere to the standards and presumptions detailed in the section Capital Expenditures in General Provisions: Other.

The final rule maintains the definition of eligible beneficiaries, which is aligned with the Bureau of Labor Statistics’ definitions of unemployed workers and other labor underutilization, using a common, widely known definition that incorporates a broad group of individuals both unemployed or whose skills are otherwise underutilized in the labor market.

In addition, recognizing that the pandemic has generated broad workforce disruption, in the final rule, Treasury is making clear that recipients may provide job training or other enumerated types of assistance to individuals that are currently employed but are seeking to move to a job that provides better opportunities for economic advancement, such as higher wages or more opportunities for career advancement.

Recipient Unemployment Insurance Trust Funds and Related Expenses

Under the interim final rule, a recipient may use funds to make deposits into its 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 balance 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. These costs support the solvency of the unemployment insurance system and, ultimately, unemployment insurance benefits provided to unemployed

¹⁷⁶ Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Concepts and Definitions, <https://www.bls.gov/cps/definitions.htm> (last visited November 9, 2021).

¹⁷⁷ *Id.*

workers during the pandemic.¹⁷⁸ The interim final rule also posed the question of what, if any, conditions should be considered to ensure that funds used under this eligible use category repair economic impacts of the pandemic and strengthen unemployment insurance systems.

Public Comment: Inclusion as an Eligible Use and Conditions:

Commenters expressed mixed perspectives on this eligible use category. Some commenters supported its inclusion, arguing that unemployment insurance systems have faced significant costs to support unemployed workers during the pandemic and that this constitutes a negative economic impact that SLFRF funds should be able to address. Other commenters opposed this eligible use category, arguing that funds used under this category may not ultimately support unemployed workers. Some commenters noted that unemployment insurance taxes on businesses automatically increase when trust fund balances are low and suggested that permitting the deposit of funds into unemployment insurance trust funds prevents a tax increase on businesses, some of which may not have faced negative economic impacts from the pandemic, rather than providing assistance to unemployed workers. Other comments suggested that deposits are better thought of as savings for future needs than assistance to unemployed workers in the near term.

Responding to the interim final rule's question, several commenters suggested that, if Treasury maintains this eligible use, the final rule should require detailed reporting on funds used under this category or place conditions on this category to increase the likelihood that funds ultimately support unemployed workers. For example, some commenters suggested that recipients that deposit SLFRF funds into their trust fund should be barred from cutting unemployment insurance benefits for workers during the period of performance or from erecting new barriers to accessing benefits (e.g., through the application process and ongoing requirements to receive benefits). One commenter, noting that unemployment insurance benefits often provide low rates of wage replacement and do not cover some types of unemployed workers, argued that recipients should not be permitted to deposit funds into the trust fund unless

the recipient concurrently expands benefits. Finally, one commenter suggested a cap on the amount of funds that can be used for this purpose.

Treasury Response: Inclusion as an Eligible Use and Conditions: In the final rule, Treasury is maintaining the inclusion of this eligible use category. Because unemployment insurance trust funds directly fund benefits to unemployed workers, maintaining the solvency of the trust fund is critical to the continued provision of assistance to unemployed workers. Further, funds deposited into the trust fund must be used as assistance to unemployed workers, an eligible use of SLFRF funds. Finally, while, in the absence of the SLFRF, trust fund deposits would likely be funded through increases on employer payroll taxes, the eligibility of uses of SLFRF funds does not depend on how obligations would otherwise be satisfied if the SLFRF were not available for this use.

While deposits to unemployment insurance trust funds generally serve as assistance to unemployed workers, recipients that make deposits but also cut unemployment insurance benefits to workers substantially decrease the likelihood that the deposited funds will assist unemployed workers. In other words, SLFRF funds deposited into an unemployment insurance trust fund generally serve as assistance to unemployed workers, unless recipients take policy actions that substantially decrease the extent to which SLFRF funds would flow to unemployed workers. As such, through December 31, 2024, recipients that deposit SLFRF funds into an unemployment insurance trust fund or use SLFRF funds to repay principal on Title XII advances, may not take action to reduce benefits available to unemployed workers by changing the computation method governing regular unemployment compensation in a way that results in a reduction of average weekly benefit amounts or the number of weeks of benefits payable (i.e., the maximum benefit entitlement).

Finally, until the final rule becomes effective on April 1, 2022, the interim final rule remains binding and effective.¹⁷⁹ These requirements were not in effect under the interim final rule and do not apply to funds used (i.e., obligated or expended) under the interim final rule while it is in effect. In addition, recognizing that some recipients have taken significant steps

toward making a trust fund deposit or repaying principal on Title XII advances under the interim final rule, such as the legislative appropriation of funds for this purpose, even if a formal obligation has not occurred, Treasury will exercise enforcement discretion to not pursue violations of this final rule provision (i.e., the requirement not to reduce benefits) for recipients that have appropriated funds for this purpose prior to the date of adoption of the final rule consistent with the laws and procedures in their jurisdiction. Recipients should refer to Treasury's Statement Regarding Compliance with the Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule and Final Rule, which provides additional detail on these issues.

Public Comment and Treasury Response: Technical Corrections and Amendments: Following the interim final rule, Treasury received recipient questions on whether paying interest on advances received under Title XII of the Social Security Act (42 U.S.C. 1321) is an eligible use of SLFRF funds; Treasury is clarifying that such use is permissible, consistent with Treasury's treatment of the eligibility of interest on Title XII advances under the Coronavirus Relief Fund.

Treasury is further clarifying that recipients may only use SLFRF funds for contributions to unemployment insurance trust funds and repayment of the principal amount due on advances received under Title XII of the Social Security Act up to an amount equal to (i) the difference between the balance in the recipient's unemployment insurance trust fund as of January 27, 2020 and the balance of such account as of May 17, 2021, plus (ii) the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021. Further, recipients may use SLFRF funds for the payment of any interest due on such Title XII advances. In other words, excluding interest due on Title XII advances, the magnitude of the decrease of the balance in the unemployment insurance trust fund plus the principal outstanding on any Title XII borrowings made from the beginning of the public health emergency to the date of publication of the SLFRF interim final rule sets a cap on the amount of SLFRF funds a recipient may use for trust fund contributions and repayment of principal on Title XII advances. Further, a recipient that deposits SLFRF funds into its unemployment insurance trust fund to fully restore the pre-pandemic balance may not draw down that

¹⁷⁸ Note that, while the economic harm being addressed accrued before March 3, 2021, the cost incurred to address the harm occurs after March 3, 2021 and provides assistance to unemployed workers, an eligible use of SLFRF funds.

¹⁷⁹ See, e.g., U.S. Department of the Treasury, More Information on the Conclusion of the Public Comment Period and the Interim Final Rule on the Coronavirus State and Local Fiscal Recovery Funds, <https://home.treasury.gov/system/files/136/IFR-Explainer.pdf>.

balance and deposit more SLFRF funds, back up to the pre-pandemic balance.

Enumerated Eligible Uses for Disproportionately Impacted Households

Background

The COVID-19 pandemic has had disproportionately negative impacts on many households and communities that were already experiencing inequality related to race, gender, age, or income before the pandemic. People of color, low-income workers, and women disproportionately lost their jobs during the COVID-19 pandemic and experienced disproportionate rates of negative health outcomes.^{180 181}

These disproportionate negative impacts experienced by systemically underserved communities are not novel to the COVID-19 pandemic and the economic downturn. Research shows that historically underserved communities that are experiencing economic and social disparities typically experience disproportionate impacts of economic downturns and natural disasters.¹⁸² This pattern held true for the effects of COVID-19 and the economic downturn: Historically undeserved groups experienced amplified negative impacts, further widening inequality.¹⁸³

Many communities facing systemic barriers had not yet recovered from the impact of the Great Recession before experiencing the impacts of COVID-19 and the economic downturn. For example, in 2009, at the end of the Great Recession, households without a high school diploma had an average annual income of \$32,300 (measured in 2018 dollars). By 2018, nine years into the economic recovery, those same households saw their average income increase by \$600. During that same time period, households with a bachelor's degree saw an increase in their average

household income of \$6,100 (measured in 2018 dollars).¹⁸⁴

The impact pre-existing inequalities have on a household or community's ability to recover is intersectional. Research shows that pre-existing racial and gender disparities exacerbated the disproportionate economic and health impact COVID-19 and the economic downturn had on workers of color, and specifically, women of color.¹⁸⁵ Another study found that during the first six months of the pandemic counties that were both high-poverty and majority non-white experienced COVID-19 infection rates eight times higher than high-poverty, majority white counties.¹⁸⁶ Many residents in these communities are still coping with the negative health and economic impacts.

Summary of the Interim Final Rule and Final Rule Structure

As described previously, the interim final rule provided a broader list of enumerated eligible uses to respond to the pandemic in disproportionately impacted communities, in recognition that pre-existing health, economic, and social disparities contributed to disproportionate pandemic impacts in certain communities and that addressing the root causes of those disparities constitutes responding to the public health and negative economic impacts of the pandemic. The interim final rule described eligible uses in disproportionately impacted communities in four categories, spread across public health and negative economic impacts: (1) Addressing disparities in public health outcomes, (2) building stronger communities through investments in housing and neighborhoods, (3) addressing educational disparities, and (4) promoting healthy childhood environments. As described above, Treasury has moved eligible uses related to community violence intervention, assistance accessing or applying to public benefits and services, affordable housing development, healthy childhood environments, and addressing lost instructional time in K–

12 schools into the category “assistance to impacted households,” recognizing that these pandemic impacts were widely shared across the country.

This section discusses enumerated eligible uses to address health disparities, to build stronger communities through investments in neighborhoods, to address educational disparities, to provide rental assistance vouchers or assistance relocating to areas of greater economic opportunity, and additional eligible uses to respond to negative economic impacts in disproportionately impacted communities. While many of these services impact both health and economic outcomes, Treasury has consolidated them into a single section for simplicity and clarity and to reflect the intertwined nature of these issues.

As a reminder, recipients can presume these uses are eligible when provided in a QCT, to families and individuals living in QCTs, by Tribal or territorial governments, or to low-income households or communities. As provided in section Standards: Designating Other Disproportionately Impacted Classes, recipients can also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. Recipients may also identify additional disproportionate impacts of the pandemic and design an appropriate response to address that harm. For details on eligibility standards and presumed eligible populations, see section General Provisions: Structure and Standards.

Enumerated Eligible Uses for Disproportionately Impacted Households

1. Addressing health disparities.

Public Comment: General: In general, commenters supported eligible uses to address health disparities and support health equity; several commenters highlighted the disparities faced by communities of color and low-income populations, as well as the importance of community engagement in developing effective programs to serve disproportionately impacted communities. Many commenters recommended additional enumerated eligible uses to address health disparities; these are discussed further below in this section.

Treasury Response: In line with commenters' recommendations, the final rule maintains several enumerated eligible uses to address health disparities, specifically:

a. Community health workers.

Treasury received few comments on community health workers, though one

¹⁸⁰ U.S. Department of Health and Human Services, COVID-19 and Economic Opportunity: Inequities in the Employment Crisis, April 2021. Retrieved from https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/199901/covid-economic-equity-brief.pdf.

¹⁸¹ Adelle Simmons et al., Health disparities by race and ethnicity during the COVID-19 pandemic: Current evidence and policy approaches. U.S. Department of Health and Human Services https://aspe.hhs.gov/sites/default/files/migrated_legacy_files/199516/covid-equity-issue-brief.pdf.

¹⁸² Perry, Brea L., Brian Aronson, and Bernice A. Pescosolido, Pandemic precarity: COVID-19 is exposing and exacerbating inequalities in the American heartland, National Academy of Sciences (February 2021), <https://www.pnas.org/content/118/8/e2020685118>.

¹⁸³ *Id.*

¹⁸⁴ Jesse Bennet & Rakesh Kochhar, Two Recessions, Two Recoveries, Pew Research Center (December 13, 2019), <https://www.pewresearch.org/social-trends/2019/12/13/two-recessions-two-recoveries-2/>.

¹⁸⁵ Darrick Hamilton et al., Building an Equitable Recovery: The role of Race, Labor Markets, and Education, The New School's Institute on Race and Political Economy (February 2021).

¹⁸⁶ Adhikari S, Pantaleo NP, Feldman JM, Ogedegbe O, Thorpe L, Troxel AB. Assessment of Community-Level Disparities in Coronavirus Disease 2019 (COVID-19) Infections and Deaths in Large US Metropolitan Areas. JAMA Netw Open. 2020;3(7):e2016938. doi:10.1001/jamanetworkopen.2020.16938.

requested further clarification on their role.¹⁸⁷ Treasury is maintaining this eligible use in the final rule.

b. Remediation of lead paint or other lead hazards. The interim final rule included remediation of lead paint or other lead hazards as an enumerated eligible use to address health disparities.

Public Comment: Treasury received several comments asking for clarification on the eligibility of a particular use that would indirectly address lead pollution. For example, a commenter requested the ability to fund remedial actions, such as filtration and plumbing procedures to help address lead pollution. One commenter requested that private wells be eligible for funding to address contamination with substances such as lead. Other commenters requested that Treasury allow replacement of lead pipes as an eligible use of funds.

Treasury Response: Recipients may make a broad range of water infrastructure investments under section 602(c)(1)(d) and 603(c)(1)(d), which can include lead service line replacement and other activities to identify and remediate lead in water. These uses are discussed in greater detail in section Water and Sewer Infrastructure of this Supplemental Information.

Treasury has further determined that several of the services identified by commenters are appropriate responses to address health disparities in disproportionately impacted households. These services were eligible under the interim final rule and continue to be so under the final rule. These services include remediation to address lead-based public health risk factors, outside of lead in water, including evaluation and remediation of lead paint, dust, or soil hazards; testing for blood lead levels; public outreach and education; and emergency protection measures, like bottled water and water filters, in areas with an action level exceedance for lead in water in accordance with the Environmental Protection Agency's Lead and Copper Rule.¹⁸⁸

Further, Treasury had determined that certain capital expenditures, including improvements to existing facilities to remediate lead contaminants (e.g., removal of lead paint), are eligible responses, although this does not

include construction of new facilities for the purpose of lead remediation. Recipients should make sure that all capital expenditures adhere to the standards and presumptions detailed in section Capital Expenditures in General Provisions: Other.

c. Medical facilities. Treasury received a few comments from recipients seeking to use SLFRF funds to build new medical facilities, such as hospitals or public health clinics, to serve disproportionately impacted communities. Given the central role of access to high-quality medical care in reducing health disparities and addressing the root causes that led to disproportionate impact COVID-19 health impacts in certain communities, the final rule recognizes that medical equipment and facilities designed to address disparities in public health outcomes are eligible capital expenditures. This includes primary care clinics, hospitals, or integrations of health services into other settings. Recipients should make sure that all capital expenditures adhere to the standards and presumptions detailed in section Capital Expenditures in General Provisions: Other.

2. Housing vouchers and assistance relocating. In addition to other housing services, the interim final rule permitted a variety of rental assistance approaches to support low-income households in securing stable, long-term housing, including 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. Examples could include SLFRF-funded analogues to Section 8 Housing Choice vouchers; other kinds of rent subsidies, including shallow subsidies; and programs to help residents move to areas with higher levels of economic mobility.¹⁸⁹ Treasury did not receive public comments on these enumerated eligible uses.

Treasury Response: Treasury maintains the eligibility of vouchers and relocation assistance in the final rule.

3. Building strong, healthy communities through investments in neighborhoods. While the interim final rule included a category of enumerated eligible uses for “building stronger communities through investments in housing and neighborhoods,” the examples of services provided generally focused on housing uses. In response to questions following release of the interim final rule, Treasury issued

further guidance clarifying that “investments in parks, public plazas, and other public outdoor recreation spaces may be responsive to the needs of disproportionately impacted communities by promoting healthier living environments.”

Public Comment: General: A significant theme across many public comments was the importance of neighborhood environment to health and economic outcomes and the potential connections between residence in an underserved neighborhood and disproportionate impacts from the pandemic. Many commenters highlighted the connection between neighborhoods and health outcomes, including citing public health research linking neighborhood traits to health outcomes. For example, the CDC states that “neighborhoods people live in have a major impact on their health and well-being.”¹⁹⁰ As such, CDC identifies “neighborhoods and built environment” as one of five key social determinants of health¹⁹¹ and includes “creat[ing] neighborhoods and environments that promote health and safety” as one of the agency’s goals for social determinants of health outcomes.

a. Neighborhood features that promote improved health and safety outcomes.

Public Comment: Commenters argued that neighborhoods impact physical health outcomes in several ways. First, some commenters reasoned that the physical environment and amenities in a community¹⁹² influence a person’s level of physical activity, with features like parks, recreation facilities, and safe sidewalks promoting increased physical activity that improves health outcomes. Conversely, commenters argued that a lack of these features in a neighborhood could dampen physical activity and contribute to health conditions like obesity that are risk factors for more severe COVID-19 health outcomes.

Second, some commenters also suggested that access to healthy food in a neighborhood impacts health outcomes. These commenters reasoned

¹⁹⁰ U.S. Department of Health and Human Services, Neighborhood and Built Environment, <https://health.gov/healthypeople/objectives-and-data/browse-objectives/neighborhood-and-built-environment#cit1> (last visited November 9, 2021).

¹⁹¹ Social determinants of health are “the conditions in the places where people live, learn, work, and play that affect a wide range of health risks and outcomes.” Centers for Disease Control and Prevention, About Social Determinants of Health (SDOH), <https://www.cdc.gov/social-determinants/about.html> (last visited November 9, 2021).

¹⁹² In public health, this is referred to as “built environment,” or the man-made physical aspects of a community (e.g., homes, buildings, streets, open spaces, and infrastructure).

¹⁸⁷ See, e.g., Centers for Disease Control and Prevention, Community Health Worker (CHW) Toolkit, <https://www.cdc.gov/dhbsp/pubs/toolkits/chw-toolkit.htm> (last visited November 9, 2021).

¹⁸⁸ Environmental Protection Agency, 40 CFR 141.80(c)(1), <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-141/subpart-I/section-141.80>.

¹⁸⁹ See, e.g., Opportunity Insights, Creating Moves To Opportunity (August 2019), <https://opportunityinsights.org/policy/cmto/>.

that lacking adequate access to affordable, healthy food or living in a “food desert” may contribute to disparities in diet that influence health outcomes, including contributing to pre-existing conditions that increased risk for severe COVID-19 outcomes. These commenters cited public health research finding “clear evidence for disparities in food access in the United States by income and race.”¹⁹³

Some commenters also suggested that neighborhood environment is connected to other public health outcomes, like mental health and public safety. For example, some research suggests that living in neighborhoods with green space and tree cover correlates with improved mental health outcomes.¹⁹⁴ Finally, some commenters argued that activities like installing streetlights, greening or cleanup of public spaces or land, and other efforts to revitalize public spaces would support improved public safety.^{195 196}

These commenters recommended that Treasury include as an enumerated eligible use in disproportionately impacted communities projects to develop neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces.

Background: Investments in neighborhood features, including parks, recreation facilities, sidewalks, and healthy food access, can work to improve physical and mental health outcomes. Allowing people access to nature, including parks, has been connected to decreased levels of

mortality and illness and increased well-being.¹⁹⁷ Urban park use during the COVID-19 pandemic may have declined among lower-income individuals.¹⁹⁸ Encouraging physical activity can also play a role in health outcomes, as a sedentary lifestyle is a risk factor for chronic diseases and more severe COVID-19 outcomes.¹⁹⁹ Parks, recreation facilities, and sidewalks can promote healthier living environments by allowing for safe and socially distanced recreation during the COVID-19 pandemic.

Additionally, food insecurity rates, which are higher among lower-income households and households of color, doubled among all households and tripled among households with children during the onset of COVID-19 from February 2020 to May 2020.²⁰⁰ Improving healthy food access supports public health, particularly among lower-income households and households of color that face disproportionate outcomes.

Treasury Response: Treasury recognizes the connection between neighborhood built environment and physical health outcomes as discussed in the research and analysis provided by commenters, including risk factors that may have contributed to disproportionate COVID-19 health impacts in low-income communities. The final rule also recognizes that the public health impacts of the pandemic are broader than just the COVID-19 disease itself and include substantial impacts on mental health and public safety challenges like rates of violent crime, which are correlated with a neighborhood’s built environment and features. As such, neighborhood features that promote improved health and safety outcomes respond to the pre-existing disparities that contributed to COVID-19’s disproportionate impacts on low-income communities.

The final rule includes enumerated eligible uses in disproportionately impacted communities for developing neighborhood features that promote improved health and safety outcomes, such as parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks,²⁰¹ projects that increase access to healthy foods, streetlights, neighborhood cleanup, and other projects to revitalize public spaces. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other, which describes additional eligibility standards that apply to uses of funds for capital expenditures.

b. Vacant or abandoned properties. As discussed above, the interim final rule included enumerated eligible uses for building stronger communities through investments in housing and neighborhoods in disproportionately impacted communities. The interim final rule also posed a question of whether other potential uses in this category, specifically “rehabilitation of blighted properties or demolition of abandoned or vacant properties,” address the public health or economic impacts of the pandemic.

Public Comment: Several commenters argued that programs or services to address vacant or abandoned property would respond to the public health and negative economic impacts of the pandemic in disproportionately impacted communities. Some commenters cited research suggesting that living near such property is correlated with worse physical health and mental health outcomes, noted that such properties pose an environmental hazard, or argued that such properties present a barrier to economic recovery. These commenters suggested that renovation or demolition of vacant or abandoned property could benefit community health and raise property values. Other commenters recommended that Treasury include an enumerated eligible use for the operation of land banks that redevelop or renew vacant properties and land.

Treasury Response: As noted throughout the final rule, the pandemic underscored the importance of safe, affordable housing and healthy

¹⁹³ J Beaulac, E Kristjansson, S Cummins, A systematic review of food deserts, 1966–2007, *Prev Chronic Dis* 2009;6(3):A105, http://www.cdc.gov/pccd/issues/2009/jul/08_0163.htm.

¹⁹⁴ See, e.g., Yijun Zhang et al. The Association between Green Space and Adolescents’ Mental Well-Being: A Systematic Review. *International journal of environmental research and public health* vol. 17, 18 6640 (Sep. 11 2020), doi:10.3390/ijerph17186640; EC South, BC Hohl, MC Kondo, JM MacDonald, CC Branas, Effect of Greening Vacant Land on Mental Health of Community-Dwelling Adults: A Cluster Randomized Trial, *JAMA Netw Open*. 2018;1(3):e180298 (2018), available at: doi:10.1001/jamanetworkopen.2018.0298.

¹⁹⁵ See, e.g., Yanqing Xu, Cong Fu, Eugene Kennedy, Shanhe Jiang, Samuel Owusu-Agyemang, The impact of street lights on spatial-temporal patterns of crime in Detroit, Michigan, *Cities*, Volume 79, Pages 45–52, ISSN 0264–2751 (2018), <https://doi.org/10.1016/j.cities.2018.02.021>.

¹⁹⁶ A. Chalfin, B. Hansen, J. Lerner et al., Reducing Crime Through Environmental Design: Evidence from a Randomized Experiment of Street Lighting in New York City, *Journal of Quantitative Criminology* (2021), <https://doi.org/10.1007/s10940-020-09490-6>.

¹⁹⁷ See, e.g., American Public Health Association, Improving Health and Wellness through Access to Nature (November 5, 2013), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/08/09/18/improving-health-and-wellness-through-access-to-nature>.

¹⁹⁸ LR Larson et al., Urban Park Use During the COVID-19 Pandemic: Are Socially Vulnerable Communities Disproportionately Impacted?, *Front. Sustain. Cities* 3:710243 (2021), <https://doi.org/10.3389/frsc.2021.710243>.

¹⁹⁹ JP Després, Severe COVID-19 outcomes—the role of physical activity. *Nat Rev Endocrinol* 17, 451–452 (2021). <https://doi.org/10.1038/s41574-021-00521-1>.

²⁰⁰ Caroline George and Adie Tomer, Beyond ‘food deserts’: America needs a new approach to mapping food, *Brookings Institution* (August 17, 2021), <https://www.brookings.edu/research/beyond-food-deserts-america-needs-a-new-approach-to-mapping-food-insecurity/>.

²⁰¹ However, Treasury cautions recipients that general infrastructure development, including street or road construction, remains a generally ineligible use of funds under the final rule. Sidewalks and pedestrian safety should be the predominant component of uses of funds in this category. While projects may include ancillary construction needed to execute the predominant component, a project that predominantly involves street construction or repair to benefit vehicular traffic would be ineligible.

neighborhood environments to public health and economic outcomes. Treasury agrees with commenters that high rates of vacant or abandoned properties in a neighborhood may exacerbate public health disparities, for example through environmental contaminants that contribute to poor health outcomes or by contributing to higher rates of crime. As such, certain services for vacant or abandoned properties are eligible to address the public health and negative economic impacts of the pandemic on disproportionately impacted households or communities. Eligible activities include:

- Rehabilitation, renovation, maintenance, or costs to secure vacant or abandoned properties to reduce their negative impact
- Costs associated with acquiring and securing legal title of vacant or abandoned properties and other costs to position the property for current or future productive use
- Removal and remediation of environmental contaminants or hazards from vacant or abandoned properties, when conducted in compliance with applicable environmental laws or regulations
- Demolition or deconstruction of vacant or abandoned buildings (including residential, commercial, or industrial buildings) paired with greening or other lot improvement as part of a strategy for neighborhood revitalization
- Greening or cleanup of vacant lots, as well as other efforts to make vacant lots safer for the surrounding community
- Conversion of vacant or abandoned properties to affordable housing
- Inspection fees and other administrative costs incurred to ensure compliance with applicable environmental laws and regulations for demolition, greening, or other remediation activities

Vacant or abandoned properties are generally those that have been unoccupied for an extended period of time or have no active owner.²⁰² Such

properties may be in significant disrepair (e.g., major structural defects; lack of weather tight conditions; or lack of useable plumbing, kitchen facilities, electricity, or heating infrastructure (not to include utilities currently out of service or disconnected but able to be reconnected and used)), or may be declared unfit for inhabitants by a government authority.

As noted above, demolition and greening (or other structure or lot remediation) of vacant or abandoned properties, including residential, commercial, or industrial buildings, is an eligible use of funds. Treasury encourages recipients to undertake these activities as part of a strategy for neighborhood revitalization and to consider how the cleared property will be used to benefit the disproportionately impacted community. Activities under this eligible use should benefit current residents and businesses, who experienced the pandemic's impact on the community.

Treasury encourages recipients to be aware of potential impacts of demolition of vacant or abandoned residential properties. Demolition activities that exacerbate the pandemic's impact on housing insecurity or lack of affordable housing are not eligible uses of funds. This risk is generally more acute in jurisdictions with low or reasonable vacancy rates and less acute in jurisdictions with high or hyper-vacancy.²⁰³

overview/#overview-of-the-ura (last visited November 9, 2021) and other state and local requirements like condemnation and code enforcement. U.S. Department of Housing and Urban Development, What is the definition of vacant properties as referenced in NSP Eligible Use E—Redevelop Demolished or Vacant Properties? (October 2012), <https://www.hudexchange.info/faqs/programs/neighborhood-stabilization-program-nsp/redevelopment/what-is-the-definition-of-vacant-properties-as-referenced-in-nsp-eligible/>. U.S. Department of Housing and Urban Development, What are the definitions of abandoned and foreclosed? (October 2012), <https://www.hudexchange.info/faqs/programs/neighborhood-stabilization-program-nsp/program-requirements/eligible-activities/uses/what-are-the-definitions-of-abandoned-and-foreclosed/>.

²⁰³ For analysis of vacancy rates considered low or high, see, e.g., page 12 of Alan Mallach, The Empty House Next Door, Lincoln Institute (May 2018), [https://www.lincolninstitute.edu/publications/policy-focus-reports/empty-house-next-door#:~:text=%E2%80%9CAlan%20Mallach%20is%20the%20usage,through%20data%20and%20model%20practices](https://www.lincolninstitute.edu/publications/policy-focus-reports/empty-house-next-door#:~:text=%E2%80%9CAlan%20Mallach%20is%20the%20usage,through%20data%20and%20model%20practices.). Recipients may determine the appropriate geographic unit for which to analyze vacancy rates (e.g., county, census tract) based on their circumstances. As needed, recipients may refer to the Current Population Survey/Housing Vacancy Survey data series on Housing Vacancies and Homeownership as one data source to assess vacancy rates. See <https://www.census.gov/housing/hvs/index.html>. Other data sources include the American Community Survey five-year estimates, for smaller geographic areas, or tabulations by the Department of Housing and Urban Development

Treasury presumes that demolition of vacant or abandoned residential properties that results in a net reduction in occupiable housing units for low- and moderate-income individuals in an area where the availability of such housing is lower than the need for such housing would exacerbate the impacts of the pandemic on disproportionately impacted communities and that use of SLFRF funds for such activities would therefore be ineligible. This includes activities that convert occupiable housing units for low- and moderate-income individuals into housing units unaffordable to current residents in the community. Recipients may assess whether units are “occupiable” and what the housing need is for a given area taking into account vacancy rates (as described above), local housing market conditions (including conditions for different types of housing like multi-family or single-family), and applicable law and housing codes as to what units are occupiable. Recipients should also take all reasonable steps to minimize the displacement of persons due to activities under this eligible use category, especially the displacement of low-income households or longtime residents.

Recipients engaging in these activities and other construction activities with SLFRF funds should be mindful of the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601, and the Department of Transportation's implementing regulations, 49 CFR part 24, that apply to projects funded with federal financial assistance, such as SLFRF funds. Recipients should also be aware of federal, state, and local laws and regulations, outside of SLFRF program requirements, that apply to this activity. Recipients must comply with the applicable requirements of the Uniform Guidance regarding procurement, contracting, and conflicts of interest and must follow the applicable laws and regulations in their jurisdictions. Recipients must also comply with all federal, state, and local public health and environmental laws or regulations that apply to activities under this eligible use category,²⁰⁴ for example, requirements around the

based on United States Postal Service Vacancy Data. See, respectively, <https://data.census.gov/cedsci/table?q=DP04&tid=ACSDP5Y2019.DP04&hidePreview=true> or <https://www.huduser.gov/portal/datasets/usps.html>.

²⁰⁴ See U.S. Environmental Protection Agency, Large-Scale Residential Demolition, <https://www.epa.gov/large-scale-residential-demolition> (last visited November 9, 2021) for a primer on requirements that may apply.

²⁰² A state or locality may use its existing classifications of what is considered vacant or abandoned property under state law and local ordinances, as well as any corresponding processes for demolition, for these eligible uses. A recipient without a definition of vacant or abandoned property may refer to definitions used in the Department of Housing and Urban Development's Neighborhood Stabilization Program (available at the citations below); however, recipients should be aware that other federal, state, or local requirements may apply such as compliance with the Uniform Relocation Act (see U.S. Department of Housing and Urban Development, Real Estate Acquisition and Relocation Overview in HUD Programs, <https://www.hudexchange.info/programs/relocation/>

handling and disposal of asbestos-containing materials, lead paint, and other harmful materials may apply, as well as environmental standards for any backfill materials used at demolition sites. Treasury encourages recipients to consult and apply best practices from the Environmental Protection Agency as well.

Recipients must evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward related to safely and properly conducting activities under this eligible use. This may include checking for any past violations recorded by state or local environmental, workplace safety, licensing, and procurement agencies, as well as regular reviews for suspensions, debarments, or stop work orders. Recipients must establish rigorous oversight and internal controls processes to monitor compliance with any applicable requirements, including compliance by subrecipients.

4. Addressing educational disparities. The interim final rule included an enumerated eligible use for addressing educational disparities in disproportionately impacted communities and outlined some enumerated eligible services under this use. These enumerated uses included early learning services, assistance to high-poverty school districts to advance equitable funding across districts and geographies, and educational and evidence-based services to address the academic, social, emotional, and mental health needs of students. Addressing the many dimensions of resource equity—including equitable and adequate school funding; access to a well-rounded education; well-prepared, effective, and diverse educators and staff; and integrated support services—can also begin to mitigate the impact of COVID-19 on schools and students and can close long-standing gaps in educational opportunity. As discussed above, in the final rule, early learning services and addressing the impacts of lost instructional time for K-12 students are enumerated eligible uses for impacted communities, not just disproportionately impacted communities.

Public Comment: Treasury received some comments in this category. Generally, commenters expressed agreement with the elements of the interim final rule regarding use of funds for addressing educational disparities. Some commenters had questions about whether a few specific uses of funds qualified under this category. For example, commenters inquired about whether the funds could be used for

behavioral health in a school setting or cultural language classes.

Treasury Response: Treasury is maintaining these enumerated eligible uses in the final rule, which are now organized under the heading of “services to address educational disparities.” Treasury reiterates that these uses include addressing educational disparities exacerbated by COVID-19, including but not limited to: increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, summer education and enrichment programs, and supports for students’ social, emotional, and mental health needs. This also includes responses aimed at addressing the many dimensions of resource equity—including equitable and adequate school funding; access to a well-rounded education; well-prepared, effective, and diverse educators and staff; and integrated support services—in order to close long-standing gaps in educational opportunity.

Further, Treasury is clarifying that improvements or new construction of schools and other educational facilities or equipment are eligible capital expenditures for disproportionately impacted communities. Recipients seeking to use funds for capital expenditures should refer to the section Capital Expenditures in General Provisions: Other for additional eligibility standards that apply to uses of funds for capital expenditures.

Treasury notes that services to promote healthy childhood environments, including childcare, early learning services, and home visiting programs that serve infants and toddlers, is a separate category of enumerated eligible uses for households impacted by the pandemic (see eligible uses for “promoting healthy childhood environments”). Similarly, education services to address the impact of lost instructional time during the pandemic are a separate eligible use category for households impacted by the pandemic; when providing these services, recipients may presume that any K-12 student who lost access to in-person instruction for a significant period of time has been impacted by the pandemic and is thus eligible for responsive services (see eligible uses for “addressing the impact of lost instructional time”).

Proposed Additional Enumerated Eligible Uses Not Incorporated

The interim final rule posed a question on what other types of services or costs Treasury should consider as eligible uses to respond to the

disproportionate public health or negative economic impacts of COVID-19 on low-income populations and communities.

In response, commenters proposed a wide variety of additional recommended enumerated eligible uses to assist disproportionately impacted households, ranging from general categories of services (e.g., long-term investments to remediate long-term disparities) to highly specific examples of services (e.g., a specific type of healthcare equipment). As discussed above, Treasury is including several additional categories of enumerated eligible uses in the final rule in response to public comments.

Given the large number and diversity of SLFRF recipients, Treasury’s approach to assistance to households in disproportionately impacted communities in the final rule aims to provide enumerated eligible uses that respond to disproportionate impacts of the pandemic experienced widely in many jurisdictions across the country and are intended to simplify and clarify these enumerated eligible uses. At the same time, Treasury recognizes that the impacts of the pandemic vary over time, by jurisdiction, and by population; as such, the final rule provides flexibility for recipients to identify additional disproportionate impacts to additional households or classes of households and pursue programs and services that respond to those disproportionate impacts.

In the final rule, Treasury has not chosen to include as enumerated uses all uses proposed by commenters; given the significant range, and in some cases highly specific nature, of the proposed uses Treasury was not able to assess that the proposed uses would respond to disproportionate impacts experienced in many jurisdictions across the country, supporting an enumerated eligible use available to all recipients presumptively. However, the final rule continues to provide a framework to allow recipients to identify and respond to additional disproportionate impacts (for details, see section General Provisions: Structure and Standards). Some types of proposed additional enumerated eligible uses for assistance to households in disproportionately impacted communities were recommended by several commenters:

- **Capital expenditures.** Many commenters recommended that capital expenditures on many different types of public and private facilities be enumerated eligible uses. For clarity, Treasury has addressed all comments on the eligibility of capital expenditures on property, facilities, or equipment in one

section (see section Capital Expenditures in General Provisions: Other).

- Equity funds. Several commenters recommended that Treasury permit SLFRF funds to be deposited into an equity fund to support long-term racial and economic equity investments. The eligibility of such use would depend on the specific structure and uses of funds. Under the statute, SLFRF funds can only support costs incurred until December 31, 2024; see section Timeline for Use of SLFRF Funds in Program Administration Provisions. Further, recipients may calculate the cost incurred with respect to investments in revolving loan funds based on the methodology described in section Treatment of Loans in Program Administration Provisions. Projects funded by a revolving loan fund using SLFRF funds would also need to be eligible uses of SLFRF funds.

- Environmental quality and climate resilience. Several commenters recommended eligible uses to enhance environmental quality, remediate pollution, promote recycling or composting, or increase energy efficiency or electrical grid resilience. Whether these projects respond to the disproportionate impacts of the pandemic on certain communities would depend on the specific issue they address and its nexus to the public health and economic impacts of the pandemic.

b. Assistance to Small Businesses Background

The pandemic has severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment²⁰⁵ and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.²⁰⁶ Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.²⁰⁷ Sectors with a large share of small business employment have been among those with the most drastic drops in

employment.²⁰⁸ The negative outlook for small businesses has continued: As of November 2021, approximately 66 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.²⁰⁹

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.²¹⁰ In general, small businesses can face greater hurdles in accessing credit,²¹¹ and many small businesses were already financially fragile at the outset of the pandemic.²¹²

While businesses everywhere faced significant challenges during the pandemic, minority-owned and very small businesses have faced additional obstacles. Between February and April 2020, the number of actively self-employed Black business owners decreased by 41 percent.²¹³ During that same time period, Asian and Latino business owners decreased by 26 and 32 percent, respectively, compared to a 17 percent decrease in white business owners.²¹⁴ Female business owners also saw significant impacts, with businesses owned by women falling by 25 percent.²¹⁵

Many of the disparities in how minority business owners experienced

the pandemic are rooted in systemic issues present even before the pandemic. For example, before the economic downturn, only 12 percent of Black-owned businesses and 19 percent of Hispanic-owned businesses had annual earnings of over \$1 million compared to 31 percent of white-owned businesses.²¹⁶ Minority-owned businesses were also overrepresented in industries hit hardest by the economic downturn (e.g., services, transportation and warehousing, healthcare and social assistance, administrative and support and waste management, and accommodation and food services).²¹⁷ Approximately 22 percent of all minority-owned business fell into the hardest hit industries compared to 13 percent of nonminority-owned businesses.²¹⁸

Although disparities in annual revenue are not a direct indication of a business's ability to weather an economic downturn, they do highlight other disparities that make it more challenging for these businesses to survive the effects of the pandemic. Black-owned startups, for example, face larger challenges in raising capital, including securing business loans.²¹⁹

Summary of the Interim Final Rule and Final Rule Structure

Summary of Interim Final Rule: As discussed above, small businesses 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. Under Sections 602(c)(1)(A) and 603(c)(1)(A), recipients may “respond to the public health emergency or its negative economic impacts,” by, among other things, providing “assistance to . . . small businesses.” Accordingly, the interim final rule allowed recipients to provide assistance to small businesses to address the negative economic impacts faced by those businesses. A

²⁰⁵ Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), <https://www.federalreserve.gov/monetarypolicy/2020-06-mp-r-summary.htm>.

²⁰⁶ 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/>.

²⁰⁷ 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/>.

²⁰⁸ 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>.

²⁰⁹ U.S. Census Bureau, Small Business Pulse Survey, <https://portal.census.gov/pulse/data/> (last visited December 7, 2021).

²¹⁰ 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>.

²¹¹ 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>.

²¹² 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>.

²¹³ Robert Fairlie, The impact of COVID-19 on small business owners: Evidence from the first 3 months after widespread social-distancing restrictions, Journal of economics & management strategy (August 27, 2020), <https://doi.org/10.1111/jems.12400>.

²¹⁴ U.S. Small Business Administration, The Effects of the COVID-19 Pandemic on Small Businesses (March 2021), <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf>.

²¹⁵ Robert Fairlie, *supra* note 213.

²¹⁶ Federal Reserve Bank of Atlanta. 2019. Small Business Credit Survey 2019 Report on Minority-Owned Firms. December. [fedsmbbusiness.org/survey/2019/report-on-minority-owned-firms](https://www.fedsmbbusiness.org/survey/2019/report-on-minority-owned-firms).

²¹⁷ Ding, Lei, and Alvaro Sanchez. 2020. What Small Businesses Will Be Impacted by COVID-19? Federal Reserve Bank of Philadelphia. philadelphiafed.org/covid-19/covid-19-equity-in-recovery/what-small-businesses-will-be-impacted.

²¹⁸ Lucas Misera, An Uphill Battle: COVID-19's Outsized Toll on Minority-Owned Firms, Federal Reserve Bank of Cleveland (October 8, 2020), <https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-2021008-misera-report.aspx>.

²¹⁹ Robert Fairlie, A. Robb, D. Robinson, Black and White: Access to Capital among Minority-Owned Startups, NBER Working Paper 28154 (November 2020), <https://www.nber.org/papers/w28154>.

“small business” is defined as 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).

Specifically, the interim final rule provided that recipients 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;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics; and
- Technical assistance, counseling, or other services to assist with business planning needs.

The interim final rule further provided that 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 underserved communities. The interim final rule also indicated that recipients should consider local economic conditions and business data when establishing such criteria. Finally, the interim final rule posed a question on whether there are 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.

Final Rule Structure: Consistent with the interim final rule approach, the final rule provides a non-exhaustive list of enumerated eligible uses for assistance to small businesses that are impacted or disproportionately impacted by the pandemic. Further, within Assistance to Small Business, a recipient may also identify a negative economic impact experienced by small businesses and design and implement a response to that negative economic impact, beyond the uses specifically enumerated in the final

rule, according to the standard described in the section Standards: Identifying a Negative Economic Impact. A recipient may also identify small businesses that have been disproportionately impacted by the public health emergency and design and implement a program that responds to the source of that disproportionate impact.

Consistent with other eligible use categories to respond to the public health and economic impacts of the pandemic, recipients may identify and serve small businesses that experienced a negative economic impact or disproportionate impact due to the pandemic, as described in the section Standards for Identifying Other Eligible Populations. For example, to identify impacted small businesses, a recipient may consider whether the small businesses faced challenges in covering payroll, mortgage or rent, or other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. In order to ease administrative burden, the final rule presumes that small businesses operating in QCTs, small businesses operated by Tribal governments or on Tribal Lands, and small businesses operating in the U.S. territories were disproportionately impacted by the pandemic.

Reorganizations and Cross-References: As detailed above, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity. For discussion of assistance to small businesses and impacted industries to implement COVID-19 mitigation and prevention strategies, see section COVID-19 Mitigation and Prevention in Public Health.

Small Businesses Eligible for Assistance

Public Comment: Treasury received many comments about the general benefits or drawbacks of use of SLFRF funds to provide assistance to small businesses. Some commenters suggested that SLFRF funds should be available to assist all small businesses, rather than only businesses that experienced direct negative economic impacts due to the public health emergency. Other commenters argued that aid to small businesses should be narrowed in the final rule, asserting that SLFRF funds should instead focus on assistance to households or building public sector capacity.

Treasury also received comments requesting clarification of the types of small businesses eligible for assistance. For example, some commenters requested clarification about whether microbusinesses were included in the

definition of small business. Comments also suggested that self-employed individuals and Tribal enterprises be classified as small businesses, respectively. Commenters argued that these types of small businesses are more common among low-income and minority businessowners and serve as important institutions in underserved communities.

Finally, some commenters suggested that Treasury permit broader enumerated eligible uses to assist small businesses in disproportionately impacted communities and generally strengthen economic growth in these communities. These commenters recommended that Treasury presume small businesses operating in QCTs are disproportionately impacted and eligible for broader enumerated uses.

Treasury Response: As discussed in the section Designating a Negative Economic Impact, in the final rule, recipients must identify an economic harm caused or exacerbated by the pandemic on a small business or class of small businesses to provide services that respond.

As discussed above, programs or services in this category must respond to a harm experienced by a small business or class of small businesses as a result of the public health emergency. To identify impacted small businesses and necessary response measures, recipients may consider impacts such as lost revenue or increased costs, challenges covering payroll, rent or mortgage, or other operating costs, the capacity of a small business to weather financial hardships, and general financial insecurity resulting from the public health emergency.

Recognizing the difficulties faced by small businesses in certain communities, the final rule presumes that small businesses operating in QCTs, small businesses operated by Tribal governments or on Tribal Lands, and small businesses operating in the U.S. territories were disproportionately impacted by the pandemic. This presumption parallels the final rule's approach to assistance to households, reflecting the more severe pandemic impacts in underserved communities and creating a parallel structure across different categories of eligible uses to make the structure simpler for recipients to understand and navigate.

Treasury notes that recipients may also designate a class of small businesses that experienced a negative economic impact or disproportionate negative economic impact (e.g., microbusinesses, small businesses in certain economic sectors), design an intervention to fit the impact, and

document that the individual entity is a member of the class. Additional information about this framework is included in the section General Provisions: Structure and Standards.

Further, Treasury is maintaining the interim final rule definition of “small business,” which used the Small Business Administration’s (SBA) definition of fewer than 500 employees, or per the standard for that industry, as defined by SBA. This definition includes businesses with very few employees, self-employed individuals, and Tribally owned businesses.²²⁰ Finally, Treasury notes that recipients may award SLFRF funds to many different types of organizations, including small businesses, to function as a subrecipient in carrying out eligible uses of funds on behalf of a recipient government. In this case, a small business need not have experienced a negative economic impact in order to serve as a subrecipient. See section Distinguishing Subrecipients versus Beneficiaries for more detailed discussion of interactions with subrecipients, in contrast to beneficiaries of assistance.

Enumerated Eligible Uses for Assistance to Small Businesses

Public Comment: Treasury received comments requesting clarification of the types of assistance available to small businesses. For example, one commenter suggested that outdoor dining be an eligible use for SLFRF funds as assistance to small businesses. Other commenters asked for clarification about how SLFRF funds could be used to support new businesses and start-ups.

Several commenters requested clarification of whether and how recipients may provide services to business districts or downtown areas, particularly those that exist in whole or in part within a QCT, and requested reduced documentation of the specific negative economic impact for the businesses operating within those areas. These commenters argued in favor of allowing redevelopment or other support, including capital investments, in business districts that were

negatively impacted by COVID-19. Several commenters also argued that funds should be available to support and grow microbusinesses, or businesses with five or fewer employees, which are more likely to be owned by women and people of color.

Treasury Response: In the final rule, Treasury is maintaining and clarifying the enumerated eligible uses of funds for assistance to small businesses that are impacted or disproportionately impacted by the pandemic.

Impacted small businesses.

Specifically, Treasury is maintaining enumerated eligible uses from the interim final rule for assistance to impacted small businesses. These include but are not limited to:

- 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 (see section Public Health for details on these eligible uses); and
- Technical assistance, counseling, or other services to assist with business planning needs.

Treasury acknowledges a range of potential circumstances in which assisting small businesses could be responsive to the negative economic impacts of COVID-19, including for small businesses startups and microbusinesses and individuals seeking to start small or microbusinesses. For example:

- As noted above, a recipient could assist small business startups or microbusinesses with additional costs associated with COVID-19 mitigation tactics; see section Public Health for details on these eligible uses.
- A recipient could identify and respond to a negative economic impact of COVID-19 on new small business startups or microbusinesses; for example, if small business startups or microbusinesses in a locality faced greater difficulty accessing credit than prior to the pandemic or faced increased costs to starting the business due to the pandemic or if particular small businesses or microbusinesses had lost expected startup capital due to the pandemic.
- The interim final rule also discussed, and the final rule maintains, eligible uses that provide support for individuals who have experienced a negative economic impact from the COVID-19 public health emergency, including uses that provide job training

for unemployed individuals. These initiatives also may support small business start-ups, microbusinesses, and individuals seeking to start small or microbusinesses.

Disproportionately impacted small businesses. Additionally, Treasury agrees with commenters that disproportionately impacted small businesses may benefit from additional assistance to address the sources of that disparate impact.

As such, the final rule provides a broader set of enumerated eligible uses for disproportionately impacted small businesses and/or small businesses in disproportionately impacted business districts. Recipients may use SLFRF funds to assist these businesses with certain capital investments, such as rehabilitation of commercial properties, storefront improvements, and façade improvements. Recipients may also provide disproportionately impacted microbusinesses additional support to operate the business, including financial, childcare, and transportation supports.

Recipients could also provide technical assistance, business incubators, and grants for start-ups or expansion costs for disproportionately impacted small businesses. Note that some of these types of assistance are similar to those eligible to respond to small businesses that experienced a negative economic impact (“impacted” small businesses). However, because the final rule presumes that some small businesses were disproportionately impacted, these enumerated eligible uses can be provided to those businesses without any specific assessment of whether they individually experienced negative economic impacts or disproportionate impacts due to the pandemic.

Cross-References: Recipients providing assistance to small businesses for capital expenditures (*i.e.*, expenditures on property, facilities, or equipment) should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards that apply to capital expenditures. Recipients should also note that services to address vacant or abandoned commercial or industrial properties are addressed in section Vacant or Abandoned Properties in Assistance to Households.

Loans to Small Businesses

Public Comment: Treasury received many comments requesting clarification on using SLFRF funds to establish funds that provide loans to small businesses. For example, commenters sought clarification of how eligible use

²²⁰ In regard to counting employees, businesses owned and controlled by a Tribal government are not considered affiliates of the Tribal government and are not considered affiliates of other businesses owned by the Tribal government because of their common ownership by the Tribal government or common management, as described in 13 CFR 121.103(b)(2). This definition is consistent with the Small Business Administration (SBA) HUBZone definition of a “small business concern” relating to Tribal governments as well as how Tribal enterprises are defined for the State Small Business Credit Initiative (SSBCI).

requirements and applicable dates for SLFRF funds would apply to third party organizations (like economic development organizations) who receive SLFRF funds in order to establish a loan fund. In addition, commenters requested clarification on what requirements apply to loan programs with available funds remaining after December 31, 2024.

Treasury Response: SLFRF funds may be used to make loans, including to small businesses, provided that the loan is an eligible use, and the cost of the loan is tracked and reported in accordance with Treasury's Compliance and Reporting Guidance. Funds that are unobligated after December 31, 2024 must be returned to Treasury. See section Treatment of Loans for more information about using SLFRF funds for loan programs.

c. Assistance to Nonprofits

Background: Nonprofits have faced significant challenges because of the pandemic, including increased demand for services and changing operational needs.²²¹ Prior to the pandemic, the median U.S. nonprofit reported that it had six months of cash on hand.²²² This varied by sector, however, with some sectors like disaster relief organizations reporting a median of 17 months cash on hand, and others, like mental health and crisis intervention organizations reporting only three months.²²³ Evidence suggests that the pandemic has damaged the financial health of nonprofits, with small nonprofits, which tend to rely more heavily on donations than large nonprofits, reporting relatively larger declines in donations — 42 percent versus 29 percent, respectively.²²⁴ Among nonprofits that collect fees for services, the median revenue amount collected from such fees fell by 30 percent from 2019 to 2020, with arts organization experiencing a 50 percent decline.²²⁵ Nonprofits also experienced significant job losses. While employment in the nonprofit sector has recovered from its low point in 2020, as of November 2021,

the sector remained 485,000 jobs below its pre-pandemic level.²²⁶ In addition, some nonprofits may have experienced declines in volunteer staffing during the pandemic.²²⁷

At the same time, nonprofits provide a host of services for their communities, including helping Americans weather the multitude of challenges presented by the pandemic. The ARPA and the interim final rule recognized this dichotomy—nonprofits as entities that have themselves been negatively impacted by the pandemic and as entities that provide services that respond to the public health and negative economic impacts of the pandemic on households and others—by creating two roles for nonprofits.

First, under Sections 602(c)(1)(A) and 603(c)(1)(A), recipients may “respond to the public health emergency or its negative economic impacts,” by, among other activities, providing “assistance to . . . nonprofits.” The interim final rule defined assistance to nonprofits to include “loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency,” and “nonprofit” to mean a tax-exempt organization under Section 501(c)(3) of the U.S. Internal Revenue Code.²²⁸

Second, as discussed above, ARPA and the interim final rule provided that nonprofit organizations may also receive funds as subrecipients of a recipient government (i.e., a government that received SLFRF funds); subrecipients carry out an eligible use of SLFRF funds on behalf of a recipient government (e.g., a recipient government that would like to provide food assistance to impacted households may grant funds to a nonprofit organization to carry out that eligible use). Recipients generally have wide latitude to award funds to many types of organizations, including nonprofit or for-profit organizations, as subrecipients to carry out eligible uses of funds on their behalf. For further information on distinguishing between beneficiaries and subrecipients, as well as the impacts of the distinction on reporting and other requirements, see section Transfers of Funds and section Distinguishing Subrecipients versus Beneficiaries under the Public Health

and Negative Economic Impacts eligible use category.²²⁹

Reorganization and Cross-References: Under the interim final rule, assistance to disproportionately impacted communities was a separate, stand-alone category. The final rule reorganizes the disproportionate impact analysis within the sections Assistance to Households, Assistance to Small Business, and Assistance to Nonprofits to better articulate how recipients can serve disproportionately impacted beneficiaries in each of those categories.

As detailed above in the Public Health subsection, in response to public comments describing uncertainty on which eligible use category should be used to assess different potential uses of funds, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity. For discussion of assistance to nonprofits to implement COVID-19 mitigation and prevention strategies, see section COVID-19 Mitigation and Prevention in Public Health.

Recipients providing assistance via nonprofits involving capital expenditures (i.e., expenditures on property, facilities, or equipment) should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards for these expenditures. Recipients providing assistances in the form of loans should review the section Treatment of Loans.

Public Comment: Eligible Assistance to Impacted and Disproportionately Impacted Nonprofits: A few commenters asked Treasury to be more explicit in the final rule that recipients may use funds to provide relief directly to nonprofit organizations and to explain how nonprofits might qualify themselves for assistance and what expenses SLFRF funds may be used to cover.²³⁰ Commenters requested that Treasury note that the pandemic is

²²¹ See, e.g., 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>.

²²² Philanthropy and COVID-19: Measuring one year of giving, Candid and the Center for Disaster Philanthropy. (2021), <https://www.issue4lab.org/resources/38039/38039.pdf>.

²²³ *Id.*

²²⁴ Elizabeth T. Boris et al., Nonprofit Trends and Impacts 2021, Urban Institute (October 7, 2021), https://www.urban.org/research/publication/nonprofit-trends-and-impacts-2021/view/full_report.

²²⁵ *Id.*

²²⁶ Chelsea Newhouse, COVID-19 JOBS UPDATE, NOVEMBER 2021: Nonprofits add just 5,000 jobs in November, Center for Civil Society Studies at Johns Hopkins University (December 10, 2021), <http://ccss.jhu.edu/november-2021-jobs/>.

²²⁷ Elizabeth T. Boris et al. *supra* note 224 at p. 38.

²²⁸ § 35.3 Definitions.

²²⁹ The ARPA also states under “Transfer Authority” that a Recipient may transfer funds to a private nonprofit organization such as those defined in paragraph (17) of section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(17)). See 602 & 603(c)(3) of the Social Security Act. See section Transfers of Funds for additional information on other types of entities, including other forms of nonprofits, that may receive transfers.

²³⁰ While not stated specifically in the interim final rule, the Department does not require or have a preference as to the payment structure for recipients that transfer funds to subrecipients (e.g., advance payments, reimbursement basis, etc.). Ultimately, recipients must comply with the eligible use requirements and any other applicable laws or requirements and are responsible for the actions of their subrecipients or beneficiaries.

leading to a changing financial landscape for nonprofits.

Treasury Response: Eligible Assistance to Impacted and Disproportionately Impacted Nonprofits: The interim final rule provided for, and the final rule maintains, the ability for recipients to provide direct assistance to nonprofits that experienced public health or negative economic impacts of the pandemic. Specifically, recipients may provide direct assistance to nonprofits if the nonprofit has experienced a public health or negative economic impact as a result of the pandemic. For example, if a nonprofit organization experienced impacts like decreased revenues or increased costs (e.g., through reduced contributions or uncompensated increases in service need), and a recipient provides funds to address that impact, then it is providing direct assistance to the nonprofit as a beneficiary under Subsection (c)(1) of Sections 602 and 603. Direct assistance may take the form of loans, grants, in-kind assistance, technical assistance, or other services that respond to the negative economic impacts of the COVID-19 public health emergency.

A recipient may identify a negative economic impact experienced by a nonprofit, or class of nonprofits, and design and implement a response to that negative economic impact, see section Standards: Designating a Negative Economic Impact. The final rule provides a non-exhaustive list of enumerated eligible uses for assistance to nonprofits that are impacted or disproportionately impacted by the pandemic.

A recipient may also identify a class of nonprofits that have been disproportionately impacted by the public health emergency and design and implement a program that responds to the source of that disproportionate impact. For example, a recipient may determine that nonprofits offering after-school programs within its jurisdiction were disproportionately impacted by the pandemic due to the previous in-person, indoors nature of the work and the nonprofits' reliance on fees received for services (e.g., attendance fees). The recipient might then design an intervention to assist those nonprofits in adapting their programming (e.g., to outdoor or online venues), their revenue structure (e.g., adapting the fee for service structure or developing expertise in digital donation campaigns), or both. Additional information about this framework is included in General Provisions: Structure and Standards. In order to ease administrative burden, the final rule presumes that nonprofits

operating in QCTs, operated by Tribal governments or on Tribal Lands, or operating in the U.S. territories were disproportionately impacted by the pandemic.

To summarize, a recipient may determine that certain nonprofits were impacted by the pandemic or were disproportionately impacted by the pandemic and provide responsive services.

Public Comment: Beneficiaries and Subrecipients: As noted elsewhere in this final rule, Treasury received multiple comments expressing uncertainty on how to categorize a particular activity in the eligible use categories. For instance, some commenters requested that recipients be able to use SLFRF funds for certain expenses incurred by nonprofits (e.g., unemployment charges) as a response to a public health or negative economic impact to that nonprofit; others asked if nonprofits providing certain services (e.g., social services) made them eligible for direct assistance. Commenters also requested that Treasury acknowledge that engagement directly with nonprofit organizations in low-income communities and communities of color may allow the recipient to better assess economic harms in these areas.

Treasury Response: Beneficiaries and Subrecipients: Treasury recognizes that many nonprofits play important roles in their communities, and some may have experienced public health or negative economic impacts during the pandemic. As such, under the interim final rule and the final rule, nonprofits may be impacted by the pandemic and receive assistance as a beneficiary, as described above, and/or be a subrecipient providing services on behalf of a recipient.²³¹

Specifically, the interim final rule also allowed for, and the final rule maintains, the ability for the recipient to transfer, e.g., via grant or contract, funds to nonprofit entities to carry out an eligible use on behalf of the recipient. Treasury notes that recipients may award SLFRF funds to many different types of organizations to carry out eligible uses of funds and serve beneficiaries on behalf of a recipient government (e.g., assisting in a vaccination campaign, operating a job training program, developing affordable housing). When a recipient provides funds to an organization to carry out eligible uses of funds and serve

beneficiaries, the organization becomes a subrecipient. In this case, a nonprofit need not have experienced a negative economic impact in order to serve as a subrecipient.

In the context of SLFRF, nonprofits of all types may be subrecipients. Treasury is not restricting the types of nonprofits that can operate as subrecipients, rather allowing recipients to decide what form best meets the needs of their community. Therefore, a "nonprofit" that is acting as subrecipient could include, but is not limited to, a nonprofit as that term is defined in paragraph (17) of section 401 of the McKinney-Vento Homeless Assistance.²³² See section Distinguishing Subrecipients versus Beneficiaries for further information. Additional guidance on determining subrecipient status may be found in the Uniform Guidance.²³³

Recipients may transfer funds to subrecipients in several ways, including advance payments and on a reimbursement basis. Ultimately, recipients must comply with the eligible use requirements and any other applicable laws or requirements and are responsible for the actions of their subrecipients or beneficiaries.

As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c) that is applicable to all activities funded with the SLFRF award. Pursuant to this requirement, decisions concerning SLFRF funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Recipients may avoid conflicts of interest in providing assistance to nonprofits or making subrecipient awards by, *inter alia*, making aid available to nonprofits on generally applicable terms or utilizing a competitive grant process, respectively. A recipient may not use control over SLFRF funds for their own private gain. Furthermore, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.

Public Comment: Definition of Nonprofit: Treasury also received several requests to expand the definition of nonprofits so that other tax-exempt entities (e.g., 501(c)(7)s, 501(c)(9)s, 501(c)(19)s, nonprofits with "historical

²³¹ Note, this response is meant to clarify the difference between nonprofits as beneficiaries and nonprofits as subrecipients. It is not meant to limit the types of relationships that a recipient may enter into with a nonprofit as permitted under the Uniform Guidance.

²³² See sections 602(c)(3) and 603(c)(3) of the Social Security Act. See also Section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(17)), which defines a "private nonprofit organization."

significance”) could be eligible for direct assistance as beneficiaries.

Treasury Response: Definition of Nonprofit: The final rule expands the definition of nonprofits to mean 501(c)(3) organizations and 501(c)(19) organizations.²³⁴ The 501(c)(3) classification includes a wide range of organizations with varying charitable or public service-oriented goals (e.g., housing, food assistance, job training). As discussed above, these nonprofit organizations often experienced hardship due to increased needs for services combined with decreased donations and other sources of funding. In response to comments, Treasury has expanded the definition of nonprofit to include 501(c)(19) organizations, which includes veterans’ organizations, to provide recipients more flexibility and in alignment with the definition of nonprofit adopted by the CARES Act, wherein 501(c)(3)s and 501(c)(19)s were eligible for assistance.²³⁵

Public Comment: Reporting Requirements: One commenter asked Treasury to clarify if nonprofits that receive direct assistance as beneficiaries are required to comply with guidelines and reporting requirements.

Treasury Response: Reporting Requirements: Nonprofits that receive direct assistance as beneficiaries are not subrecipients under SLFRF and are therefore not required to comply with SLFRF reporting requirements. However, the recipient must comply with SLFRF reporting requirements, which would require reporting obligations and expenditures for assistance to nonprofits. The recipient may also choose to establish other forms of reporting or accountability as a part of the recipient’s direct assistance program.

A nonprofit entity that receives a transfer from a recipient is a subrecipient. Per the Uniform Guidance, subrecipients must adhere to the same requirements as recipients. Therefore, a nonprofit subrecipient may only receive funds to carry out an eligible use of SLFRF funds and must comply with any reporting and compliance requirements. Note that recipients are ultimately responsible for reporting information to Treasury and must collect any necessary

information from their subrecipients to complete required reporting.

d. Aid to Impacted Industries

The interim final rule allowed for “aid to tourism, travel, and hospitality, and other impacted industries” that responds to the negative economic impacts of the COVID–19 public health emergency. In designating other impacted industries, Treasury specified that recipients should consider the “extent of the economic impact as compared to tourism, travel, and hospitality” and “whether impacts were due to the COVID–19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.”²³⁶ Treasury identified declines in employment and revenue as possible metrics to compare the economic impact on a particular industry relative to the tourism, travel, and hospitality industries.

Treasury further provided that aid should be limited to businesses, attractions, business districts, and Tribal development districts²³⁷ that were operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Examples of eligible aid include assistance to implement COVID–19 mitigation and infection prevention measures, aid to support safe reopening of businesses in these industries, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic. The interim final rule and Treasury’s subsequent Compliance and Reporting Guidance also required governments to publicly report assistance provided to private-sector businesses under this eligible use and maintain records of their assessments to facilitate transparency and accountability.

Reorganization and Cross-References: As detailed above, Treasury has re-categorized some uses of funds in the final rule to provide greater clarity. In the interim final rule, aid to impacted industries to implement COVID–19 mitigation and prevention strategies was categorized under Aid to Impacted Industries; the final rule addresses these items under the section COVID–19 Mitigation and Prevention in Public Health. Recipients should also be aware of the difference between beneficiaries

of assistance and subrecipients when working with impacted industries; for further information, see section Distinguishing Subrecipients versus Beneficiaries.

Designating an Impacted Industry

Public Comment: Many commenters requested greater clarity on how to designate “other impacted industries” within their jurisdiction. Commenters requested greater specificity as to the metrics used to measure impact, with some suggesting metrics such as the change in the size of an industry’s workforce due to the pandemic, as well as consideration of whether and why employees are choosing to return to work at slower rates in certain industries. One commenter asked if this meant nearly every industry was “disproportionately impacted.” Some commenters encouraged Treasury to focus on industries most negatively impacted by the pandemic, including disallowing across-the-board business subsidies to businesses that were not negatively impacted by the pandemic and saw revenue or profit growth. Other commenters asked for flexibility for recipients to determine impacted industries based on their local knowledge of the economic landscape.

Treasury Response: The final rule maintains the interim final rule’s approach of allowing recipients to designate impacted industries outside the travel, tourism, and hospitality industries, and, in response to comments, provides greater clarity as to how recipients may designate such impacted industries.

Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that the tourism, travel, and hospitality industries are severely negatively impacted by the pandemic. Under the final rule, recipients may provide eligible aid (described in further detail herein) to the tourism, travel, and hospitality industries. Treasury considers Tribal development districts, which are commercial centers for Tribal hospitality, gaming, tourism, and entertainment and can include Tribal enterprises, as part of the tourism, travel, and hospitality industries that have been severely hit by the pandemic. Therefore, Treasury reaffirms that Tribal development districts are considered impacted industries and recipients may provide eligible aid to them.

To identify other industries comparably impacted to the tourism, travel, and hospitality industries, recipients should undertake a two-step process: Identifying an industry and determining whether that industry is comparably impacted.

²³⁴ § 35.3 Definitions.

²³⁵ Treasury considered expanding the definition of nonprofit to include 501(c)(6) organizations, as Congress later did in the Coronavirus Response and Consolidated Appropriations Act of 2021, but ultimately decided to retain the original CARES Act definition. To the extent impacted by the pandemic, 501(c)(6) organizations may be eligible to receive funds to support eligible uses that align with their overall purpose (e.g., tourism promotion in aid of an impacted industry).

²³⁶ Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 26795.

²³⁷ For a definition of “Tribal development districts,” please see FAQ 2.9 at the following: Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRFFAQ.pdf>.

First, recipients should identify an industry to be assessed. In identifying this industry, the final rule provides recipients the flexibility to define its substantive or geographic scope.²³⁸ Recipients may identify a broad sector that encompasses a number of sub-industries, or they may identify a specific sub-industry to be assessed. For example, a recipient may identify “personal care services” as an industry, or they may identify a more specific category within the “personal care services” industry (e.g., barber shops) as an industry. In defining the industry, Treasury encourages recipients to define narrow and discrete industries eligible for aid. Recipients are not required to follow, but may consider following, industry classifications under the North American Industry Classification System (NAICS). Treasury notes that the larger and more diverse the sector, the more difficult it may be to demonstrate that the larger and less specific sector is negatively impacted in the same way given the scale and diversity of businesses within it.

State or territory recipients may also define a constituent industry with greater geographic precision than state or territory-wide. For example, a state may identify a particular industry in a certain region of the state that was negatively impacted by the pandemic, even if the same industry in the rest of the state did not see a meaningful negative economic impact from the pandemic. State recipients oversee large and diverse industries, sometimes with differences in economic activity between geographic regions. Allowing greater geographic precision allows recipients to target aid to those that need it most, ensuring that state averages do not conceal hard-hit areas in their state.

Second, to determine whether the industry is “impacted,” recipients should compare the negative economic impacts of the public health emergency on the identified industry to the impacts observed on the travel, tourism, and hospitality industries.

1. *Simplified test.* An industry is presumed to be impacted if the industry experienced employment loss of at least 8 percent.

Specifically, a recipient should compare the percent change in the

number of employees of the recipient’s identified industry and the national Leisure & Hospitality sector in the three months before the pandemic’s most severe impacts began (a straight three-month average of seasonally-adjusted employment data from December 2019, January 2020, and February 2020) with the latest data as of the final rule release (a straight three-month average of seasonally-adjusted employment data from September 2021, October 2021, and November 2021).²³⁹ The national Leisure & Hospitality sector largely represents the national travel, tourism, and hospitality industries enumerated in the statute. According to the Bureau of Labor Statistics, employment has fallen by approximately 8 percent for the national Leisure & Hospitality sector when comparing the most recent three-month period available as of the date of adoption of the final rule to the three-month period immediately before the public health emergency. Therefore, if the identified industry has suffered an employment loss of at least 8 percent, the final rule presumes the industry to be an “impacted industry.”

For parity and simplicity, smaller recipients without employment data that measure industries in their specific jurisdiction may use data available for a broader unit of government for this calculation (e.g., a county may use data from the state in which it is located; a city may use data for the county, if available, or state in which it is located) solely for purposes of determining whether a particular industry is an impacted industry.

2. *If simplified test is not met.* If an industry does not satisfy the test above or data are unavailable, the recipient may still designate the industry as impacted by demonstrating the following:

a. The recipient can show that the totality of relevant major economic indicators demonstrate that the industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries at the time of the publication of the final rule, and that the impacts were generally due to the COVID-19 public health emergency. Example economic indicators include gross output, GDP, net profits, employment levels, and projected time to restore employment back to pre-pandemic levels. Recipients may rely on available economic data, government research

publications, research from academic sources, and other quantitative sources for this determination.

If quantitative data is unavailable, the recipient can rely on qualitative data to show that the industry is experiencing comparable or worse economic impacts as the national tourism, travel, and hospitality industries, and the impacts were generally due to the COVID-19 public health emergency. Recipients may rely on sources like community interviews, surveys, and research from relevant state and local government agencies.

As the public health emergency and economic recovery evolves, recipients should assess how industry impacts shift over time. Impacted industries may recover in a short period of time and no longer face a negative economic impact; in those circumstances, the recipient should ensure that the extent and length of aid is reasonably proportional to the negative economic impact that is experienced, as detailed further below and in section General Provisions: Structure and Standards. Recipients may add to their list of impacted industries by showing that the negative economic impacts to the industry at the time of the designation are comparable to the negative economic impacts to the national tourism, travel, and hospitality sectors as of the date of the final rule adoption, as detailed herein.

Eligible Aid

Public Comment: Commenters asked for further clarification as to the definition of eligible aid to an impacted industry, with many requesting that a broad range of aid be eligible. Examples of aid that recipients asked to be considered eligible include aid to businesses to cover COVID-19 mitigation costs and planned renovations or improvements to tourism, travel, and hospitality facilities, as well as marketing and in-kind incentives to attract visitors. Commenters also asked about the eligibility of aid to broadly cover losses incurred by facilities such as convention centers and hotels due to the pandemic’s economic impact. Commenters also asked for further clarification about the requirements related to private-sector reporting. Further, some commenters asked for clarification about eligible aid to impacted industries owned and operated by Tribal governments, including for Tribal construction projects that have been delayed due to the pandemic’s economic impacts, and for deference to Tribal determinations of negative economic impacts.

²³⁸ Once an industry is designated as impacted, aid should be generally broadly available to businesses in the industry that qualify. Recipients should document how they defined the scope of their industry and how they determined that the industry was impacted. For states and territories, this includes documenting their justification for defining a constituent industry with greater geographic precision than state or territory-wide.

²³⁹ National Leisure & Hospitality supersector employment data can be found on the U.S. Bureau of Labor Statistics website: U.S. Bureau of Labor Statistics, Leisure and Hospitality, <https://www.bls.gov/iag/tgs/iag70.htm> (last visited December 7, 2021).

Treasury Response: In response to commenters' requests for clarification on eligible aid, the final rule requires that aid to impacted industries, including to Tribal development districts, be designed to address the harm experienced by the impacted industry.

First, recipients should identify a negative economic impact, *i.e.*, an economic harm, that is experienced by businesses in the impacted industry. Second, recipients should select a response that is designed to address the identified economic harm resulting from or exacerbated by the public health emergency. Responses must also 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. Recipients should consider the further discussion of this standard provided in the sections Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact.

These responses may take the form of direct spending by recipients to promote an industry or support for businesses within an "impacted" industry that experienced a negative economic impact (*e.g.*, through a grant program). Examples of eligible responses include:

- Aid to mitigate financial hardship due to declines in revenue or profits by supporting payroll costs and compensation of returning employees for lost pay and benefits during the COVID-19 pandemic, as well as support of operations and maintenance of existing equipment and facilities, such as rent, leases, and utilities;
- Aid for technical assistance, counseling, and other services to assist with business planning needs; and
- Aid to implement COVID-19 mitigation and infection prevention measures, such as vaccination or testing programs, is broadly eligible for many types of entities, including travel, tourism, hospitality, and other impacted industries. Recipients providing aid to impacted industries for COVID-19 public health measures should review the section Assistance to Businesses to Implement COVID-19 Strategies in Public Health, which describes types of eligible uses of funds in this category.

To address the identified harms, responses (*e.g.*, aid through a grant program) should be generally broadly available to all businesses within the impacted industry to avoid the risk of self-dealing, preferential treatment, and

conflicts of interest.²⁴⁰ Treasury encourages recipients to design aid programs such that funds are first used for operational expenses that are generally recognized as ordinary and necessary for the recipient's operation, such as payroll, before being used on other types of costs. As noted in the section General Standards: Structure and Standards, uses of funds that do not respond to the negative economic impacts of the pandemic, such as excessive compensation to employees, is ineligible.

The final rule maintains the interim final rule's requirement that aid may only be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. Further, to facilitate transparency and accountability, the final rule maintains the interim final rule's requirement that recipients 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 public health emergency. Recipients also should maintain records to support their assessment of how businesses receiving assistance were affected by the negative economic impacts of the public health emergency and how the aid provided responds to these impacts.

Recipients providing aid to impacted industries for capital expenditures (*i.e.*, expenditures on property, facilities, or equipment), including Tribal governments providing aid to Tribal development districts, should also review the section Capital Expenditures in General Provisions: Other, which describes eligibility standards that are applicable to these expenditures, depending on the type of aid. Recipients providing assistance in the form of loans should review the section Treatment of

²⁴⁰ As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c) that is applicable to all activities funded with the SLFRF award. Pursuant to this policy, decisions concerning SLFRF must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Recipients may avoid conflicts of interest in awarding aid to impacted industries by, *inter alia*, making aid available to businesses in the industry on generally applicable terms or utilizing a competitive grant process. A recipient may not use control over SLFRF for their own private gain. Furthermore, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.

Loans in Program Administration Provisions.

4. General Provisions: Other

As noted above, the final rule consolidates into a General Provisions section several types of uses of funds; in the interim final rule, the eligibility of these uses of funds was discussed within specific categories of eligible uses for public health and negative economic impacts. Treasury anticipates that this re-organization will enhance recipient clarity in assessing eligible uses of funds. These General Provisions apply across all uses of funds under public health and negative economic impacts.

Specifically, this section considers eligible uses for:

- *Public Sector Capacity and Workforce*, which includes several separate and non-mutually exclusive categories articulated in the interim final rule: public health and safety staff; rehiring state, local, and Tribal government staff; expenses for administering COVID-19 response programs; expenses to improve the efficacy of public health or economic relief programs; and administrative expenses caused or exacerbated by the pandemic. Treasury recognizes that these are closely related and frequently overlapping categories. The final rule treats them as a single purpose, supporting public sector capacity, and provides coordinated guidance on the standards and presumptions that apply to them.

- *Capital Expenditures*, which was addressed only under Public Health in the interim final rule. The final rule moves this expense to General Provisions and provides more clarity on the eligibility of capital expenditures across all aspects of the public health and negative economic impacts eligible use category.

- *Distinguishing Subrecipients versus Beneficiaries*, which describes the differences between these two categories. Recipient governments responding to the public health and negative economic impacts of the pandemic may provide assistance to beneficiaries or execute an eligible use of funds through a subrecipient; some types of entities (*e.g.*, nonprofits) could fit into either category depending on the specific purpose of the use of funds.

- *Uses Outside the Scope of this Category*, which addresses uses of funds that are ineligible or generally ineligible under this eligible use category in the interim final rule. These uses of funds remain ineligible under the final rule, but Treasury has re-categorized where they are addressed, as described below.

This section also addresses enumerated eligible uses proposed by commenters that Treasury has not incorporated into the final rule.

Recipients should also note that the Office of Management and Budget's (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly called the "Uniform Guidance") generally applies to SLFRF.

a. Public Sector Capacity and Workforce Public Safety, Public Health, and Human Services Staff

Summary of Interim Final Rule: Under the interim final rule, funds may be used for payroll and covered benefits²⁴¹ for *public safety, public health, health care, human services, and similar employees*²⁴² of a recipient government, for the portion of the employee's time that is spent responding to COVID-19. For administrative convenience, the recipient may consider *public health and safety* employees to be entirely devoted to responding to COVID-19, and therefore their full payroll and covered benefits eligible to be covered, if the employee, or his or her operating unit or division, is "primarily dedicated" to responding to COVID-19, meaning that more than half of the employee, unit, or division's time is dedicated to responding to COVID-19. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is responding to COVID-19. Recipients must periodically reassess their determination and maintain records to support their assessment, such as payroll records, attestations from supervisors or staff, or regular work product or

correspondence; recipients need not track staff hours. The interim final rule also posed a question on how long recipients should be able to use funds for staff responding to COVID-19 and what other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID-19 response in an easily administrable manner.

Treasury also provided further guidance on the types of employees covered by this category of eligible use, specifically: "Public safety employees would include police officers (including state police officers), sheriffs and deputy sheriffs, firefighters, emergency medical responders, correctional and detention officers, and those who directly support such employees such as dispatchers and supervisory personnel. Public health employees²⁴³ would include employees involved in providing medical and other health services to patients and supervisory personnel, including medical staff assigned to schools, prisons, and other such institutions, and other support services essential for patient care (e.g., laboratory technicians, medical examiner, or morgue staff) as well as employees of public health departments directly engaged in matters related to public health and related supervisory personnel. Human services staff include employees providing or administering social services; public benefits; child welfare services; and child, elder, or family care, as well as others."

Public Comment: Measuring Time Spent on COVID-19 Response: Treasury received public comments on several components of this eligible use category. Many commenters argued that it poses an administrative burden to identify the extent to which staff are responding to COVID-19 and to maintain records to support that assessment. Largely citing administrative burden in assessing eligibility, several commenters recommended revisions to the administrative convenience that the full payroll and covered benefits for public health and safety staff "primarily dedicated" to responding to COVID-19 may be paid with SLFRF funds. Some commenters recommended presuming that all public health and safety staff are primarily dedicated to COVID-19 response, while others proposed that public health and safety workers who primarily serve QCTs or low- and moderate-income areas be presumed to be primarily dedicated to COVID-19

response, given the disproportionate impacts of the pandemic in those communities. Similarly, Tribal communities recommended that their public health staff be presumed eligible due to the disproportionate impact of the pandemic on their communities. Some commenters proposed that they be able to use the administrative convenience for staff outside of public health and safety that are responding to COVID-19 (i.e., to be able to pay the full payroll and covered benefits for any staff "primarily dedicated" to COVID-19 response).

Treasury Response: In the final rule, Treasury is maintaining the approach in the interim final rule, including elaborations issued in further guidance, but providing additional clarification on its application, including methods to apply the approach to minimize administrative burden. Treasury notes that recipients may assess the extent to which staff are dedicated to responding to COVID-19 through a variety of means, including establishing presumptions or assessing public health and safety staff at the division or operating unit level. For example, a recipient could consider the amount of time spent by employees in its public health department's epidemiology division in responding to COVID-19 and, if a majority of its employees are dedicated to responding to COVID-19, determine that the entire division is primarily dedicated to responding to COVID-19. Treasury also clarifies that recipients may use reasonable estimates to establish administrable presumptions; for example, a recipient could estimate, based on discussions with staff, the general share of time that employees in a specific role or type of position spend on COVID-19 related tasks and apply that share of time to all employees in that position.

Recipients are generally required to be able to support uses of SLFRF funds as eligible, including, in this instance, maintenance of records to support an assessment that public health and safety staff are primarily dedicated to responding to COVID-19. As noted above, recipients may use reasonable estimates to implement this provision. Recipients should maintain records on how they developed these estimates and need not track staff hours. Treasury notes that records retained can include payroll records (e.g., the number and type of staff in various positions), attestations from supervisors or staff (e.g., self-attestation of share of time spent on COVID-19), or regular work product or correspondence (e.g., calendars, email correspondence, documents, and other electronic

²⁴¹ In general, if an employee's wages and salaries are an eligible use of SLFRF funds, recipients may treat the employee's covered benefits as an eligible use of SLFRF funds. For purposes of SLFRF 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). As described further in the section Deposits into Pension Funds in Restrictions on Use, that limitation on use does not apply to pension contributions that are part of regular payroll contributions for employees whose wages and salaries are an eligible use of SLFRF funds.

²⁴² Note that the interim final rule adapted prior guidance issued for CRF that described these four categories of employees; however, when listing the specific occupations or types of employees in each of these categories, the guidance collapses health care and public health into one category titled "public health." Therefore, the presumption described around public health employees also covers health care employees.

²⁴³ Note that this category encompasses both public health and health care employees; both are treated as public health employees for the purposes of this eligible use category.

records). Treasury anticipates that these types of records are generally retained in many government settings; recipients should also consult the Award Terms and Conditions for SLFRF funds for requirements on length of record retention. For example, a recipient could establish a reasonable presumption about the share of time that an employee, division, or operating unit is responding to COVID-19 and simply retain those employees' electronic records as a record to support their assessment.

Public Comment: Public Health and Safety Staff Primarily Dedicated to COVID-19 Response: Some commenters recommended expanding the administrative convenience for public health and safety staff primarily dedicated to COVID-19 response to further types of staff, to all public health and safety staff, or to public health and safety staff serving underserved areas.

Treasury Response: The interim final rule recognized that COVID-19 response continues to require substantial staff resources and provides an administrative convenience to make it relatively simpler to identify the eligibility of the types of workers—public health and safety workers—generally most involved in COVID-19 response. At the same time, many public health and safety workers perform roles unrelated to COVID-19; coverage of all roles would be overbroad compared to the workers responding to COVID-19 in actuality. For this reason, the final rule maintains the interim final rule's approach to permitting SLFRF funds to be used for public health and safety staff primarily dedicated to responding to COVID-19. Finally, to the extent that a greater proportion of public health and safety staff time is needed to respond to COVID-19 in disproportionately impacted communities, the "primarily dedicated" approach recognizes this increased need.

Public Comment: Eligible Types of COVID-19 Response: Some public commenters also sought further clarification on how to identify eligible types of "COVID-19 response." For example, commenters requested clarification on delineating COVID-19 response from general public health response and defining COVID-19 response for public safety employees.

Treasury Response: Treasury is clarifying that "responding to" COVID-19 entails work needed to respond to the public health or negative economic impacts of the pandemic, apart from the typical pre-pandemic job duties or workload of an employee in a comparable role, if one existed. For

example, responding to COVID-19 for a public safety worker may entail working in an emergency operations center to coordinate pandemic-related supply distribution, responding to an increased volume of 911 calls, or implementing COVID-19 prevention and mitigation protocols in a carceral setting.

Public Comment: Eligible Employees: Some commenters requested clarification on the types of eligible employees or expansion of eligible employees to include additional types of staff, including in behavioral health; administrative, management, or financial management positions; social services; morgue staff; and nonprofit staff supporting projects to undertake eligible uses of funds under SLFRF.

Treasury Response: Treasury provided further guidance on eligible types of employees following the interim final rule, which expressly included social services and morgue staff, and incorporates that guidance into the final rule. In addition, Treasury is clarifying that public health "employees involved in providing medical and other health services to patients and supervisory personnel" includes behavioral health services as well as physical health services.

Treasury also is clarifying that this provision only addresses employees of the recipient government responding to COVID-19. For discussion of eligible expenses to administer SLFRF, including eligible costs for subrecipients performing eligible activities on behalf of a recipient government, see section Administrative Expenses in Program Administration Provisions.

Finally, Treasury is clarifying that indirect costs for administrative, management, and financial management personnel to support public health and safety staff responding to COVID-19 are not permissible under this provision, given the relatively greater challenge of differentiating the marginal increase in staff time and workload due to pandemic response for indirect versus direct costs.

Public Comment: Time Period: Finally, some commenters made recommendations on the time period during which this eligible use should be available. Some commenters recommended eligibility begin before March 3, 2021, the period when Treasury's interim final rule permitted recipients to begin to incur costs using SLFRF funds; for discussion of this topic, see section Timeline for Use of SLFRF Funds in Program Administration Provisions. As noted above, Treasury also posed a question in the interim final rule asking for how long Treasury should maintain the

administrative convenience that SLFRF funds may be used for the full payroll and covered benefits of public health and safety staff primarily dedicated to COVID-19 response. Several commenters recommended that Treasury maintain this approach throughout the program or through December 31, 2024. Other commenters requested clarification on whether eligibility for this use of funds was tied to the length of the state of emergency or whether a jurisdiction has an active state of emergency.

Treasury Response: In the final rule, Treasury is clarifying that recipients will be permitted to fund the full payroll and covered benefits of public health and safety staff primarily dedicated to COVID-19 response throughout the period of performance for the SLFRF program, though recipients should periodically reassess their determination of primarily dedicated staff, including as the public health emergency and response evolves.

Government Employment and Rehiring Public Sector Staff

The interim final rule permitted use of funds for costs associated with rehiring state, local, and Tribal government staff in order to bolster the government's ability to effectively administer services. Specifically, recipients may pay for payroll, covered benefits, and other costs associated with the recipient increasing the number of its employees up to the pre-pandemic baseline, or the number of employees that the recipient government employed on January 27, 2020.

Public Comment: Many commenters requested greater flexibility and additional clarification on the provision's requirements, including the pre-pandemic baseline and re-hiring process. Some commenters requested that the final rule allow for hiring above the pre-pandemic baseline given historic underinvestment in the public sector workforce. Commenters suggested a number of adjustments to the pre-pandemic baseline, including adjusting based on population or revenue growth, while some recommended allowing recipients to set their own hiring levels. Others requested clarification on the definition of the baseline and the re-hiring process, including whether the pre-pandemic baseline referred to budgeted or filled positions and whether new hires had to fill the same roles as the previous hires. Commenters also asked whether recipients need to show if the reduction in number of employees was due to the pandemic in order to qualify for funding and requested that workers dedicated to

COVID-19 response be exempted from the calculation of number of employees.

Many commenters also requested an expanded set of eligible uses beyond restoring their workforce up to the pre-pandemic baseline. Commenters requested that funding be able to be used to avoid layoffs, provide back pay, retain employees through pay increases and other retention programs, or reimburse salaries and benefits already paid. Some commenters also requested clarification as to whether recipients can fund re-hired positions through the period of performance and on the definition of payroll and benefits. Other commenters requested preferential hiring for workers laid off, a strong commitment to equity, and a requirement that funds would not be used to pay for contract or temporary replacement workers during a labor dispute.

Treasury Response: The final rule allows for an expanded set of eligible uses to restore and support public sector employment. Eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector, providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring.

Restoring pre-pandemic employment. In response to comments and recognizing underinvestment in public sector employment, the final rule expands the ability to use SLFRF funds to restore pre-pandemic employment. Treasury is also clarifying how, and the extent to which, recipients may use SLFRF funds to rehire public employees.

The final rule provides two options to restore pre-pandemic employment, depending on recipient's needs. Under the first and simpler option, recipients may use SLFRF funds to rehire staff for pre-pandemic positions that were unfilled or were eliminated due to the pandemic without undergoing further analysis. Under the second option, the final rule provides recipients an option to hire above the pre-pandemic baseline, by adjusting the pre-pandemic baseline for historical growth in public sector employment over time, as well as flexibility on roles for hire. Recipients may choose between these options but cannot use both.

To pursue the first option, recipients may use SLFRF funds to hire employees for the same positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021, without undergoing further analysis. For

these employees, recipients may use SLFRF funds for payroll and covered benefit costs that are obligated by December 31, 2024 and expended by December 31, 2026, consistent with the Uniform Guidance's Cost Principles at 2 CFR part 200 Subpart E. This option provides administrative simplicity for recipients that would simply like to restore pre-pandemic positions and would not like to hire above the pre-pandemic baseline.

To pursue the second option, recipients should undergo the analysis provided below. In short, this option allows recipients to pay for payroll and covered benefits associated with the recipient increasing its number of budgeted full-time equivalent employees (FTEs) up to 7.5 percent above its pre-pandemic employment baseline, which adjusts for the continued underinvestment in state and local governments since the Great Recession. State and local government employment as a share of population in 2019 remained considerably below its share prior to the Great Recession in 2007, which presented major risks to recipients mounting a response to the COVID-19 public health emergency. The *adjustment factor* of 7.5 percent results from estimating how much larger 2019 state and local government employment would have needed to be for the share of state and local government employment to population in 2019 to have been back at its 2007 level and is intended to correct for this gap.

Recipients should complete the steps described below. Recipients may choose whether to conduct this analysis on a government-wide basis or for an individual department, agency, or authority.

- **Step One:** Identify the recipient's budgeted FTE level on January 27, 2020. This includes all budgeted positions, filled and unfilled. This is called the *pre-pandemic baseline*.

- **Step Two:** Multiply the *pre-pandemic baseline* by 1.075 (that is, 1 + *adjustment factor*). This is called the *adjusted pre-pandemic baseline*.

- **Step Three:** Identify the recipient's budgeted FTE level on March 3, 2021, which is the beginning of the period of performance for SLFRF funds. Recipients may, but are not required to, exclude FTEs dedicated to responding to the COVID-19 public health emergency.²⁴⁴ This is called the *actual number of FTEs*.

²⁴⁴ Recipients may determine that a portion of an FTE's time is dedicated to responding to the COVID-19 public health emergency. Further, for administrative convenience, the recipient may

- **Step Four:** Subtract the *actual number of FTEs* from the *adjusted pre-pandemic baseline* to calculate the number of FTEs that can be hired and covered by SLFRF funds.

Recipients may use SLFRF funds to cover payroll and covered benefit costs obligated by December 31, 2024, and expended by December 31, 2026, up to the number of FTEs calculated in Step Four, consistent with the Uniform Guidance's Cost Principles at 2 CFR part 200 Subpart E. Recipients may only use SLFRF funds for additional FTEs hired over the March 3, 2021 level of budgeted FTEs (*i.e.*, the *actual number of FTEs*); note again that recipients may choose whether to conduct the analysis of FTEs that can be covered by SLFRF funds on a government-wide basis or for an individual department, agency, or authority.

These FTEs must have begun their employment on or after March 3, 2021, which is the beginning of the period of performance. For administrative convenience, recipients do not need to demonstrate that the reduction in number of FTEs was due to the COVID-19 pandemic, as Treasury assumes the vast majority of employment reductions during this time were due to pandemic fiscal pressures on state and local budgets. Recipients do not need to hire for the same roles that existed pre-pandemic.

For illustration, consider a hypothetical recipient with 1,000 budgeted FTEs on January 27, 2020 (950 filled FTE positions and 50 unfilled FTE positions). The recipient's *pre-pandemic baseline* is 1000 FTEs; its *adjusted pre-pandemic baseline* is $1,000 * 1.075 = 1075$ FTEs. Now, assume that on March 3, 2021, the recipient had 800 budgeted FTEs in total (795 filled FTE positions and 5 unfilled FTE positions), with 50 FTEs primarily dedicated to responding to the COVID-19 public health emergency. The recipient would have the option of using either 800 FTEs or 750 FTEs as its *actual number of FTEs* for the calculation; assuming it chooses the lower number, it would be able to fund up to 325 FTEs with SLFRF funds (that is, $1,075 - 750 = 325$ FTEs).

consider public health and safety FTEs to be entirely devoted to mitigating or responding to the COVID-19 public health emergency if the FTE, or his or her operating unit of division, is primarily dedicated to responding to the COVID-19 public health emergency. Recipients may also consider other presumptions for assessing the extent to which an FTE, 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.

Specifically, the recipient would be able to use SLFRF to fund payroll and covered benefits for up to 325 FTEs that begin their employment on or after March 3, 2021, for costs obligated by December 31, 2024, and expended by December 31, 2026, consistent with the Uniform Guidance's Cost Principles, as long as SLFRF funds are used for additional FTEs hired over the recipient's 750 FTE level (which is its March 3, 2021 budgeted FTE level).

In hiring new employees, the final rule encourages recipients to ensure a diverse workforce. The final rule also prohibits recipients from using funds to temporarily fill positions during a labor dispute, as this would not constitute responding to the public health or negative economic impacts of the pandemic. Further, recipients must ensure that its hiring practices do not violate conflict-of-interest policies.²⁴⁵ Total compensation for a hired employee that is substantially in excess of typical compensation for employees of their experience and tenure within the recipient's government, without a corresponding business case, may indicate a potential conflict-of-interest in fact or appearance.

Providing additional funding for employees who experienced pay cuts and furloughs. In recognition of the economic hardship caused by pay cuts and furloughs, additional funds may be provided to employees who experienced pay cuts or were furloughed since the onset of the pandemic on January 27, 2020. Recipients must be able to substantiate that the pay cut or furlough was substantially due to the public health emergency or its negative economic impacts (e.g., fiscal pressures on state and local budgets) and should document their assessment. As a reminder, this additional funding must be reasonably proportional to the negative economic impact of the pay cut or furlough on the employee, which would include taking into account unemployment insurance (UI) benefits that a furloughed employee may have received during the furloughed period. Treasury presumes that additional funds beyond the difference in pay had the

employee not received a pay cut or been furloughed would not be reasonably proportional.

Recipients may also provide premium pay to certain employees, as detailed further in section Premium Pay.

Avoiding layoffs. Funds may be used to maintain current compensation levels, with adjustments for inflation, in order to prevent layoffs that would otherwise be necessary. Recipients must be able to substantiate that layoffs were likely in the absence of SLFRF funds and would be substantially due to the public health emergency or its negative economic impacts (e.g., fiscal pressures on state and local budgets) and should document their assessment.

Retaining workers. Funds may be used to provide worker retention incentives, which are designed to persuade employees to remain with the employer as compared to other employment options. Recipients must be able to substantiate that the employees were likely to leave employment in the absence of the retention incentive and should document their assessment. For example, a recipient may determine that a retention bonus is necessary based on the presence of an alternative employment offer for an employee.

All worker retention incentives must be narrowly tailored to need and should not exceed incentives traditionally offered by the recipient or compensation that alternative employers may offer to compete for the employees. Further, because retention incentives are intended to provide additional incentive to remain with the employer, they must be entirely additive to an employee's regular rate of wages and other remuneration and may not be used to reduce or substitute for an employee's normal earnings. Treasury will presume that retention incentives that are less than 25 percent of the rate of base pay for an individual employee or 10 percent for a group or category of employees are reasonably proportional to the need to retain employees, as long as the other requirements are met.

Ancillary administrative costs. Funds may be used to pay for ancillary administrative costs associated with administering SLFRF-funded hiring and retention programs detailed above, including costs to publish job postings, review applications, and onboard and train new hires. For additional information on administrative expenses, see section Administrative Expenses in Program Administration Provisions.

Effective Service Delivery: Administrative Expenses

The interim final rule provided that funds could be used for: "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." In the final rule, Treasury is clarifying that there are several categories of eligible administrative expenses.

First, recipients may use funds for administrative costs to improve the efficacy of public health or economic relief programs through tools like program evaluation, data analysis, and targeted consumer outreach (see section Effective Service Delivery: Program Evaluation, Data, and Outreach).

Second, recipients may use funds for administrative costs associated with programs to respond to the public health emergency and its negative economic impacts, including programs that are not funded by SLFRF or not federally funded. In other words, Treasury recognizes that responding to the public health and economic impacts of the pandemic requires many programs and activities, some of which are not funded by SLFRF. Executing these programs effectively is a component of responding to the public health and negative economic impacts of the pandemic.

Finally, recipients may use funds for direct and indirect administrative costs for administering the SLFRF program and projects funded by the SLFRF program. See section Administrative Expenses in Program Administration Provisions for details on this eligible use category.

Effective Service Delivery: Program Evaluation, Data, and Outreach

The Supplementary Information of the interim final rule provided that state, local and Tribal governments may use SLFRF funds to improve the design and execution of programs responding to the COVID-19 pandemic and to improve the efficacy of programs addressing negative economic impacts. The interim final rule included high-level guidance about how SLFRF funds could be used in this eligible use category, including the use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Since the publication of the interim final rule, Treasury has also released

²⁴⁵ As part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c)112 that is applicable to all activities funded with the SLFRF award. Pursuant to this policy, decisions concerning SLFRF must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. A recipient may not use control over SLFRF for their own private gain. Furthermore, no employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest.

supplementary information on data analysis, evidence building, and program evaluation in the Compliance and Reporting Guidance.

Public Comment: Treasury received positive comments about the opportunity to invest in data and technology upgrades with SLFRF funds. For example, one commenter noted that investing in technology for better connectivity, coupled with software and hardware upgrades, will allow the workforce to be more productive. Treasury also received comments seeking clarification on using funds for investments in data and technology, including whether upgrading government websites to improve community outreach and investing in technologies that support social distancing were eligible uses.

Treasury Response: Governments with high capacity to use data and evidence to administer programs are more likely to be responsive to the needs of their community, more transparent about their community impact, and more resilient to emergencies such as the pandemic and its economic impacts.²⁴⁶ Treasury recognizes that collecting high-quality data and developing community-driven, evidence-based programs requires resources to hire and build the capacity of staff, adopt new processes and systems, and use new technology and tools in order to effectively develop, execute, and evaluate programs. As such, Treasury is clarifying that recipients may use SLFRF funds toward the following non-exhaustive list of uses to address the data, evidence, and program administration needs of recipients. Additional information may be provided in the Compliance and Reporting Guidance.

- **Program evaluation and evidence resources** to support building and using evidence to improve outcomes, including development of Learning Agendas²⁴⁷ to support strategic evidence building, selection of evidence-based interventions, and program evaluations including impact evaluations (randomized control trials

and quasi-experimental designs) as well as rapid-cycle evaluations, process or implementation evaluations, outcome evaluations, and cost-benefit analyses. Recipients are encouraged to undertake rigorous program evaluations when practicable, assess the impact of their programs by beneficiary demographics (including race, ethnicity, gender, income, and other relevant factors), and engage with community stakeholders (including intended beneficiaries) when developing Learning Agendas and designing evaluations to ensure that programmatic, cultural, linguistic, and historical nuances are accurately and respectfully addressed.

Recipients are also encouraged to use relevant evidence Clearinghouses,²⁴⁸ among other sources, to assess the level of evidence for their interventions and identify evidence-based models that could be applied in their jurisdiction (meaning models with strong or moderate evidence; see Compliance and Reporting Guidance for details on these terms).

- **Data analysis resources** to gather, assess, and use data for effective policy-making and real-time tracking of program performance to support effective implementation of SLFRF-funded programs and programs that respond to the public health emergency and its negative economic impacts, or which households, small businesses, or impacted industries are accessing during the pandemic that are funded by other sources. These resources include but are not limited to data gathering, data cleaning, data analysis, data infrastructure, data management, data sharing, data transparency, performance management, outcomes-based budgeting, outcomes-based procurement, and other data needs. Treasury encourages the disaggregation of data to identify disparate program impacts and the use of cross-jurisdictional data sharing to better measure and implement government programs.

²⁴⁶ Evidence Clearinghouses are databases of research in particular program areas. Frequently these Clearinghouses identify evidence-based programs, the strength of the evidence for those programs, and provide contextual or supporting information in easy to understand formats. Many federal departments have developed rigorous and helpful Clearinghouses that cover a wide range of uses enumerated in this final rule as well as other programs that may be responsive to public health or negative economic impacts of the pandemic. For more information on Clearinghouses, please see the Compliance and Reporting Guidance: U.S. Department of the Treasury, Recipient Compliance and Reporting Responsibilities, as of November 5, 2021; <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>.

- **Technology infrastructure resources** to improve access to and the user-experience of government information technology systems, including upgrades to hardware and software as well as improvements to public-facing websites or to data management systems, to increase public access and improve public delivery of government programs and services (including in the judicial, legislative, or executive branches).

- **Community outreach and engagement resources** to support the gathering and sharing of information in ways that improve equity and effective implementation of SLFRF-funded programs and programs that respond to the public health emergency and its negative economic impacts, or which households, small businesses, or impacted industries are accessing during the pandemic that are funded by other sources. These methods include but are not limited to community meetings, online surveys, focus groups, human-centered design activities, behavioral science techniques, and other community engagement tools.

- **Capacity building resources** to support using data and evidence in designing, executing, and evaluating programs, including hiring public sector staff, contractors, academics, consultants, and others with expertise in evaluation, data, technology, and community engagement as well as technical assistance support for public sector staff, staff of subrecipients, and community partners to support effective implementation of SLFRF-funded programs and programs that respond to the public health emergency and its negative economic impacts, or which households, small businesses, or impacted industries are accessing during the pandemic that are funded by other sources.

Administrative Needs Caused or Exacerbated by the Pandemic

As described in guidance and the interim final rule, SLFRF funds may be used to address administrative needs of recipient governments that were caused or exacerbated by the pandemic. Guidance following the interim final rule included several examples of this, for example, uses of funds to address backlogs resulting from pandemic-related shutdowns (e.g., backlogs in court systems).²⁴⁹ This also includes

²⁴⁹ See FAQ 2.19, Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>. In the case of courts specifically, this includes “implementing COVID-19 safety measures to facilitate court operations, hiring additional court staff or attorneys to increase speed of case

²⁴⁶ Results for America, Invest in What Works State Standard of Excellence (August 2020), https://2020state.results4america.org/2020_State-Standard-of-Excellence.pdf.

²⁴⁷ Learning Agendas are systematic plans to identify, prioritize, answer important questions about programs and policies using analytic techniques that are appropriate to the type of question asked. For more information on learning agendas, please see OMB Memorandum M-19-23, available at: <https://www.whitehouse.gov/wp-content/uploads/2019/07/M-19-23.pdf> and OMB Memorandum M-21-27, available at: <https://www.whitehouse.gov/wp-content/uploads/2021/06/M-21-27.pdf>.

using funds for increased repair or maintenance needs to respond to significantly greater use of public facilities during the pandemic (e.g., increased use of parks resulting in damage or increased need for maintenance). Some commenters expressed support for the ability to use funds for these purposes. Treasury is maintaining these enumerated eligible uses in the final rule and clarifying that capital expenditures such as technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, improvements to case management systems or data sharing resources), reduce government backlogs, or meet increased maintenance needs are eligible.

b. Capital Expenditures

The interim final rule expressly permitted use of funds for a limited number of capital expenditures that mostly pertained to COVID-19 prevention and mitigation. These included capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics; adaptations to public buildings to implement COVID-19 mitigation tactics; ventilation improvements in congregate settings, health care settings, or other key locations; assistance to small businesses and nonprofits and aid to impacted industries to implement COVID-19 prevention or mitigation tactics, such as physical plant changes to enable social distancing. For disproportionately impacted populations and communities, the interim final rule also expressly permitted development of affordable housing to increase the supply of affordable and high-quality living units.

Public Comment: Many commenters supported the interim final rule's allowance of capital expenditures in facilities to meet pandemic operational needs but requested that the final rule explicitly allow for a broader range of capital expenditures. Commenters expressed an interest in investing in equipment, real property, and facilities that they argued will yield lasting benefits beyond the SLFRF period of performance. Some commenters stated that the approach in the interim final rule limited the vast majority of capital expenditures to governments that experienced revenue loss under Sections 602(c)(1)(C) and 603(c)(1)(C) and that this approach may prevent some governments from fully meeting the needs of their residents. A few

commenters argued that Treasury should limit use of funds on capital expenditures not related to addressing a direct pandemic harm, such as general economic development or workforce development, and some expressed support for generally limiting capital expenditures to those that address the needs of low-income communities and communities of color.

Many commenters requested that capital expenditures related to direct COVID-19 public health response be included as enumerated eligible uses. The requested types of expenditures include improvements and construction of hospitals and health clinics (including behavioral health clinics), as well as other health-related infrastructure improvements, such as improvements to medical equipment or public health information technology. These commenters stated that investments in health and public health systems are vital to ensuring critical infrastructure necessary to respond to continued impacts of COVID-19 or to address disparities in health, due to lack of access to health care, that contributed to disproportionate impacts of COVID-19 on some communities. Further, some commenters requested that construction or improvements of emergency management and public safety facilities be deemed eligible, citing that some of these sites serve as remote vaccination sites or are otherwise crucial to the pandemic public health response.

Commenters also requested use of funds for capital expenditures that support community needs apart from health care, such as new construction or improvements to schools, affordable housing (beyond presumed disproportionately impacted communities), childcare facilities, and community centers; some suggested that all types of projects permissible under the Community Development Block Grant Program should be eligible both for policy and administrability reasons. Further, some commenters also asked for clarification as to whether parks and recreational facilities are eligible if built in certain disproportionately impacted areas, as well as public transportation infrastructure.

Finally, some commenters also requested use of funds for capital expenditures in government administration buildings, such as public courthouses, as well as technology infrastructure that would allow for remote delivery of public benefits. Others also asked about whether funds could be used to renovate vacant business district buildings or commercial spaces to spur economic recovery.

Treasury Response: Capital expenditures, in certain cases, can be appropriate responses to the public health and economic impacts of the pandemic, in addition to programs and services. Like other eligible uses of SLFRF funds in this category, capital expenditures should be a related and reasonably proportional response to a public health or negative economic impact of the pandemic. The final rule clarifies and expands how SLFRF funds may be used for certain capital expenditures, including criteria and documentation requirements specified in this section, as applicable.

Treasury provides presumptions and guidelines for capital expenditures that are enumerated earlier in sections Public Health, Negative Economic Impacts, and General Provisions: Other under the Public Health and Negative Economic Impact eligible use category ("enumerated projects"), along with capital expenditures beyond those enumerated by Treasury. In addition to satisfying the two-part framework in Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact for identifying and designing a response to a pandemic harm, Treasury will require projects with total expected capital expenditure costs of \$1 million or greater to undergo additional analysis to justify their capital expenditure. Increased reporting requirements will be required for projects that are larger in size, as well as projects that are not enumerated as eligible by Treasury, with certain exceptions for Tribal governments discussed below. Smaller projects with total expected capital expenditures below \$1 million will not be required to undergo additional analysis to justify their capital expenditure, as such projects will be presumed to be reasonably proportional, provided that they are responding to a harm caused or exacerbated by the public health emergency. These standards and documentation requirements are designed to minimize administrative burden while also ensuring that projects are reasonably proportional and supporting Treasury's risk-based approach to overall program management and monitoring.

This section provides (1) an overview of general standards governing capital expenditures; (2) presumptions on capital expenditures, which help guide recipients in determining whether the expenditure meets the standards and the associated documentation requirements; and (3) additional standards and requirements that may apply.

resolution, and other expenses to expedite case resolution are eligible uses."

Overview of General Standards

In considering whether a capital expenditure would be eligible under the public health and negative economic impacts eligible use category, recipients must satisfy the requirements for all uses under the public health and negative economic impacts eligible use category, including identifying an impact or harm and designing a response that addresses or responds to the identified impact or harm. Responses must be reasonably designed to benefit the individual or class that experienced the impact or harm and must be related and reasonably proportional to the extent and type of impact or harm. Recipients should consult further details on this standard provided in the sections Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact under General Provisions: Structure and Standards.

In addition to the framework described above, for projects with total expected capital expenditures of \$1 million or greater, recipients must complete and meet the substantive requirements of a Written Justification for their capital expenditure, except for Tribal governments as discussed below. This Written Justification helps clarify the application of this interpretive framework to capital expenditures, while recognizing that the needs of communities differ. In particular, this justification reflects the fact that the time required for a large construction project may make capital expenditures less responsive to pandemic-related needs relative to other types of responses. In addition, as discussed in section Timeline for Use of SLFRF Funds of this Supplemental Information, SLFRF funds must be obligated by December 31, 2024 and expended by December 31, 2026. Capital expenditures may involve long lead-times, and the Written Justification may support recipients in analyzing proposed capital expenditures to confirm that they conform to the obligation and expenditure timing requirements. Further, such large projects may be less likely to be reasonably proportional to the harm identified. For example, construction of a new, larger public facility for the purpose of increasing the ability to socially distance generally would not be considered a reasonably proportional response compared to other less time- and resource-intensive options that may be available and would be equally or more effective. Other solutions, such as improvements in ventilation, could be made more quickly and are typically

more cost effective than construction of a new, larger facility. The needs of communities differ, and recipients are responsible for identifying uses of SLFRF funds that best respond to these needs. The Written Justification recognizes this while also establishing consistent documentation and reporting to support monitoring and compliance with the ARPA and final rule. Finally, the Written Justification also reflects the fact that infrastructure projects are generally not within scope of this eligible use category. See section Uses Outside the Scope of this Category in General Provisions: Other.

As noted above, Tribal governments are not required to complete the Written Justification for projects with total capital expenditures of \$1 million or greater. Tribal governments generally have limited administrative capacity due to their small size and corresponding limited ability to supplement staffing for short-term programs. In addition, Tribal governments are already subject to unique considerations that require additional administrative processes and administrative burden for Tribal government decision making, including capital expenditures. Tribal governments generally are subject to a jurisdictionally complex sets of rules and regulations in the case of improvements to land for which the title is held in trust by the United States for a Tribe (Tribal Trust Lands).²⁵⁰ This includes the requirement in certain circumstances to seek the input or approval of one or more federal agencies such as the Department of the Interior, which holds fee title of Tribal Trust Lands.

As a result of their limited administrative capacity and unique and complex rules and regulations applicable to Tribal governments operating on Tribal Trust Lands, Tribal governments would experience significant and redundant administrative burden by also being required to complete a Written Justification for applicable capital expenditures. While Tribal governments are not required to complete the Written Justification for applicable capital expenditures, the associated substantive requirements continue to apply, including the requirement that a capital expenditure must be reasonably designed to benefit the individual or class that experienced the identified impact or harm and must be related and reasonably proportional to the extent and type of impact or harm. Note that, as a general matter, Treasury may also

request further information on SLFRF expenditures and projects, including capital expenditures, as part of the regular SLFRF reporting and compliance process, including to assess their eligibility under the final rule.

The Written Justification should (1) describe the harm or need to be addressed; (2) explain why a capital expenditure is appropriate to address the harm or need; and (3) compare the proposed capital expenditure against alternative capital expenditures that could be made. The information required for the Written Justification reflects the framework applicable to all uses under the public health and negative economic impacts eligible use category, providing justification for the reasonable design, relatedness, and reasonable proportionality of the capital expenditure in response to the harm or impact identified.

1. *Description of harm or need to be addressed:* Recipients should provide a description of the specific harm or need to be addressed, and why the harm was exacerbated or caused by the public health emergency. When appropriate, recipients may provide quantitative information on the extent and type of the harm, such as the number of individuals or entities affected.

2. *Explanation of why a capital expenditure is appropriate:* Recipients should provide an independent assessment demonstrating why a capital expenditure is appropriate to address the specified harm or need. This should include an explanation of why existing capital equipment, property, or facilities would be inadequate to addressing the harm or need and why policy changes or additional funding to pertinent programs or services would be insufficient without the corresponding capital expenditures. Recipients are not required to demonstrate that the harm or need would be irremediable but for the additional capital expenditure; rather, they may show that other interventions would be inefficient, costly, or otherwise not reasonably designed to remedy the harm without additional capital expenditure.

3. *Comparison of the proposed capital expenditure against alternative capital expenditures:* Recipients should provide an objective comparison of the proposed capital expenditure against at least two alternative capital expenditures and demonstrate why their proposed capital expenditure is superior to alternative capital expenditures that could be made. Specifically, recipients should assess the proposed capital expenditure against at least two alternative types or sizes of capital expenditures that are potentially effective and reasonably

²⁵⁰ See 25 U.S.C. 5108.

feasible. Where relevant, recipients should compare the proposal against the alternative of improving existing capital assets already owned or leasing other capital assets. Recipients should use quantitative data when available, although they are encouraged to supplement with qualitative information and narrative description. Recipients that complete analyses with minimal or no quantitative data should provide an explanation for doing so.

In determining whether their proposed capital expenditure is superior to alternative capital expenditures, recipients should consider the following factors against each selected alternative.

a. *A comparison of the effectiveness of the capital expenditures in addressing the harm identified.* Recipients should generally consider the effectiveness of the capital expenditures in addressing the harm over the useful life of the capital asset and may consider metrics such as the number of impacted or disproportionately impacted individuals or entities served, when such individuals or entities are estimated to be served, the relative time horizons of the project, and consideration of any uncertainties or risks involved with the capital expenditure.

b. *A comparison of the expected total cost of the capital expenditures.* Recipients should consider the expected total cost of the capital expenditure required to construct, purchase, install, or improve the capital assets intended to address the public health or negative economic impact of the public health emergency. Recipients should include pre-development costs in their calculation and may choose to include information on ongoing operational costs, although this information is not required.

Recipients should balance the effectiveness and costs of the proposed capital expenditure against alternatives and demonstrate that their proposed capital expenditure is superior. Further, recipients should choose the most cost-effective option unless it substantively reduces the effectiveness of the capital investment in addressing the harm identified.

As an example, a recipient considering building a new diagnostic testing laboratory to enhance COVID-19 testing capacity may consider whether existing laboratories sufficiently meet demand for COVID-19 testing, considering the demand for test results (along with their turnaround time) as well as the impact of current testing

availability on the spread of COVID-19. Recipients may also consider other public health impacts of the level of diagnostic testing capacity, for example if insufficient capacity has decreased testing for other health conditions. The recipient may consider alternatives such as expanding existing laboratories or building a laboratory of a different size. In comparing the effectiveness of the capital expenditures, examples of factors that the recipient may consider include when the facilities will become operational and for how long; the daily throughput of COVID-19 tests; and the effect on minimizing delays in test results on the populations that such tests will serve. In comparing costs, the recipient may compare the total expected cost of the new laboratory (including costs of acquisition of real property, construction of the laboratory, and purchase of any necessary equipment needed to operationalize the lab), against the expected costs of expanding existing laboratories (whether by replacing current equipment with higher throughput devices or physically expanding space to accommodate additional capacity) or building a new laboratory of a different size, including by leasing property. As a reminder, recipients should only consider alternatives that are potentially effective and reasonably feasible.

Because, in all cases, uses of SLFRF funds to respond to public health and negative economic impacts of the pandemic must be related and reasonably proportional to a harm caused or exacerbated by the pandemic, some capital expenditures may not be eligible. For example, constructing a new correctional facility would generally not be a proportional response to an increase in the rate of certain crimes or overall crime as most correctional facilities have historically accommodated fluctuations in occupancy.²⁵¹ In addition, construction of new congregate facilities, which would generally be expected to involve expenditures greater than \$1 million, would generally not be a proportional response to mitigate or prevent COVID-19, because such construction is generally expected to be more costly than alternative approaches or capital expenditures that may be equally or more effective in decreasing spread of

the disease.²⁵² These alternatives include personal protective equipment, ventilation improvements, utilizing excess capacity in other facilities or wings, or temporary facility capacity expansions.

Large capital expenditures intended for general economic development or to aid the travel, tourism, and hospitality industries—such as convention centers and stadiums—are, on balance, generally not reasonably proportional to addressing the negative economic impacts of the pandemic, as the efficacy of a large capital expenditure intended for general economic development in remedying pandemic harms may be very limited compared to its cost.²⁵³

Presumptions on Capital Expenditures

For administrative convenience, the final rule provides presumptions on whether a Written Justification is required—and required to be submitted to Treasury through reporting—based on the type and size of the capital expenditure, as detailed in the table below.

As discussed above, Tribal governments are not required to complete the Written Justification for applicable capital expenditures, but the associated substantive requirements continue to apply, including the requirement that a capital expenditure must be reasonably designed to benefit the individual or class that experienced the identified impact or harm and must be related and reasonably proportional to the extent and type of impact or harm.

²⁵² For instance, the CDC has published detailed recommendations for nursing homes, long-term care facilities, and correctional and detention facilities, on infection prevention and control. Many of these recommendations are relatively low cost, such as proper use of PPE. In addition, increasing vaccination rates among nursing home staff is among the most important ways to decrease the spread of the disease. Centers for Disease Control and Prevention, Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes (September 10, 2021), https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html#anchor_1631030153017.

²⁵³ For instance, researchers have found no consistent positive relationship between building sports facilities and local economic development. As Siegfried and Zimbalist (2000, 103) write in a review of the literature, “independent work on the economic impact of stadiums and arenas has uniformly found that there is no statistically significant positive correlation between sports facility construction and economic development.” John Siegfried and Andrew Zimbalist, *The Economics of Sports Facilities and Their Communities*, *Journal of Economic Perspectives* 14, no. 3 (Summer 2000): 95–114, <https://www.aeaweb.org/articles?id=10.1257/jep.14.3.95>.

²⁵¹ See, e.g., “Economic Perspectives on Incarceration and the Criminal Justice System,” Council of Economic Advisers (April 2016), pg. 36–43.

If a project has total expected capital expenditures of	and the use is enumerated by Treasury as eligible, then ²⁵⁴	and the use is beyond those enumerated by Treasury as eligible, then ²⁵⁵
Less than \$1 million	No Written Justification required	No Written Justification required.
Greater than or equal to \$1 million, but less than \$10 million.	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury.	Written Justification required and recipients must submit as part of regular reporting to Treasury.
\$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury.	

In selecting these thresholds, Treasury recognized that capital expenditures vary widely in size and therefore would benefit from tiered treatment to implement eligibility standards while minimizing administrative burden, especially for smaller projects. For example, Treasury selected \$1 million as a threshold for whether a recipient needs to complete a Written Justification as well as a threshold under which capital expenditures would be presumed reasonably proportional. Treasury estimates that \$1 million would encapsulate the costs of a significant portion of equipment or small renovations. These types of smaller projects are often a necessary and reasonably proportional part of a response to the public health emergency; therefore, the \$1 million threshold provides a simplified pathway to complete smaller projects more likely to meet the eligibility standard. At the same time, Treasury selected \$10 million as the threshold for more intensive reporting requirements, estimating that projects larger than \$10 million would likely constitute significant improvements or construction of mid- or large-sized facilities. As discussed above, given their scale and longer time to completion, these types of larger

projects may be less likely to be reasonably proportional responses. The \$10 million threshold also generally aligns with thresholds in other parts of the SLFRF program, such as for enhanced reporting on labor practices.

Expenditures from closely related activities directed toward a common purpose are considered part of the scope of one project. These expenditures can include capital expenditures, as well as expenditures on related programs, services, or other interventions. A project includes expenditures that are interdependent (e.g., acquisition of land, construction of the school on the land, and purchase of school equipment), or are of the same or similar type and would be utilized for a common purpose (e.g., acquisition of a fleet of ambulances that would be used for COVID-19 emergency response). Recipients must not segment a larger project into smaller projects in order to evade review. A recipient undertaking a set of identical or similar projects (e.g., development of a number of new affordable housing complexes across the recipient jurisdiction) may complete one Written Justification comprehensively addressing the entire set of projects.

Projects Enumerated as Eligible by Treasury

Under the public health and negative economic impacts eligible use category, the final rule provides a non-exclusive list of eligible uses of funding for projects that respond to the public health emergency or its negative economic impacts. Treasury has determined that these enumerated projects are related to the public health emergency and its negative economic impacts; however, recipients (other than Tribal governments) undertaking these projects with total expected capital expenditures of \$1 million or greater must still complete and meet the substantive requirements of a Written Justification as part of their demonstration that the project is a related and reasonably proportional response to the harm identified.

• *Projects with total expected capital expenditures of under \$1 million:* Treasury provides a safe harbor for

projects with total expected capital expenditures of less than \$1 million and will not require recipients to complete, submit, or meet the substantive requirements of a Written Justification for the capital expenditure. In essence, recipients may pursue an enumerated project with total expected capital expenditures of under \$1 million without having to undergo additional assessments to meet SLFRF requirements.

• *Projects with total expected capital expenditures of at least \$1 million but under \$10 million:* Recipients should complete a Written Justification for the capital expenditure and make an independent assessment of whether their proposed capital expenditure meets the substantive requirements of the Written Justification. Recipients will not be required to submit the Written Justification as part of regular reporting to Treasury but should keep documentation for their records.

• *Projects with total expected capital expenditures of at least \$10 million:* Similar to the above, recipients should complete a Written Justification of the capital expenditure and make an independent assessment of whether their proposed capital expenditure meets the substantive requirements of the Written Justification. Further, recipients will be asked to submit the Written Justification as part of regular reporting to Treasury. Similar to other parts of the SLFRF program, such as on reporting on labor practices, Treasury recognizes that projects with expected total capital expenditures of at least \$10 million may be less likely to meet eligibility requirements and therefore requires recipients to provide an enhanced level of information to Treasury.

Projects Beyond Those Enumerated as Eligible by Treasury

As with all uses, recipients that undertake capital expenditures beyond those enumerated as eligible by Treasury must meet the two-part framework under Standards: Designating a Public Health Impact and Standards: Designating a Negative Economic Impact under General Provisions: Structure and Standards,

²⁵⁴ Whether or not a Written Justification is required, recipients should still determine that the response is related and reasonably proportional to the public health emergency and its negative economic impacts. Treasury recognizes that enumerated eligible uses are “related” to the public health emergency and its negative economic impacts and presumed to be reasonably proportional, except recipients pursuing projects with expected total capital expenditures equal to or greater than \$1 million should still independently determine that the expenditures are a reasonably proportional response. Enumerated projects with total expected capital expenditures under \$1 million receive a safe harbor and deemed to meet the related and reasonably proportional standard.

²⁵⁵ Whether or not a Written Justification is required, recipients should still determine that the response is related and reasonably proportional to the public health emergency and its negative economic impacts. Treasury presumes that projects with total expected capital expenditures under \$1 million are reasonably proportional in size to responding to the public health emergency and its negative economic impacts; however, recipients should determine that the response otherwise meets the requirements of the standard, including that the response is related to the public health emergency and its negative economic impacts.

including the requirement that responses are related and reasonably proportional to the harm or impact identified. As part of that assessment, these recipients may also be asked to complete a Written Justification. Recipients (other than Tribal governments) are subject to the following presumptions for the Written Justification of the capital expenditure, based on the total expected capital expenditures of the project:

- *Projects with total expected capital expenditures of under \$1 million:*

Treasury provides a safe harbor for unenumerated projects with total expected capital expenditures of under \$1 million and will not require recipients to complete, submit, or meet the substantive requirements of a Written Justification of the capital expenditure. Recipients should still make a determination as to whether the capital expenditure is part of a response that is related and reasonably proportional to the public health emergency or its negative economic impacts.

- *Projects with total expected capital expenditures of \$1 million or over:*

Recipients should complete a Written Justification of the capital expenditure and make an independent assessment that their proposed capital expenditure meets the substantive requirements of the Written Justification. Further, recipients will be asked to submit the Written Justification as part of regular reporting to Treasury.

Treasury employs a risk-based approach to overall program management and monitoring, which may result in heightened scrutiny on larger projects. Accordingly, recipients pursuing projects with larger capital expenditures should complete more detailed analyses for their Written Justification, commensurate with the scale of the project.

Additional Provisions, Standards, and Definitions

Strong Labor Standards in Construction

Treasury encourages recipients to carry out projects in ways that produce high-quality work, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to use strong labor standards, including project labor agreements (PLAs) and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also recommends that recipients prioritize in their procurement decisions employers who can demonstrate that their workforce meets high safety and training standards

(e.g., professional certification, licensure, and/or robust in-house training), that hire local workers and/or workers from historically underserved communities, and who directly employ their workforce or have policies and practices in place to ensure contractors and subcontractors meet high labor standards. Treasury further encourages recipients to prioritize employers (including contractors and subcontractors) without recent violations of federal and state labor and employment laws.

Treasury believes that such practices will promote effective and efficient delivery of high-quality projects and support the economic recovery through strong employment opportunities for workers. Such practices will reduce likelihood of potential project challenges like work stoppages or safety accidents, while ensuring a reliable supply of skilled labor and minimizing disruptions, such as those associated with labor disputes or workplace injuries. That will, in turn, promote on-time and on-budget delivery.

Furthermore, among other requirements contained in 2 CFR 200, Appendix II, all contracts made by a recipient or subrecipient in excess of \$100,000 with respect to a capital expenditure that involve employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5).

Treasury will seek information from recipients on their workforce plans and practices related to capital expenditures undertaken under the public health and negative economic impacts eligible use category with SLFRF funds. This reporting will support transparency and competition by enhancing available information on the services being provided.

Environmental, Uniform Guidance, and Other Generally Applicable Requirements

Treasury cautions that, as is the case with all projects using SLFRF funds, all projects must comply with applicable federal, state, and local law. In the case of capital expenditures in particular, this includes environmental and permitting laws and regulations. Likewise, as with all capital expenditure projects using the SLFRF funds, projects must be completed in a manner that is technically sound, meaning that it must meet design and construction methods and use materials that are approved, codified, recognized, fall under standard

or acceptable levels of practice, or otherwise are determined to be generally acceptable by the design and construction industry.

Further, as with all other uses of funds under the SLFRF program, the Uniform Guidance at 2 CFR part 200 applies to capital expenditures unless stated otherwise. Importantly, this includes 2 CFR part 200 Subpart D on post-federal award requirements, including property standards pertaining to insurance coverage, real property, and equipment; procurement standards; sub-recipient monitoring and management; and record retention and access.

Definitions

Treasury adopts several definitions from the Uniform Guidance at 2 CFR 200.1 under this section, including for capital expenditures, capital assets, equipment, and supplies.

Per the Uniform Guidance, the term “capital expenditures” means “expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.” The term “capital assets” means “tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with [Generally Accepted Accounting Principles].”

Capital assets include lands, facilities, equipment, and intellectual property. Equipment means “tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.” Supplies, which means all tangible personal property other than those included as “equipment,” are not considered capital expenditures.

Recipients may also use SLFRF funds for pre-project development costs that are tied to or reasonably expected to lead to an eligible capital expenditure. For example, pre-project costs associated with planning and engineering for an eligible project are considered an eligible use of funds.

c. Distinguishing Subrecipients Versus Beneficiaries

Under the interim final rule, state, local, and Tribal governments that receive a federal award directly from a federal awarding agency, such as Treasury, are designated as “recipients,”

and state, local, and Tribal governments are authorized to transfer funds to other entities, including private entities like nonprofits. The interim final rule stated that, “[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.”

For funds transferred to a subrecipient, the interim final rule noted that “[r]ecipients continue to be responsible for monitoring and overseeing the subrecipient’s use of SLFRF 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 SLFRF funds for the duration of the award.”

Public Comment: Treasury received many comments requesting clarification about which entities qualify as subrecipients and are, in turn, subject to subrecipient monitoring and reporting requirements. For example, commenters sought clarification about whether a nonprofit that received a grant to provide services under a program to carry out an enumerated eligible use would qualify as a subrecipient and be subject to subrecipient monitoring and reporting requirements. Similarly, commenters also wondered if a nonprofit that received a grant in recognition of experiencing a negative economic impact of the public health emergency would also be a subrecipient and subject to subrecipient reporting requirements.

Treasury Response: Treasury is clarifying the distinction between a subrecipient and beneficiary in the final rule. The Uniform Guidance definitions for subaward and subrecipient inform Treasury’s distinction between subrecipients and beneficiaries.

First, per 2 CFR 200.1 of Uniform Guidance “[s]ubaward means an award provided by a pass-through entity²⁵⁶ to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement,

including an agreement that the pass-through entity considers a contract.”

Further, 2 CFR 200.1 of the Uniform Guidance defines a subrecipient, in that “[s]ubrecipient means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.” Treasury is aligning the definition of subrecipient in the final rule with the definition of subrecipient in the Uniform Guidance.

Treasury is maintaining the monitoring and subrecipient reporting requirements outlined in the final rule. Per 2 CFR 200.101 (b)(2) of the Uniform Guidance, the terms and conditions of federal awards flow down to subawards to subrecipients. Therefore, non-federal entities, as defined in the Uniform Guidance, must comply with the applicable requirements in the Uniform Guidance regardless of whether the non-federal entity is a recipient or subrecipient of a federal award. This includes requirements such as the treatment of eligible uses of funds, procurement, and reporting requirements.

The Uniform Guidance definitions for both subaward and subrecipient specify that payments to individuals or entities that are direct beneficiaries of a federal award are not considered subrecipients. The final rule adopts this definition of a beneficiary and outlines that households, communities, small businesses, nonprofits, and impacted industries are all potential beneficiaries of projects carried out with SLFRF funds. Beneficiaries are not subject to the requirements placed on subrecipients in the Uniform Guidance, including audit pursuant to the Single Audit Act and 2 CFR part 200, subpart F or subrecipient reporting requirements.

The distinction between a subrecipient and a beneficiary, therefore, is contingent upon the rationale for why a recipient is providing funds to the individual or entity. If the recipient is providing funds to the individual or entity for the purpose of carrying out a SLFRF program or project on behalf of the recipient, the individual or entity is acting as a subrecipient. Acting as a subrecipient, the individual or entity is subject to subrecipient monitoring and reporting requirements. Conversely, if the recipient is providing funds to the individual or entity for the purpose of directly benefitting the individual or

entity as a result of experiencing a public health impact or negative economic impact of the pandemic, the individual or entity is acting as a beneficiary. Acting as a beneficiary, the individual or entity is not subject to subrecipient monitoring and reporting requirements.

d. Uses Outside the Scope of This Category

Summary of the Interim Final Rule and Final Rule Structure

In the interim final rule, Treasury noted that certain uses of funds are not permissible under the eligible use category of responding to the public health and negative economic impacts of the pandemic. In the final rule, these uses remain impermissible, but Treasury has re-categorized where they are addressed to increase clarity.

Specifically, the interim final rule provided that the following uses of funds are not eligible under this eligible use category: Contributions to rainy day funds, financial reserves, or similar funds; payment of interest or principal on outstanding debt instruments; fees or issuance costs associated with the issuance of new debt; and satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring 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. These uses of funds remain ineligible under the final rule; Treasury has re-categorized these issues to the section Restrictions on Use, which describes restrictions that apply to all eligible use categories, to clarify that these uses are not eligible under any eligible use category of SLFRF. Treasury responds to public comments on this issue in the section Restrictions on Use.

As noted above, the interim final rule also posed several questions on what other types of services or costs Treasury should consider as eligible uses to respond to the public health and negative economic impacts of COVID-19, including in disproportionately impacted communities. In this section, Treasury addresses proposed uses of funds suggested by commenters that Treasury has not included as enumerated eligible uses of funds in this eligible use category.

General Eligible Uses

Public Comment: Commenters proposed a wide variety of additional recommended enumerated eligible uses

²⁵⁶ In this context, a pass-through entity means a recipient of SLFRF funds.

in all sections of the public health and negative economic impacts eligible use category, including in impacted and disproportionately impacted communities. The proposed additional uses included general categories of services (e.g., legal and social services, long-term investments to remediate long-term disparities, response to natural disasters). Other suggested uses of funds respond to needs widely experienced across the country (e.g., access to and affordability of health insurance). Finally, other suggested uses of funds were highly specific (e.g., healthcare equipment for a specific health condition, fire hydrants, weather alert systems) or most applicable to the particularized needs to certain populations or geographic areas of the United States (e.g., senior citizens, immigrants, formerly incarcerated individuals, responding to environmental issues in certain geographic regions). Other commenters generally requested a high degree of flexibility to respond to the particular needs of their communities.

Treasury Response: Given the large number and diversity of SLFRF recipients, Treasury has aimed to include as enumerated eligible uses programs, services, and capital expenditures that respond to public health and negative economic impacts of the pandemic experienced widely in many jurisdictions across the country, making it clear and simple for recipients to pursue these enumerated eligible uses under the final rule. This provides enumerated eligible uses that many recipients may want to pursue, while including uses that are responsive to the pandemic's impacts across the diverse range of SLFRF recipients. In the final rule, Treasury has clarified several additional uses that generally respond to pandemic impacts experienced broadly across jurisdictions and populations.

Treasury has not chosen to include as enumerated uses all uses proposed by commenters; given the significant range, and in some cases highly specific nature, of the proposed uses Treasury was not able to assess that the proposed uses would respond to negative economic impacts experienced generally across the country, supporting an enumerated eligible use available to all recipients presumptively.

However, Treasury emphasizes that the enumerated eligible uses are non-exhaustive and that other uses, beyond those enumerated, are eligible. Treasury recognizes that the impacts of the pandemic vary over time, by jurisdiction, and by population; as such, the final rule provides flexibility for

recipients to identify other public health or negative economic impacts to additional households, small businesses, or nonprofits, including classes of these entities, and pursue programs and services that respond to those impacts. Treasury also notes that some populations are presumed to be impacted or disproportionately impacted by the pandemic, and thus eligible for responsive services; these presumed eligible populations may encompass many individuals in the specific populations for whom commenters recommended services. For details on these issues, see section General Provisions: Structure and Standards.

Infrastructure, Community Development, and General Economic Development

Some potential additions to enumerated eligible uses were also recommended by several commenters each but are not included as enumerated eligible uses in the final rule.

Public Comment: Infrastructure: In the interim final rule, Treasury noted that a “general infrastructure project, for example, typically would not be included [in this eligible use category] unless the project responded to a specific pandemic public health need.”

Numerous commenters requested that Treasury permit investments in infrastructure as a response to the public health and negative economic impacts of the pandemic. While these comments most commonly recommended that constructing and maintaining roads and surface transportation infrastructure be eligible, the proposed uses for infrastructure ranged widely and included parking lots, bridges, traffic management infrastructure, solid waste disposal facilities, and utility infrastructure (outside of water, sewer, and broadband).

Many commenters argued that infrastructure development and maintenance is a pressing need in their communities and that their communities had less need for water, sewer, and broadband infrastructure or other eligible uses to respond to the public health and negative economic impacts of the pandemic. Other commenters argued that these uses would stimulate the economy, attract businesses, or allow for tourist movement; these commenters argued that, by generally supporting a stronger economy or facilitating conditions that are more conducive to business activity and tourism, these uses respond to the negative economic impacts of the pandemic.

Treasury Response: In the final rule, Treasury is maintaining the approach under the interim final rule that general infrastructure projects, including roads, streets, and surface transportation infrastructure, would generally not be eligible, unless the project responded to a specific pandemic public health need or a specific negative economic impact.

The ARPA expressly includes infrastructure if it is “necessary” and in water, sewer, or broadband, suggesting that the statute contemplates only those types of infrastructure. Further, responding to the public health and negative economic impacts of the pandemic requires identifying whether, and the extent to which, there has been a harm that resulted from the COVID-19 public health emergency and whether, and the extent to which, the use would respond or address this harm. Uses of funds intended to generally grow the economy and therefore enhance opportunities for workers and businesses would not be an eligible use, because such assistance is not reasonably designed to impact individuals or classes that have been identified as having experienced a negative economic impact. In other words, there is not a reasonable connection between the assistance provided and an impact on the beneficiaries. Such an activity would be attenuated from and thus not reasonably designed to benefit the households that experienced the negative economic impact.

Note, however, that Treasury has clarified that capital expenditures that are related and reasonably proportional to responding to the public health and economic impacts of the pandemic are eligible uses of funds, in addition to programs and services; for details on eligibility criteria for capital expenditures, see section Capital Expenditures in General Provisions: Other.

Public Comment: Community Development Block Grant: Several commenters recommended that Treasury enumerate as eligible uses those eligible under the Department of Housing and Urban Development's Community Development Block Grant (CDBG) or the Housing and Community Development Act of 1974, which established the CDBG program. Commenters requested that these uses be eligible either to respond to the negative economic impacts of the pandemic, or in the alternate the disproportionate negative economic impacts of the pandemic in certain communities. Under the CDBG program, recipient governments may undertake a wide range of community and economic

development services and projects. Commenters reasoned that many state and local governments are familiar with this program, and that aligning to its eligible uses may help recipients easily understand and pursue eligible projects. Commenters also noted that Treasury had chosen to align with existing federal programs in other eligible use categories, namely water infrastructure, in the interim final rule.

Treasury Response: In the final rule, Treasury is not including all categories of projects permissible under CDBG as enumerated eligible uses to respond to the public health and negative economic impacts of the pandemic. Because CDBG permits such a broad range of activities, including services to individual households, communities, small businesses, general economic development activities, and capital expenditures, Treasury determined that it was more appropriate to assess the underlying types of projects eligible within CDBG and whether each type of project responds to the negative economic impacts of the pandemic. In other words, Treasury considered whether various types of community and economic development projects respond to the impacts of the pandemic in different communities and circumstances. In the final rule, Treasury addresses the eligibility of these various types of projects in each relevant eligible use category within public health and negative economic impacts under SLFRF, including assistance for impacted households, disproportionately impacted households, disproportionately impacted small businesses, and capital expenditures.

Public Comment: General Economic Development: Treasury provided guidance following the interim final rule that general economic development or workforce development would generally not be eligible as it does not respond to a negative economic impact of the COVID-19 public health emergency.

Some commenters recommended that Treasury expand enumerated eligible uses to include general economic development activities, beyond those that respond to negative economic impacts of the pandemic, such as creating an economic development strategy for the jurisdiction's overall economic growth, creating a general workforce development strategy, or providing funds to businesses that did not experience negative economic impacts to carry out economic development activities or to incentivize the addition or retention of jobs. Commenters supportive of assistance to

businesses for general economic development activities argued that subsidies to businesses increase job growth and that, in some cases, assistance to companies that excelled during the public health emergency would help create more job opportunities for workers or expand the jurisdiction's tax base and produce funds to support government services. In contrast, other commenters argued that academic research consistently finds that economic development subsidies have a negligible, or even negative, economic effect, citing research findings to this effect.²⁵⁷

Treasury Response: In the final rule, Treasury maintains the interim final rule's approach that general economic development or workforce development, meaning activities that do not respond to negative economic impacts of the pandemic and rather seek to more generally enhance the jurisdiction's business climate, would generally not be eligible under this eligible use category. As noted above, to identify an eligible use of funds under this category, a recipient must identify a beneficiary or class of beneficiaries that experienced a harm or impact due to the pandemic, and eligible uses of funds must be

reasonably designed to respond to the harm, benefit the beneficiaries that experienced it, and be related and reasonably proportional to that harm or impact.

As noted above, recipients should analyze eligible uses based on the beneficiary of the assistance, and recipients may not provide assistance to small businesses or impacted industries that did not experience a negative economic impact. Provision of assistance to a business that did not experience a negative economic impact, under the theory that such assistance would generally grow the economy and therefore enhance opportunities for workers, would not be an eligible use, because such assistance is not reasonably designed to impact individuals or classes that have been identified as having experienced a negative economic impact. In other words, there is not a reasonable connection between the assistance provided and an impact on the beneficiaries. Such an activity would be attenuated from and thus not reasonably designed to benefit the households that experienced the negative economic impact. Research cited by some commenters finding that business subsidies have limited or negative economic impact also suggests that such a response may not be reasonably designed to benefit households and other entities impacted by the pandemic. Similarly, planning activities for an economic development or workforce strategy regarding general future economic growth do not provide a program, service, or capital expenditure that responds to negative economic impacts of the pandemic.

However, Treasury notes that the final rule includes as enumerated eligible uses many types of assistance that respond to negative economic impacts of the pandemic and may produce economic development benefits. For example, see sections Assistance to Unemployed Workers, Assistance to Small Businesses, and Capital Expenditures.

B. Premium Pay

Background and Summary of the Interim Final Rule

Sections 602(c)(1)(B) and 603(c)(1)(B) of the Social Security Act, as added by the ARPA, provide that SLFRF funds may be used "to respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the . . . government that are performing such essential work, or by providing grants to eligible employers

²⁵⁷ See, e.g., Matthew D. Mitchell et al., *The Economics of a Targeted Economic Development Subsidy* (Arlington, VA: Mercatus Center at George Mason University, 2019), 5, available at <https://www.mercatus.org/publications/government-spending/economics-targeted-economic-development-subsidy>; Timothy J. Bartik, *Who Benefits from Economic Development Incentives? How Incentive Effects on Local Incomes and the Income Distribution Vary with Different Assumptions about Incentive Policy and the Local Economy* (Upjohn Institute Technical Report No. 13-034, W.E. Upjohn Institute for Employment Research, March 1, 2018), available at https://research.upjohn.org/up_technicalreports/34/; Cailin Slattery and Owen Zidar, *Evaluating State and Local Business Tax Incentives*, *Journal of Economic Perspectives* 34, no. 2 (2020): 90-118, available at <https://www.aeaweb.org/articles?id=10.1257/jep.34.2.90>; Kenneth Thomas, *The State of State and Local Subsidies to Business* (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, October 2019), available at https://www.mercatus.org/system/files/thomas_-_policy_brief_-_the_state_of_state_and_local_subsidies_to_business_-_v1.pdf; Dennis Coates and Brad R. Humphreys, *Do Economists Reach a Conclusion on Subsidies for Sports Franchises, Stadiums, and Mega-Events?*, *Econ Journal Watch* 5, no. 3 (2008): 294-315, available at <https://econjwatch.org/articles/do-economists-reach-a-conclusion-on-subsidies-for-sports-franchises-stadiums-and-mega-events>; Matthew D. Mitchell, Daniel Sutter, and Scott Eastman, *The Political Economy of Targeted Economic Development Incentives*, *Review of Regional Studies* 48, no. 1 (2018): 1-9, available at <https://www.mercatus.org/publications/corporate-welfare/political-economy-targeted-economic-development-incentives>.

that have eligible workers who perform essential work.”

Premium pay is designed to compensate workers that, by virtue of their employment, were forced to take on additional burdens and make great personal sacrifices as a result of the COVID-19 pandemic. Premium pay can be thought of as hazard pay by another name.²⁵⁸

During the public health emergency, employers’ policies on COVID-19-related premium pay or hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.²⁵⁹ Many of these workers earn lower wages on average and live in socioeconomically underserved communities as compared to the general population.²⁶⁰ A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.²⁶¹ 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. As Americans return to work and governments relax certain rules, essential workers will continue to bear the brunt of the risk of maintaining the ongoing operation of vital facilities and services. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities. Premium pay is designed to address the disparity between the critical services provided by and the risks taken by essential workers and the relatively low compensation they tend to receive.

The interim final rule established a three-part framework for recipients seeking to use SLFRF funds for premium pay. First, to receive premium pay one must be an eligible worker. Second, an eligible worker must also perform essential work. Finally, premium pay must respond to workers performing essential work during the COVID-19 public health emergency. Most of the comments received by Treasury pertaining to premium pay related to these three requirements. Comments also addressed the definition of premium pay generally and posed

questions regarding premium pay program structuring. This section responds to the comments by addressing the three requirements in turn, then the overall definition of premium pay and, finally, program structure.

Eligible Workers

The ARPA defines “eligible workers” as “those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each . . . [government] may designate as critical to protect the health and wellbeing of [its] residents.” The interim final rule supplemented this definition by identifying a list of “essential critical infrastructure sectors” whose workers are eligible workers, based on the list of sectors in the HEROES Act, a bill introduced in the House of Representatives in 2020 that would have provided premium pay to essential workers.²⁶² In addition to the critical infrastructure sectors defined in the interim final rule, the chief executive (or equivalent) of a recipient government may designate additional non-public²⁶³ sectors as critical so long as doing so is necessary to protecting the health and wellbeing of the residents of such jurisdiction.

Public Comment: Treasury received multiple comments on the definition of “eligible worker” included in the interim final rule. Many commenters agreed with the definition of eligible worker adopted by Treasury. Other commenters sought clarification about or changes to the definition of eligible worker, including the definition of eligible sectors, the inclusion of government workers in the definition of eligible workers, and the process for designating additional non-public sectors as eligible.

Some commenters asked Treasury to change how it identifies eligible sectors, including suggestions to add to or subtract from the list of eligible sectors. For example, some commenters asked Treasury to consider using Bureau of Labor Statistics (BLS)-Standard Occupational Classifications to identify specific sectors or occupations, in contrast to the approach taken in the interim final rule, which included a mixture of economic sectors, industries, and occupations. Many commenters asked Treasury to explicitly clarify that a particular industry or occupation is covered by the definition of “essential critical infrastructure sector.” Some of

these commenters represented public employees, e.g., employees of facilities and public works; public utilities; courthouse employees; police, fire, and emergency medical services; and waste and wastewater services. Others were a mixture of public and private sector employees, e.g., coroners and medical examiners; transportation infrastructure (specifically electric vehicle infrastructure and supply equipment); electric utilities, natural gas, and steam supply; and grocery employees. Other commenters requested that Treasury prohibit certain occupations currently included in the eligible workers definition (e.g., police and corrections officers) from receiving premium pay for performance of regular duties.

Commenters also asked Treasury to clarify which government workers are included in the definition of eligible workers. The interim final rule included as an essential critical infrastructure sector, “any work performed by an employee of a State, local, or Tribal government.” Some commenters requested that Treasury adopt a definition of eligible worker that includes all employees of the recipient government; however, all public employees of state, local, and Tribal governments are already included in the interim final rule definition of “eligible worker.” Commenters asked whether this includes governments that did not receive SLFRF funds (i.e., “non recipient governments”). Many commenters from Tribal governments requested that the definition of eligible worker, which includes “any work performed by an employee of a . . . Tribal government,” also include an employee of a “Tribal enterprise” to remove uncertainty regarding which employees are included.

Finally, commenters made suggestions for the process by which the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical. Commenters asked that Treasury adopt a requirement that Treasury must approve or deny any additional non-public sector identified by the chief executive of a recipient government prior to implementation of the recipient’s program.

Some commenters asked Treasury to clarify whether their chief executive (or equivalent) could designate particular, and in some cases *all*, employees of the recipient government as eligible for premium pay.

Treasury Response: In the final rule, Treasury will preserve the definition of “eligible worker” as it was defined in the interim final rule with minor modifications to clarify that all public

²⁵⁸ See U.S. Department of Labor, *Hazard Pay*, <https://www.dol.gov/general/topic/wages/hazardpay> (last visited October 18, 2021).

²⁵⁹ 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/>.

²⁶⁰ McCormack, *supra* note 65.

²⁶¹ *Id.*

²⁶² See H.R. 6800, 116th Cong. (2020).

²⁶³ Note that the sectors defined in the interim final rule already include all state, local, and Tribal government employees.

employees of recipient governments are already included in the interim final rule definition of “eligible worker.” A more specific eligibility system (e.g., linking eligibility to specific occupational or industry codes) would have provided more certainty but would have been much more rigid. In contrast, the current definition is flexible enough to give recipients the ability to tailor their premium pay programs to meet their needs while ensuring that programs focus on sectors where workers were forced to shoulder substantial risk as a result of the COVID-19 pandemic. Furthermore, the critical infrastructure sectors defined in the interim final rule already include many of the occupations that commenters requested be added. For example, Treasury received many comments from public workers asking to be included in the definition of “eligible worker” even though these workers already fall within the scope of “any work performed by an employee of a State, local, or Tribal government.” Treasury has clarified in the final rule that the chief executive’s discretion to designate additional sectors as critical relates only to “non-public” sectors, since all public employees of recipient governments are already included in the definition of “eligible worker.” While all such public employees are “eligible workers” and the chief executive (or equivalent) of a recipient government may designate additional non-public sectors as critical, in order to receive premium pay, these workers must still meet the other premium pay requirements (e.g., performing essential work).

Treasury recognizes that the list of “essential critical infrastructure sectors” includes both occupations and sectors. Recipients, if uncertain which occupations are included in a critical infrastructure sector, may consult government occupational classifications if helpful but are not required to do so.²⁶⁴ Furthermore, a recipient government does not need to submit to Treasury for approval its designation of a sector as essential critical infrastructure; rather, Treasury will defer to the reasonable interpretation of the recipient government and the discretion of the recipient’s chief executive in making such designations. If a recipient is unsure if a non-public sector is covered by the definition in the

final rule,²⁶⁵ the chief executive (or equivalent) of a recipient government may also identify the non-public sector as critical so long as the chief executive deems the non-public sector necessary to protecting the health and wellbeing of residents. Treasury has, where possible, clarified the definition of “essential critical infrastructure sectors.” For instance, Treasury has clarified in the final rule that work performed by an employee of a Tribal government includes an employee of a Tribal enterprise and discussed in this Supplementary Information how a recipient may qualify other non-public sectors as essential critical infrastructure.

Essential Work

The interim final rule defined “essential work” as work that (1) is not performed while teleworking from a residence and (2) involves either (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. Treasury adopted this definition of essential work to ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work during a pandemic.

Public Comment: Some commenters found the definition unclear and asked Treasury to clarify what constitutes “essential work.” Others disagreed with the essential work test altogether, arguing that it forces recipients to distinguish between essential and non-essential employees, which may be difficult to do. Accordingly, these commenters asked Treasury to allow recipients to determine which workers qualify as essential. Treasury also received several requests that specific occupations be explicitly deemed essential, including all public employees, veterinarians, election administrators, detention staff and sheriff’s deputies, and employees of utilities, such as electric power, natural gas, steam supply, water supply, and sewage removal.

Several commenters requested that Treasury not distinguish between remote and in-person work or amend the standard so that employees providing essential services would still be eligible even if they worked remotely. Finally, a few commenters requested clarification as to the

definition of “regular” in-person interactions and whether Treasury could clarify which job functions merit more (or less) premium pay.

Treasury Response: Treasury is maintaining the definition of “essential work” in the final rule without modification. The test adopted in the interim final rule was designed to compensate workers facing disproportionate risk due to the pandemic. COVID-19 is transmitted through person-to-person interactions, and therefore, workers with regular in-person interactions are the primary group facing increased health risks. Although COVID-19 is not transmitted primarily by people handling items, such work may present increased risk in certain cases, and the final rule maintains the interim final rule’s inclusion of such work in order to give recipient governments the flexibility to include workers performing such work as they determine appropriate. Changing the test as some commenters suggested, e.g., by eliminating the in-person work requirement or allowing recipients to designate which employees are essential, even if not working in person, would no longer focus the program on workers taking on additional health risks and instead allow premium pay to be awarded to individuals who experienced relatively little risk of exposure to COVID-19. To maintain flexibility, Treasury is not defining the term “regular” with regard to in-person interactions, allowing recipients to develop programs based on the specific workforce to be served and local circumstances. Generally speaking, however, recipients are encouraged to consider an eligible worker’s risk of exposure in designing premium pay programs.

Respond To

As required by the ARPA, the interim final rule required that premium pay programs “respond to” eligible workers performing essential work during the COVID-19 public health emergency. Premium pay responds to eligible workers performing essential work if it prioritizes low- and moderate-income persons, given the significant share of essential workers that are low- and moderate-income and may be least able to bear added costs associated with illness. The level of the award limit—up to \$13 per hour not to exceed \$25,000 in aggregate—in the ARPA supports this reasoning.

Accordingly, the interim final rule required written justification for how premium pay to certain higher-income workers responds to eligible workers performing essential work: If a recipient

²⁶⁴ See, e.g., sources such as Bureau of Labor Statistics, Occupational Outlook Handbook, which provide information on which professions or occupations are typically included in interpretations of a sector, <https://www.bls.gov/ooh/>.

²⁶⁵ Public sector workers are “eligible workers” under the interim final rule and final rule.

(or grantee) uses SLFRF funds to provide premium pay to an employee and the pay or grant would increase a worker's total pay above 150 percent of their residing state or county's average annual wage for all occupations, as defined by the BLS Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, then the recipient must provide, whether for themselves or on behalf of a grantee, written justification to Treasury detailing how the award responds to eligible workers performing essential work.

Public Comment: Treasury received numerous comments on the wage threshold and the written justification requirement. Several commenters supported the threshold as a way to encourage recipients to target premium pay to lower-income, eligible workers. Some commenters even asked Treasury to make the wage threshold a firm restriction, above which an eligible worker could not receive premium pay. Others agreed with the threshold but also requested flexibility to use existing worker classifications as an administratively simple way to identify workers for whom premium pay would be responsive. For instance, a few commenters asked Treasury to allow recipients or grantees to presume that premium pay “responds to” eligible workers performing essential work when it is provided to employees who are not exempt from the Fair Labor Standards Act (FLSA) overtime provisions—a test that employers are routinely required to apply.²⁶⁶

In contrast, several commenters disagreed with the threshold and the requirement for written justification. A few commenters thought the threshold was too low to capture employees in certain critical infrastructure sectors (e.g., public safety, waste collection) and that it did not sufficiently account for the variance in economic need across different geographic areas and family structures. Some smaller communities argued that the threshold was difficult to calculate and apply.

Other commenters proposed revisions for how the threshold is calculated. For instance, a few commenters asked Treasury to consider using alternative earnings measures such as median income. Similarly, another commenter asked Treasury to consider the incomes of workers with different levels of seniority in developing any income

thresholds for permitting or reporting on premium pay.

Finally, there was also some uncertainty as to the threshold and the requirement for written justification. Some commenters interpreted the threshold as a hard cap on who was eligible for premium pay, which is not the case. Relatedly, some commenters also requested further guidance on what recipients should include in the written justification submitted to the Secretary.

Treasury Response: The final rule makes some modifications to the determination of when premium pay “responds to” eligible workers performing essential work during the public health emergency. Under the interim final rule, premium pay was responsive if either the workers’ pay was below a wage threshold or, if the pay was above a wage threshold, the recipient submitted written justification to Treasury explaining how the premium pay was responsive. The final rule retains these two means of establishing premium pay in response to workers performing essential work and adds an additional means of demonstrating that premium pay is responsive. Under the final rule, a recipient may also show that premium pay is responsive by demonstrating that the eligible worker receiving premium pay is not exempt from the FLSA overtime provisions.²⁶⁷ This change will expand the number of workers eligible to receive premium pay²⁶⁸ and does not require recipients to provide written justification to Treasury regarding the workers who are not exempt from the FLSA overtime provisions, making the program easier to administer for recipients. Incorporating this change further simplifies application of the

final rule for recipients because Treasury understands that most employers, public and private, are familiar with and are routinely required to apply the FLSA.

With this addition, the final rule provides that premium pay is responsive to eligible workers performing essential work during the public health emergency if each eligible worker who receives premium pay falls into one of three categories: (1) The worker’s pay is below the wage threshold, (2) the worker is not exempt from the FLSA overtime provisions, or (3) the recipient has submitted a written justification to Treasury.

The final rule makes it clear that written justification to Treasury is not necessary with respect to eligible workers whose pay is less than the wage threshold. Nor is written justification necessary with respect to eligible workers who are not exempt from the FLSA overtime provisions. The written justification is only necessary if the worker’s pay (with or without the premium) exceeds the threshold, and the worker is exempt from the FLSA overtime provisions. The final rule also clarifies that a worker’s pay exceeds the threshold if either the premium pay increases the worker’s total pay above the wage threshold or the worker’s total pay was already above the threshold, before receiving premium pay.

Treasury has also updated the final rule to clarify that written justification means a brief, written narrative justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers’ duties, health or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive despite the workers’ higher income.

Recipients should refer to SLFRF program reporting guidance, user guides, and other documentation for further guidance on the form and content of the written justification. Treasury anticipates that recipients will easily be able to satisfy the justification requirement for front-line workers, like nurses and hospital staff.

Definition of Premium Pay

The statute defines premium pay as “an amount of up to \$13 per hour . . . , 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.” The interim

²⁶⁷ Department of Labor, Overtime Pay, <https://www.dol.gov/agencies/whd/overtime>; see also 29 U.S.C. 207.

²⁶⁸ Among workers that report working overtime, roughly 41–44 percent of workers earn above \$50,000 per year, which is slightly less than the national average annual wage for all employees according to the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, available at <https://www.bls.gov/oes/>. See also U.S. Census Bureau, Basic Monthly CPS, January 2019 through December 2019, available at <https://www.census.gov/data/datasets/time-series/demo/cps/cps-basic.html>. Notes: Annual earnings reflect weekly wages multiplied by 52. Usual weekly earnings are computed by BLS to include earnings from work such as tips, overtime, regular wages, etc., but not non-labor sources of income such as government transfers and capital gains. Pre-overtime earnings are computed by taking the difference of usual weekly earnings and earnings from overtime last week and multiplying by 52. Note, some sources multiply weekly earnings by 50 instead of 52 to account for unpaid time off and holidays, so these figures may be slightly larger than those reported elsewhere. Either assumption may overestimate earnings if workers do not work year-round.

²⁶⁶ See generally 29 U.S.C. 207(a); U.S. Department of Labor, Overtime Pay Requirements of the FLSA (Fact Sheet No. 23), <https://www.dol.gov/agencies/whd/fact-sheets/23-flsa-overtime-pay>.

final rule incorporated this definition and emphasized that premium pay should be in addition to compensation typically received.

Public Comment: Several submitted comments related to the definition of “premium pay.” Several commenters asked Treasury to clarify certain aspects of the interim final rule and statutory definition of premium pay. For instance, a few commenters asked whether the \$25,000 limit applies to the annual amount of premium pay received or the aggregate amount of premium pay received over the period of performance. A few commenters requested flexibility as to how premium pay may be awarded, including flexibility to make monthly or quarterly payments or lump sum payments. Finally, commenters requested additional clarification as to how premium pay should be calculated. For instance, a commenter asked how to calculate the amount of and account for overtime pay and other incentive pay.²⁶⁹

Treasury Response: Treasury has clarified some of these issues in the final rule. For example, Treasury has clarified in the final rule that the \$25,000 per employee limit is for the entire period of performance, not an annual cap. Further, recipients have discretion with respect to the way in which premium pay is awarded to eligible workers (e.g., monthly, quarterly, lump sum), provided that the total premium pay awarded to any eligible worker does not exceed \$13 per hour or \$25,000 over the period of performance. Finally, a recipient may award premium pay to an eligible worker in addition to the overtime pay already earned by the eligible worker but in no instance may the portion of the compensation funded with SLFRF funds exceed \$13 per hour, even if strict time-and-a-half calculation requires more.²⁷⁰ To the extent that an employer is required under the FLSA to make payments to an eligible worker in excess of \$13 per hour or \$25,000 in the aggregate over the period of performance, the employer must use a source of funding other than the SLFRF funds to satisfy those obligations.

Program Structure

Public Comment: Several commenters also requested elaboration on eligible

types of employees and permissible structures for awarding premium pay. A few commenters asked if premium pay could be awarded to volunteers or those in irregular and non-hourly or salaried employment positions. Similarly, various commenters asked if part-time workers were eligible for premium pay.

Some commenters asked Treasury to provide more detail on when premium pay may be paid retroactively or if a government could reimburse its general fund for hazard pay already paid before the start of the period of performance.

Treasury Response: Treasury has also made clear in the final rule that a recipient may award premium pay to non-hourly or salaried workers as well as part-time workers. Premium pay may not, however, be awarded to volunteers. If a recipient is interested in compensating volunteers with SLFRF funds, then it must do so consistent with the requirements set forth in other eligible use categories; for example, see section Public Sector Capacity and Workforce in Public Health and Negative Economic Impacts.

Under the final rule, recipients may award premium pay retroactively; however, SLFRF funds may not be used to reimburse a recipient or eligible employer grantee for premium pay or hazard pay already received by the employee. To make retroactive premium payments funded with SLFRF funds, a recipient or eligible employer grantee must make a new cash outlay for the premium payments and the payments must be in addition to any wages or remuneration the eligible worker already received, subject to the other requirements and limitations set forth in the ARPA and this final rule.

Finally, as part of accepting the Award Terms and Conditions for SLFRF, each recipient agreed to maintain a conflict-of-interest policy consistent with 2 CFR 200.318(c) that is applicable to all activities funded with the SLFRF award. This award term requires recipients and subrecipients to report to Treasury or the pass-through agency, as appropriate, any potential conflict of interest related to the award funds per 2 CFR 200.112. Pursuant to this policy, decisions concerning SLFRF funds must be free of undisclosed personal or organizational conflicts of interest, both in fact and in appearance. Consistent with this policy, elected officials are prohibited from using their official position and control over SLFRF funds for their own private gain. This policy also prohibits, among other things, elected officials from steering funds to projects in which they have a financial interest or using funds to pay themselves premium pay.

C. Revenue Loss

Background

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act provide that SLFRF funds may be used “for the provision of government services to the extent of the reduction in revenue of such . . . government due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the . . . government prior to the emergency.” This provision allows recipients experiencing budget shortfalls to use payments from the SLFRF funds to avoid cuts to government services and, thus, enables state, local, and Tribal governments to continue to provide valuable services and ensures that fiscal austerity measures do not hamper the broader economic recovery.

State and local government budgets experienced stress in fiscal year 2020 as delayed tax filings and pandemic-related business closures caused revenues to decline sharply.²⁷¹ Twenty-two state governments took actions to close budget gaps in fiscal year 2020²⁷² and nearly 80 percent of cities reported being less able to meet the fiscal needs of their communities relative to fiscal year 2019.²⁷³ Surveys of Tribal governments and Tribal enterprises conducted in 2020 found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in health care, housing, social services, and economic development activities as a result of reduced revenues.²⁷⁴

The economic recovery, aided by the broad distribution of COVID-19 vaccines and the deployment of federal stimulus, has led to a strong rebound in total state and local government revenue and is contributing to a brighter fiscal

²⁷¹ In the second quarter of 2020, quarterly state and local tax revenues as reported by the U.S. Census Bureau fell 19 percent compared to the second quarter of 2019; U.S. Census Bureau, Quarterly Summary of State and Local Tax Revenue, <https://www.census.gov/programs-surveys/qtax.html>.

²⁷² National Association of State Budget Officers, Fiscal Survey of the States (Fall 2020), available at https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0fca152d64c2/UploadedImages/Fiscal%20Survey/NASBO_Fall_2020_Fiscal_Survey_of_States_S.pdf.

²⁷³ 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.

²⁷⁴ Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID-19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2020), <https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances>.

²⁶⁹ See 29 U.S.C. 207(a) (“[A]t a rate not less than one and one-half times the regular rate at which he is employed.”).

²⁷⁰ All recipients are required to comply with otherwise applicable laws, including any wage and hour requirements in the Fair Labor Standards Act. See generally, Department of Labor, *Wages and the Fair Labor Standards Act*, <https://www.dol.gov/agencies/whd/flsa>.

outlook for most jurisdictions as compared to the earlier months of the public health emergency. For the fiscal year ending June 30, 2021, total state and local government tax revenues increased 21 percent relative to the same period in 2020, reflecting the combined impact of the modified tax filing deadline in 2020 and an improving economy.²⁷⁵ However, despite a stable budget situation overall, many governments face uncertainty as the COVID-19 pandemic continues to impact commuting patterns, hospitality and tourism, and other drivers of jurisdictions' economies. Thirty-five percent of cities still report being less able to meet financial needs than in fiscal year 2020,²⁷⁶ and over half of surveyed Tribal governments and Tribal enterprises reported losing at least 40 percent of their revenue since the start of the pandemic.²⁷⁷ Budget challenges persist as governments work to mitigate and contain COVID-19 and help citizens weather the economic downturn.

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.²⁷⁸ Inflation-adjusted state and local government revenue did not return to the previous peak until 2013,²⁷⁹ while employment in the sector returned to the previous peak in August 2019, nearly a decade later.²⁸⁰ Just months after recouping losses from the previous downturn, the COVID-19

pandemic caused state and local government employment to contract again, but this time more sharply: By May 2020, state and local government payrolls fell 7.7 percent compared to February 2020. Despite improvement, non-federal public sector job growth continues to lag behind the rest of the U.S. labor market recovery.²⁸¹

Summary of Interim Final Rule

As stated above, the Social Security Act provides that SLFRF funds may be used “for the provision of government services to the extent of the reduction in revenue of such . . . government due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the . . . government prior to the emergency.” The interim final rule provided a formula for calculating revenue loss through 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 the amount of revenue the recipient would have expected in the absence of the downturn caused by the pandemic. The counterfactual revenue is equal to *base year revenue* * [(1 + *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 the average annual growth rate across all State and Local Government “General Revenue from Own Sources” in the most recent three years prior to the

emergency, 5.2 percent, or the recipient's average annual revenue growth in the three full fiscal years prior to the COVID-19 public health emergency.²⁸² This approach to the growth rate provides recipients with the option to use 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.

- *Step 3:* Identify *actual revenue*,²⁸³ which equals revenues collected over the twelve months immediately preceding 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 (Step 1) that ends on June 30, 2019. In Step 2, the hypothetical recipient finds that the average annual growth across all state and local government “General Revenue from Own Sources” in the most recent three years of available data, 5.2 percent, is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. 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>	107.9	113.5	119.4	125.6

²⁷⁵ Analysis of Quarterly Summary of State and Local Tax Revenue, U.S. Census Bureau, *supra* note 271.

²⁷⁶ National League of Cities, City Fiscal Conditions (2021), available at <https://www.nlc.org/wp-content/uploads/2021/10/2021-City-Fiscal-Conditions-Report-2021.pdf>.

²⁷⁷ Center for Indian Country Development and Federal Reserve Bank of Minneapolis, One Year Into COVID-19, Pandemic's Negative Effects Persist in Indian Country (May 2021), available at <https://www.minneapolisfed.org/article/2021/one-year-into-covid-19-pandemics-negative-effects-persist-in-indian-country>.

²⁷⁸ See, e.g., Nora Fitzpatrick et al., Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), [https://libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-](https://libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html)

[and-local-sector.html](https://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 16.

²⁷⁹ State and local government general revenue from own sources, adjusted for inflation using the Bureau of Economic Analysis' implicit price deflator for GDP. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts, <https://www.census.gov/programs-surveys/gov-finances.html>.

²⁸⁰ 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>.

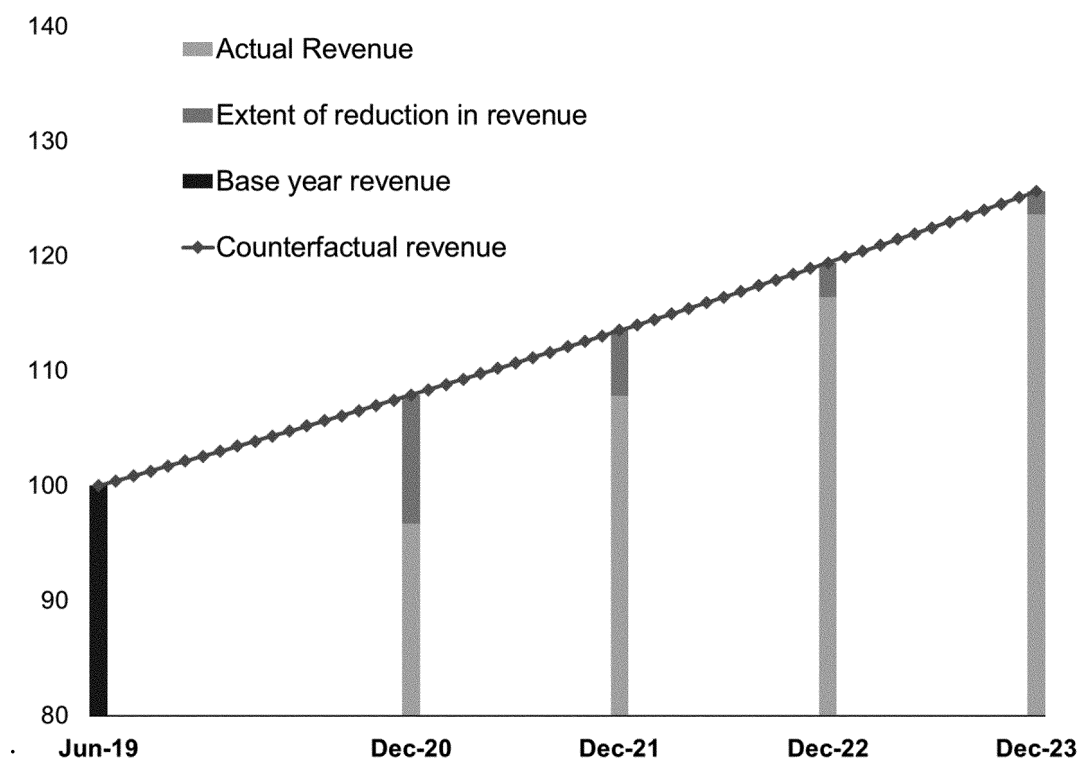
²⁸¹ Pew Research, State and Local Government Job Growth Lags as Economy Recovers (September 2021), available at <https://www.pewtrusts.org/en/research-and-analysis/articles/2021/09/14/state-and-local-government-job-growth-lags-as-economy-recovers>.

²⁸² At the time the interim final rule was published, the average annual growth across all state and local government “General Revenue from Own Sources” in the most recent three years of available data (2015–2018) was 4.1%, which was presented as one option for the growth adjustment. Since the interim final rule was published, 2019 data has been made available, which increases this rate to 5.2%. The final rule updates the percentage to 5.2%, as shown in Step 2.

²⁸³ As explained below, in the final rule, recipients must adjust actual revenue amounts based on certain tax policy changes.

The figure below illustrates the reduction in revenue for the

hypothetical recipient calculated in accordance with the methodology.



Finally, as explained in greater detail below, the clear meaning of the statutory phrase “due to the COVID-19 public health emergency” is that it is referring to revenue reductions caused by the public health emergency. As such, it does not include revenue reduced for reasons other than the public health emergency. Treasury in the interim final rule presumed that any reduction in revenue relative to the counterfactual estimate would be considered revenue lost due to the pandemic and thereby relieved recipients of the administrative burden of determining the extent to which reduction in revenue was due to the public health emergency. The calculation methodology in the interim final rule implicitly assumed that recipients did not suffer a loss in revenue due to the public health emergency if they did not experience a reduction in aggregate revenue compared to the counterfactual estimate. The interim final rule invited comments on whether Treasury should revise its presumption 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-19 public health emergency.”

Treasury received a substantial number of comments on the revenue loss provisions set forth in the interim final rule. These comments largely pertained to the following topics: The overall methodology for calculating revenue loss; the definition of “revenue”; whether revenue should be aggregated or calculated on some alternative basis (*e.g.*, source-by-source or fund-by-fund); the appropriate calculation dates (*i.e.*, fiscal year or calendar year); the presumption that all revenue loss is due to the pandemic; the base year; and the definition of “government services.”

Overall Methodology for Calculating Revenue Loss

As noted above, the interim final rule provided a formula for recipients to calculate revenue loss by comparing actual revenues received during a given time-period with a counterfactual amount of revenue based on revenues in the base year and an adjustment for expected growth in revenue each year.

Public Comment: Treasury received many public comments on the overall methodology for calculating revenue loss. Some recipients, including smaller governments, have expressed concern regarding the burden associated with

the calculation of revenue loss, particularly the burden involved in calculating the amount of general revenue, given that the definition of general revenue in the interim final rule does not always align with the definition of revenue already calculated by recipients for other purposes, and requested clarifications regarding a number of components, including the definition of revenue. Commenters also asked for clarification on the relationship between revenue loss calculations across different calculation dates. Other commenters argued that the revenue loss formula does not precisely capture the nuances of local revenues or their particular situation. For example, some commenters stated that requiring that revenues be aggregated fails to capture decreases in revenue sources that cannot easily be made up for with other revenue sources.

Treasury Response: In the final rule, Treasury is largely maintaining the revenue loss formula as set forth in the interim final rule. To address comments that the formula for calculating revenue loss was difficult to apply, Treasury is including an option for recipients to use a standard allowance for revenue loss. Specifically, in the final rule, recipients will be permitted to elect a fixed amount of loss that can then be used to fund government services. This fixed

amount, referred to as the “standard allowance,” is set at up to \$10 million total for the entire period of performance not to exceed the recipient’s SLFRF award amount. Although Treasury anticipates that this standard allowance will be most helpful to smaller local governments and Tribal governments, any recipient can use this standard allowance instead of calculating revenue loss pursuant to the formula above, so long as recipients employ a consistent methodology across the period of performance (*i.e.*, choose either the standard allowance or the regular formula). Treasury intends to amend its reporting forms to provide a mechanism for recipients to make a one-time, irrevocable election to utilize either the revenue loss formula or the standard allowance.

The \$10 million level is based on average revenue loss across state and local governments, taking into consideration potential variation in revenue types and losses and continued uncertainty faced by many recipients regarding revenue shortfalls. To calculate this estimate, Treasury applied a variation of the final rule’s revenue loss calculation on available aggregate state and local government tax revenue data as reported by the Census Bureau for the first calculation date of December 31, 2020. This estimate accounts for expected variation across recipient experiences and reflects the fact that the final rule revenue loss calculation provides recipients several options for specific aspects (*e.g.*, calendar year or fiscal year basis; use of average state and local revenue growth rate or specific local rate). Treasury compared actual calendar year 2020 tax revenues, in aggregate for all state and local governments, to several counterfactual trends that vary based on the end date of the fiscal base year.²⁸⁴ Treasury also assessed counterfactual trends using different revenue growth rates (*e.g.*, the three-year average growth rates of total state and local government general revenue for both fiscal years ending in 2016–2018 and fiscal years ending in 2017–2019; the three-year average growth rates of total state and local government tax revenues for fiscal years ending in 2017–2019; and the one-year growth rate for total state and local government tax revenue in the last full fiscal year before the public health emergency). To account for the fact that the initial estimate, based on tax

revenue, only includes a subset of recipient aggregate general revenue, Treasury applied a scaling factor to recognize that tax revenues generally make up just over half of general revenue collected by state and local governments (*i.e.*, Treasury scaled up its estimate based on tax revenue to produce an estimate for total general revenue).²⁸⁵ The resulting calculation was then extrapolated over the four-year period of performance and divided by a population of interest to arrive at an average loss estimate.

As noted above, Treasury estimated a range of scenarios to account for different values of the variables that would impact average losses. For example, the end date of the fiscal base year and growth rate of counterfactual revenue impact the overall estimate of revenue loss. In addition, this estimate takes into consideration the limitations in the available data. The governments covered by the Census Bureau’s survey do not entirely align with SLFRF recipients. The Census Bureau’s figures are based on 50 state governments, all local government property tax collectors and local government non-property tax imposers, representing at a minimum the more than 38,000 “General Purpose Governments” defined by Census. However, there are only roughly 32,000 recipients of SLFRF funds. Thus, Treasury considered the difference between the number and type of entities in the Census Bureau data and the SLFRF recipients.

Based on this methodology, Treasury estimates that average revenue loss (determined by comparing the counterfactual revenue to actual revenue) may range from \$0 to \$11.7 million per recipient over the period of performance.²⁸⁶ Treasury settled on a point estimate toward the upper end of the range of potential averages, in part, to account for significant variation in the experiences of recipient governments: Some recipients likely experienced losses at the upper end of this range of potential averages. A point estimate toward the upper end of the range errs toward ensuring more recipients’ experiences are covered and increases the utility of the standard allowance for SLFRF recipients. Specifically, the program includes a very large number of recipients with relatively smaller awards; these recipients have tended to describe having greater difficulty completing the

regular revenue loss calculation. Thus, selecting a point estimate toward the higher end of the expected range not only increases the likelihood that the standard allowance will reflect the experience of a larger number of SLFRF recipients but is more responsive to the comments of those with smaller awards. In addition, using a point estimate toward the upper end of the range accounts for the difficulty and uncertainty in predicting revenue losses years into the future, throughout the period of performance.²⁸⁷

Finally, Treasury selected a single allowance level, as opposed to varying levels, to further the goals of simplicity, flexibility, and administrability. Furthermore, data limitations make it difficult to distinguish between types of local governments.²⁸⁸

General Revenue

The interim final rule adopted 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. Under the interim final rule, general revenue included revenue collected by a recipient and generated from its underlying economy, and it would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.²⁸⁹ Specifically, revenue under the interim final rule included money that is received from tax revenue, current charges, and miscellaneous general revenues and excluded refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, revenue from utilities, social insurance trust revenues, and intergovernmental

²⁸⁷ See, *e.g.*, Government Accountability Office, State and Local Governments: Fiscal Conditions During the COVID–19 Pandemic in Selected States (July 2021) (noting that “[s]tate and local government revenues partly depend on the overall economy, and actions to stem the spread of the virus drastically reduced economic activity.”); Board of Governors of the Federal Reserve System, Monetary Policy Report (July 9, 2021) (noting that the pandemic “pushed down state and local government tax collections” and that while some of the drag is “abating” state and local “government payrolls . . . have only edged up from their lows at the onset of the pandemic”).

²⁸⁸ Local government tax revenue data in the Census Bureau’s Quarterly Summary of State and Local Tax Revenue, *supra* note 271, is provided on an aggregated basis.

²⁸⁹ The Department also released guidance clarifying how a recipient may determine whether a particular entity is “part of the recipient’s government.” See FAQ 3.14, Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

²⁸⁴ Because the Census Bureau’s state and local government tax revenue data is reported on a quarterly frequency, fiscal base year end dates of March 31, June 30, September 30, and December 31 were used in this assessment.

²⁸⁵ Annual Survey of State and Local Government Finances (2019).

²⁸⁶ This is the range of averages that Treasury calculated by varying the aforementioned assumptions.

transfers from the federal government, including transfers made pursuant to section 9901 of the ARPA.²⁹⁰ In the case of Tribal governments, it also included revenue from Tribal business enterprises.

Public Comment: Many commenters asked Treasury to include certain items in the definition of “general revenue.” For instance, several commenters that operate their own utilities asked that revenue from utilities be included, arguing that declines in utility revenue directly affect contributions to their general funds. Many of these commenters noted that moratoriums on utility shutoffs and a decline in collections have resulted in significant budgetary pressures.

Some commenters also asked for the exclusion of certain intergovernmental transfers in the definition of general revenue, including transfers of shared revenue from the state.²⁹¹ Other commenters asked for the inclusion of certain transfers from the federal government, including fees paid for services and grants that are, in effect, paid for the provision of services.

Treasury also received multiple requests to include revenue from Tribal enterprises in the definition of “general revenue” and that “Tribal enterprise” be defined broadly. Others asked for the ability to choose whether to include revenue from Tribal enterprises.

Finally, some commenters requested that the definition of general revenue exclude certain sources of revenue, such as revenue sources that do not support a general fund (*i.e.*, revenue sources that are restricted in use). Commenters also asked that general revenue exclude revenue from special assessments, settlements that make the recipient

whole for past expenditures, and one-time revenues such as revenue from the sale of property.

Treasury Response: In the final rule, Treasury has maintained the definition of “general revenue” from the interim final rule with two exceptions.

Treasury has adjusted the definition to allow recipients that operate utilities that are part of their own government to choose whether to include revenue from these utilities in their revenue loss calculation. This change responds to comments from recipients indicating that revenue from utilities is used to fund other government services and that utility revenues have declined on aggregate.²⁹² This approach is consistent with other eligible uses, which recognize decreased ability of many households to make utility payments; see section Assistance to Households, which identifies utility assistance as an enumerated eligible use of funds, including through direct or bulk payments to utilities for consumer assistance. Furthermore, for utilities or other entities (*e.g.*, certain service districts) that are not part of the recipient government, a transfer from the utility to the recipient constitutes an intergovernmental transfer and therefore is included in the definition of “general revenue.”²⁹³

Treasury has also added liquor store revenue to the definition of general revenue. The Supplemental Information to the interim final rule stated that the definition of tax revenue would include liquor store revenue, but the text of the rule did not include it. Accordingly, in the final rule, Treasury is clarifying that revenue includes liquor store revenue. However, Treasury believes revenue from government-owned liquor stores is better classified as general revenue than it is as tax revenue, so the final rule includes it as part of general revenue.

In response to requests that the definition of general revenue exclude revenue from special assessments, settlements that make the recipient whole for past expenditures, and one-time revenues such as revenue from the sale of property, Treasury is maintaining its position in the final rule that such revenue is included in general revenue. While such revenues may be less predictable than other sources of

revenue (*e.g.*, property taxes), these are not uncommon sources of revenue for recipients, and their inclusion provides a more complete view of the financial health of a recipient government and is consistent with the Census Bureau methodology. Treasury is also maintaining the exclusion of all payments from the federal government (including payments for services) from general revenue in order to avoid substantial dilution of the definition of revenue, particularly in light of extraordinary fiscal support provided during the pandemic. Treasury is maintaining the inclusion of intergovernmental transfers other than from the federal government for the reasons provided in the Supplemental Information to the interim final rule; to do otherwise would be to significantly distort the revenue calculations for local governments that regularly receive revenue sharing payments, for example, from their state governments. Treasury is also maintaining the approach that “general revenue” includes revenue from Tribal enterprises. This approach recognizes that these enterprises often form the revenue base for Tribal governments’ budgets.

To ease the burden on recipients and account for anomalous variations in revenue, as mentioned above, Treasury has incorporated a “standard allowance” option into the final rule. A recipient may choose to use the standard allowance, which under the final rule is set at up to \$10 million, not to exceed the recipient’s SLFRF award amount, as an alternative to calculating revenue loss according to the formula described above. This addition will promote administrative efficiency and simplify the revenue loss calculation for the vast majority of recipients. Treasury intends to amend its reporting forms to provide a mechanism for recipients to elect to utilize either the revenue loss formula or the standard allowance, in addition to other changes made as part of the final rule.

Aggregate Revenue Loss Calculation

Under the interim final rule, revenue loss was calculated based on aggregate revenues and therefore loss in one type of revenue could be offset by gains in another. The amount of SLFRF funds available to provide government services was based on overall net revenue loss. In the Supplementary Information to the interim final rule, Treasury asked commenters to discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or

²⁹⁰ The interim final rule stated that “general revenue” and “tax revenue” excludes refunds and other correcting transactions. Instead of “excluding” refunds and other correcting transactions, the Census Bureau methodology upon which those definitions are based provides that general revenue and tax revenue are determined “net of” refunds and other correcting transactions. The use of “excluding” in the interim final rule is substantively the same as the Census Bureau methodology. However, to be consistent with the terminology used by the Census Bureau, the final rule uses “net of” instead of “excluding.” 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 utility and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

²⁹¹ The interim final rule excluded governmental transfers from the Federal Government, but it did not exclude intergovernmental transfers from other governmental units for purposes of the revenue loss provisions.

²⁹² U.S. Energy Information Administration, Annual Electric Utility Data (October 2021), available at https://www.eia.gov/electricity/sales_revenue_price/.

²⁹³ FAQ 3.14 provides further guidance on how to determine what entities constitute a government for purposes of calculating revenue loss. See Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

appropriate to calculate the reduction in revenue by source.

Public Comment: Treasury received many comments stating that revenue loss should be calculated on a source-by-source basis. Some commenters argued that a source-by-source approach would be administratively simpler. Other commenters argued that calculating revenue loss source-by-source would better reflect the impact of the COVID-19 pandemic on their ability to fund government services because revenue gains in one source cannot always be used to make up for losses in another. For similar reasons, other commenters asked that revenue loss be calculated on a fund basis.

Treasury Response: Treasury considered alternative methods (e.g., source-by-source, fund-by-fund) but ultimately determined to maintain the calculation of revenue loss in the aggregate. The pandemic has had different effects on recipients (and their revenues), and Treasury recognized that one particular type of revenue or one particular source may have experienced a greater amount of loss for some recipients. However, the statute refers only to “the reduction in revenue of such State, local government, or Tribal government.” The statute is thus clear that Treasury is to refer to the aggregate revenue reduction of the recipient due to the public health emergency. Further, this provision is designed to address declines in the recipients’ overall ability to pay for governmental services, and calculating revenue loss on an aggregate basis provides a more accurate representation of the effect of the pandemic on overall revenues and the fiscal health of the recipient. In many circumstances, recipient governments have flexibility to use revenues from an array of sources and offset declines in some sources with gains in others. While the details and configuration of this flexibility vary widely across recipient governments, calculating revenue loss on a source-by-source or fund-by-fund basis would not capture how recipient governments balance their budgets in the regular course of business. Accordingly, the final rule maintains the requirement that revenue loss is to be calculated on an aggregate basis.

Calculation Dates

Public Comment: Under the interim final rule, recipients calculate revenue loss as of the end of the calendar year. Treasury received many comments requesting that recipients be permitted to calculate revenue loss as of the end of their fiscal year. Commenters argued that doing so would be simpler and less

burdensome on recipients and that financial data as of the end of the fiscal year is audited and therefore more reliable. Commenters also argued that recipients’ fiscal years are structured around the timing of major revenue sources, and that the Census Bureau uses fiscal years in its Annual Survey.

Treasury also received comments about the use of multiple calculation dates. Several Tribal governments stated that they would not see ongoing revenue losses due to the COVID-19 public health emergency and asked to be able to determine revenue loss as of the first calculation date. Several commenters asked whether revenue loss is determined independently for each year, so that a gain in one year does not offset a loss in another, or whether revenue loss is cumulative from the beginning of the pandemic.

Treasury Response: In the final rule, Treasury has made adjustments to give recipients more flexibility with respect to calculation dates and to clarify certain elements. Specifically, the final rule provides recipients the option to choose whether to calculate revenue loss on a fiscal year or calendar year basis, though they must choose a consistent basis for loss calculations throughout the period of performance. Treasury has also clarified in the final rule that revenue loss is calculated separately for each year such that the calculation of revenue lost in one year does not affect the calculation of revenue lost in prior or future years.

Presumption That Revenue Loss Is Due to the Pandemic

As stated above, sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act provide that SLFRF funds may be used “for the provision of government services to the extent of the reduction in revenue of such . . . government due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the . . . government prior to the emergency.” As discussed in the interim final rule, although revenue may decline for reasons unrelated to COVID-19, in order to minimize the administrative burden on recipients in calculating revenue loss and take into consideration the devastating effects of the COVID-19 public health emergency, any reduction in revenue relative to the counterfactual estimate was presumed in the interim final rule to be considered revenue lost due to the pandemic.

Treasury stated in the Supplementary Information to the interim final rule that it was considering when, if ever, during the period of performance it would be appropriate to reevaluate the

presumption that all losses are attributable to the public health emergency. Treasury also sought comment on 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-19 public health emergency.

Public Comment: Treasury received many comments in support of the presumption, as well as some opposed. Some commenters argued that the presumption eases the administrative burden on recipients because, without it, it would be difficult to identify which losses are attributable to the COVID-19 public health emergency. Many commenters also argued that Treasury should maintain the presumption because recipients are likely to experience losses due to the public health emergency even after the end of the public health emergency. Treasury also received comments asking that it adjust any revenue loss calculation to account for tax changes enacted by the recipient. In particular, some commenters noted that some recipients had increased taxes in order to meet additional demands for government services or to address declines in revenue due to the pandemic. These tax increases have in some cases offset some or all of the actual revenue loss attributable to the public health emergency. Because the interim final rule calculates revenue loss by reference to actual revenue collected, commenters argued that the calculation of revenue loss “due to” the public health emergency needs to take into consideration the effects of tax increases by deducting the effect of these tax increases from actual revenue collected.

Treasury Response: In the final rule, Treasury has maintained the presumption that a reduction in a recipient’s revenue is due to the public health emergency with certain adjustments to respond to comments and to better account for revenue loss “due to the COVID-19 public health emergency.” The final rule makes adjustments to the presumption to take into account certain government actions to change tax policy. In particular, Treasury is adjusting the presumption to account for changes to tax policy by providing that changes in revenue that are caused by tax increases or decreases adopted after the issuance of the final rule will not be treated as due to the public health emergency.

Presumption of Revenue Loss “Due To” the Pandemic

In enacting sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act, Congress provided that a state, local government, or Tribal government could use funds to “cover costs . . . for the provision of government services,” but only “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.” In doing so, Congress recognized that the pandemic was causing significant disruption to economic activity and sought to minimize the impact of associated revenue losses on the ability of the recipient to provide government services when such services were needed most.²⁹⁴ The text of the statute itself reinforces this important context: The law specifically limits funds to cover revenue losses that both are “due to the COVID–19 public health emergency” and could impact “the provision of government services.”

Courts have recognized that the phrase “due to” can refer to various causal standards.²⁹⁵ Here, in the context of Congress’s addressing economic disruptions caused by the COVID–19 pandemic that could impact both revenues and government services, the key consideration is whether a revenue loss experienced by the recipient resulted from the exogenous impacts of the public health emergency (and were thus “due to” the pandemic) or instead from the recipient’s own discretionary actions (and, in this context, were not “due to” the pandemic). Reductions in revenue due to the public health emergency does not cover revenue reductions that resulted from a recipient’s own discretionary actions.

In the interim final rule, Treasury included a presumption that all revenue loss is due to the pandemic in order to minimize the administrative burden on recipients discussed above and take into consideration the devastating effects of the COVID–19 public health emergency. Based on comments, Treasury believes that the reasons for the presumption continue to be valid and has determined to maintain the presumption in the final rule with certain modifications. In

particular, at this point in the course of the pandemic, with the fiscal pressure on state and local governments having been significantly reduced, it is appropriate for Treasury to reassess aspects of this presumption. As discussed below, the final rule requires recipients to exclude the value of tax policy changes adopted after January 6, 2022.

Recipients of the SLFRF range from states to the smallest local governments. At the time that the interim final rule was adopted, it was important for recipients to be able to calculate with ease and certainty their amount of revenue loss so that they could begin deploying these funds to continue to maintain essential government services. To this end, the presumption in the interim final rule provided a relatively simple formula for all recipients to use, but the exigent need for recipients to immediately deploy funds for the provision of government services has decreased and the benefit of the presumption in reducing administrative burden is less relevant for those governments that are not likely to avail themselves of the standard allowance described above.

Consistent with these considerations, the final rule requires recipients to exclude revenue loss due to tax changes adopted after January 6, 2022. Eliminating revenue loss due to tax changes from the presumption is appropriate given the significance of tax revenue as a portion of all revenue for state and local governments, the direct impact of tax policy decisions on revenue collected, and the relative ease with which recipients can isolate the estimated effect of a tax change on revenue.²⁹⁶ Most state budgeting processes require a “budget score,” often developed through a consensus process with executive and legislative branch experts,²⁹⁷ and Treasury expects that larger localities, those most likely to utilize the revenue loss formula rather than the standard allowance, also regularly use revenue or budget estimates when considering changes to tax policies. As such, in many cases,

recipients already prepare estimates of the impact of tax changes on revenue, and as discussed below, Treasury will generally permit recipients to rely on such estimates in adjusting their revenue loss calculations.

Reductions in revenue that are not attributable to tax changes would continue to be subject to the presumption. A requirement that recipients evaluate the revenue effect of changes in discretionary policy actions other than tax changes would be more difficult for recipients than evaluating the changes attributable to tax changes given that state and local governments do not generally prepare estimates of the revenue effects of other actions. Finally, as noted above, taxes are the single largest source of revenue for state and local government recipients in the aggregate.

Revisions to Presumption To Address Tax Reductions

For these reasons, Treasury is providing in the final rule that changes in general revenue that are caused by tax cuts adopted after the date of adoption of the final rule (January 6, 2022) will not be treated as due to the public health emergency, and the estimated fiscal impact of such tax cuts must be added to the calculation of “actual revenue” for purposes of calculation dates that occur on or after April 1, 2022. Tax cuts include final legislative or regulatory action or a new or changed administrative interpretation that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase and that the recipient assesses has had the effect of reducing tax revenue relative to current law. This includes the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the issuance of the final rule.

In assessing whether a tax change has had the effect of reducing tax revenue, recipients may either calculate the actual effect on revenue or rely on estimates prepared at the time the tax change was adopted. More specifically, recipients may rely on information typically prepared in the course of developing the budget (e.g., expected revenues) and/or considering tax changes (e.g., budget scores, revenue notes) to determine the amount of revenue that would have been collected in the absence of the tax cut, as long as those estimates are based on reasonable assumptions and do not use dynamic methodologies that incorporate the projected effects of macroeconomic growth, given that macroeconomic

²⁹⁴ See also sections 602(a)(1) and 603(a) of the Social Security Act (appropriating the funds for payment to recipients in order to “mitigate the fiscal effects stemming from the public health emergency”).

²⁹⁵ *U.S. Postal Service v. Postal Regulatory Comm’n*, 640 F.3d 1263 (D.C. Cir. 2011); see *Kimber v. Thiokol Corp.*, 196 F.3d 1092, 1100 (10th Cir. 1999); *Adams v. Director, OWCP*, 886 F.2d 818, 821 (6th Cir. 1989).

²⁹⁶ Treasury considered whether to also eliminate the presumption with respect to losses resulting from other changes in policy, such as decreases in user fees or fines. However, the effects of these changes are more minor overall and would be more challenging to accurately identify and quantify, so the administrability benefit of the presumption for recipients outweighs whatever distortion there might be as a result of not reflecting such changes.

²⁹⁷ See generally, National Association of State Budget Officers, *Budget Processes in the States*, (2021), available at https://higherlogicdownload.s3.amazonaws.com/NASBO/9d2d2db1-c943-4f1b-b750-0fca152d64c2/UploadedImages/Budget%20Processes/NASBO_2021_Budget_Processes_in_the_States_S.pdf.

growth is accounted for in the counterfactual growth assumptions. Recipients that choose to calculate the actual effect of a tax change on revenue must similarly base their calculations on reasonable estimates that do not use dynamic methodologies. Recipients should apply this adjustment in determining their actual revenue totals at Step 3 in the revenue loss calculation described above.

Revisions to Presumption To Address Tax Increases

As noted above, the calculation methodology in the interim final rule implicitly assumed that recipients did not experience a reduction in revenue due to the public health emergency if they did not experience a reduction in aggregate revenue relative to the counterfactual estimate. Treasury recognizes that some recipients may have experienced a reduction in revenue due to the public health emergency that was offset by other revenue, particularly in the case of increases to tax revenue resulting from a tax increase. The final rule requires recipients that increased taxes to deduct the amount of increases to revenue attributable to such tax increase. This change is also consistent with the incorporation in the interim final rule and final rule of a counterfactual growth rate, which effectively permits recipients to count revenue losses due to the public health emergency that are offset by increased tax revenue resulting from organic growth.

For these reasons, Treasury is providing in the final rule that recipients must subtract from their calculation of actual revenue the effect of tax increases adopted after the date of adoption of this final rule (January 6, 2022) for purposes of calculation dates that occur on or after April 1, 2022. This change and the change to the final rule described above treat tax changes in a consistent manner: In the case of reduction in revenue resulting from a tax cut, a recipient must add the amount of that reduction to its calculation of actual revenue, and in the case of an increase in revenue resulting from a tax increase, a recipient must subtract the amount of additional revenue collected as a result of the tax increase from its calculation of actual revenue.²⁹⁸

²⁹⁸ The final rule does not permit recipients to reflect the effects of other changes in policy, such as increases in fees adopted after adoption of the final rule. Treasury understands that the main beneficiaries of such a change would be those recipients that will benefit from the standard allowance provided for in the final rule and that for other recipients the administrative burden on recipients needed to calculate these adjustments

As is the case with tax cuts, discussed above, tax increases that must be reflected in the calculation of revenue include final legislative or regulatory action or a new or changed administrative interpretation that increases any tax and that the recipient assesses has had the effect of increasing tax revenue relative to current law. In assessing whether a tax change has had the effect of increasing tax revenue, recipients may either calculate the actual effect on revenue or rely on estimates prepared at the time the tax change was adopted. Recipients may rely on information typically prepared in the course of developing the budget (e.g., expected revenues) and/or considering tax changes (e.g., budget scores, revenue notes) to determine the amount of revenue that was collected as a result of the tax increase as long as those estimates are based on reasonable assumptions and do not use dynamic methodologies that incorporate the projected effects of macroeconomic growth, given that macroeconomic growth is accounted for in the counterfactual growth assumptions. Recipients that choose to calculate the actual effect of a tax change on revenue must similarly base their calculations on reasonable estimates that do not use dynamic methodologies. Recipients should apply this adjustment in determining their actual revenue totals at Step 3 in the revenue loss calculation described above.

Previously Adopted Tax Changes

As discussed above, the final rule will not require recipients to reflect the revenue effects of tax increases or decreases adopted prior to the adoption of the final rule. Recipients that adopted a tax change in a previous period will not be required to recalculate the amount of revenue loss as of prior calculation dates or to reflect the fiscal impacts of such tax changes in calculation dates after the effective date of the final rule. However, the final rule will permit recipients to elect to reflect the revenue effects of their tax changes adopted between the beginning of the public health emergency and the adoption of the final rule.²⁹⁹ If a recipient elects to do so, it must do so with respect to all of its tax changes

would outweigh the benefit of having a somewhat larger amount of funds available for government services.

²⁹⁹ The final rule also addresses the possibility that some recipients may have fiscal years ending during the period between January 6, 2022 and April 1, 2022; such recipients' election to reflect tax changes from prior periods would also apply to changes during this period with respect to the calculation date in this period.

adopted between the beginning of the public health emergency and the adoption of the final rule. Treasury intends to revise its reporting requirements to permit recipients to amend their previously reported calculation periods to reflect such changes.

Determination of the Base Year

Under the ARPA and interim final rule, SLFRF funds may be used "for the provision of government services to the extent of the reduction in revenue . . . relative to revenues collected in the most recent full fiscal year" of the recipient. Therefore, the base year for the revenue loss calculation is the most recent full fiscal year prior to the COVID-19 public health emergency.

Public Comment: Treasury received multiple comments asking for flexibility in determining base year revenues. For instance, some commenters asked to use a different base year than the "most recent full fiscal year" prior to the pandemic for calculating revenue loss; others asked to be able to average prior years. Commenters stated that, for various reasons, revenue was artificially low in the last full fiscal year prior to the public health emergency, and, therefore, using revenue in that year as the base year did not accurately reflect expected revenue in a normal year. For example, several Tribes stated that unforeseeable weather events resulted in forced closure of casinos which, in turn, artificially deflated revenues in the base year. Other commenters indicated that one-time anomalies in the timing of tax collection in that year artificially pushed revenue into the following fiscal year. Similarly, a few commenters noted that tax changes that took effect in the middle of the base year may artificially skew the size of the revenue loss experienced by the recipient government.

Treasury Response: Treasury understands that recipients may have experienced events in the base year that led to lower or higher revenues than what they otherwise would have collected. The ARPA provides that revenue loss is to be determined with respect to revenue in the most recent full fiscal year prior to the pandemic, and therefore the final rule maintains its incorporation of the statutory definition.

In calculating revenue loss, recipients may use data on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology throughout the covered period, which might help recipients adjust to certain delays in revenue receipt. Both the standard allowance and elements of the formula (e.g.,

counterfactual growth rate) incorporate generous assumptions to give recipients flexibility and to account for variation among recipients' experiences during the pandemic.

Government Services

The **SUPPLEMENTAL INFORMATION** to the interim final rule provided a non-exhaustive list of examples of services that are government services. The interim final rule also discussed why neither payment of debt service nor replenishing financial reserves constitutes government services, as these expenditures do not provide services but relate to the financing of such services. Similarly, government services under the interim final rule did 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, unless the judgment or settlement required the provision of government services.

Public Comment: Treasury received several comments requesting further clarification regarding the scope of government services, including asking for either a specific definition of government services or that a specific use be expressly deemed to be a government service. Some commenters disagreed with the exclusions from government services in the interim final rule. For instance, many of the comments Treasury received suggested that replenishing reserve funds and at least certain types of debt service should be treated as providing governmental services. Some commenters also suggested that a recipient should be able to use funds for costs incurred before March 3, 2021. Other commenters asked Treasury to maintain the prohibition on using the funds to pay debt service.

Treasury Response: Treasury continues to believe that the lists of activities that either are or are not providing government services are accurate but is clarifying here that, generally speaking, services provided by the recipient governments are "government services" under the interim final rule and final rule, unless Treasury has stated otherwise. Government services include, but are not limited to, maintenance or pay-go funded building³⁰⁰ 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.

The aforementioned list of government services is not exclusive. However, recipients should be mindful that other restrictions may apply, including those articulated in the section Restrictions on Use. In the final rule, Treasury is maintaining the limitations on government services included in the interim final rule and has addressed and responded to public commenters on these issues in the section Restrictions on Use.

D. Investments in Water, Sewer, and Broadband Infrastructure

Summary of Interim Final Rule

Under the ARPA, recipients may use funds to make necessary investments in water, sewer, and broadband infrastructure. The interim final rule provided recipients with the ability to use funds for a broad array of uses within these categories.

The interim final rule discussed two general provisions that apply across all water, sewer, and broadband infrastructure investments. First, the interim final rule addressed the meaning of "necessary" investments as meaning those designed to provide an adequate minimum level of service and unlikely to be made using private sources of funds. Second, the interim final rule encouraged recipients to use strong labor standards in water, sewer, and broadband projects, as discussed below.

Necessary Investments

The statute limits investments to those that are necessary. As discussed in more detail below, Treasury determined that the types of water and sewer projects that were authorized under the interim final rule by reference to existing Environmental Protection Agency (EPA) programs would in all cases be necessary investments given the conditions applicable to such EPA programs. Similarly, the interim final rule's definition of eligible broadband projects as those designed to provide a certain standard of service to those households and businesses with limited existing service was based on the statutory requirement that investments in water, sewer, and broadband must be "necessary."

As discussed further below, Treasury has expanded the scope of what is an eligible water and sewer infrastructure project to include additional uses. In

particular, the final rule permits use of SLFRF funds for certain dam and reservoir restoration projects and certain drinking water projects to support population growth. The nature of these additional uses is such that additional factors must be considered in determining whether one of these additional uses is a necessary project. In addition, Treasury recognizes that there may be a need for improvements to broadband beyond those households and businesses with limited existing service as defined in the interim final rule. Treasury has replaced this specific requirement based on an understanding that broadband investments may be necessary for a broader set of reasons.

Given this expansion of what is considered in scope as a water, sewer, or broadband infrastructure project, the final rule provides a further elaboration of Treasury's understanding of the conditions under which an infrastructure project will be considered to be a necessary investment. Treasury considers a necessary investment in infrastructure to be one that is (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which may include a reasonable projection of increased need, whether due to population growth or otherwise and (2) a cost-effective means for meeting that need, taking into account available alternatives. In addition, given that drinking water is a resource that is subject to depletion, in the case of investments in infrastructure that supply drinking water in order to meet projected population growth, the project must be projected to be sustainable over its estimated useful life.

Not included in the list of criteria above is the requirement in the interim final rule that the project be unlikely to be made using private sources of funds. Given that it may be difficult to assess in a particular case what the probability of private investment in a project would be, Treasury has eliminated this standard from the meaning of necessary but still encourages recipients to prioritize projects that would provide the greatest public benefit in their respective jurisdictions.

Strong Labor Standards in Water, Sewer, and Broadband Construction

As stated in the Supplementary Information to the interim final rule, Treasury encourages recipients to carry out investments in water, sewer, or broadband infrastructure in ways that produce high-quality infrastructure, avert disruptive and costly delays, and

³⁰⁰ 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.

promote efficiency.³⁰¹ Treasury encourages recipients to use strong labor standards, including project labor agreements (PLAs) and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury also recommends that recipients prioritize in their procurement decisions employers who can demonstrate that their workforce meets high safety and training standards (e.g., professional certification, licensure, and/or robust in-house training), that hire local workers and/or workers from historically underserved communities, and who directly employ their workforce or have policies and practices in place to ensure contractors and subcontractors meet high labor standards. Treasury further encourages recipients to prioritize employers (including contractors and subcontractors) without recent violations of federal and state labor and employment laws.

Treasury believes that such practices will promote effective and efficient delivery of high-quality infrastructure projects and support the economic recovery through strong employment opportunities for workers. Such practices will also reduce the likelihood of potential project challenges like work stoppages or safety accidents, while ensuring a reliable supply of skilled labor and minimizing disruptions, such as those associated with labor disputes or workplace injuries. That will, in turn, promote on-time and on-budget delivery.

Furthermore, among other requirements contained in 2 CFR 200, Appendix II, all contracts made by a recipient or subrecipient in excess of \$100,000 with respect to water, sewer, or broadband infrastructure project that involve employment of mechanics or laborers must include a provision for compliance with certain provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3702 and 3704,

³⁰¹ Treasury received several comments related to its encouragement of certain wage and labor standards in the Supplementary Information to the interim final rule. Some commenters opposed this encouragement, arguing that even encouragement and reference to PLAs and prevailing wage laws could lead to confusion or make it more likely that recipients would apply labor standards in ways that would discourage competition and raise project costs. Conversely, some commenters supported the encouragement of the use of certain standards, including giving preference to employers that meet certain employment standards (e.g., those that maintain high safety and training standards) because it would support the goal of completing water, sewer, and broadband projects efficiently and safely. As in the interim final rule, this encouragement does not impose a legally binding restriction on recipients.

as supplemented by Department of Labor regulations (29 CFR part 5).

Treasury will continue to seek information from recipients on their workforce plans and water, sewer, and broadband projects undertaken with SLFRF funds. This reporting will support transparency and competition by enhancing available information on the services being provided. Since publication of the interim final rule, Treasury has provided recipients with additional guidance and instructions on the reporting requirements.³⁰²

Environmental and Other Generally Applicable Requirements

Treasury cautions that, as is the case with all projects engaged in using the SLFRF funds, all projects must comply with applicable federal, state, and local law. In the case of infrastructure projects in particular, this includes environmental and permitting laws and regulations. Likewise, as with all capital expenditure projects using SLFRF funds, projects must be undertaken and completed in a manner that is technically sound, meaning that they must meet design and construction methods and use materials that are approved, codified, recognized, fall under standard or acceptable levels of practice, or otherwise are determined to be generally acceptable by the design and construction industry.

1. Water and Sewer Infrastructure

Sections 602(c)(1)(D) and Section 603(c)(1)(D) of the Social Security Act provide that recipients may use the SLFRF funds “to make necessary investments in water [and] sewer . . . infrastructure.” The interim final rule permitted a broad range of necessary investments in projects that improve access to clean drinking water and improve wastewater and stormwater infrastructure systems. As discussed below, after review of comments received on the interim final rule, Treasury has made changes in the final rule to expand the scope of eligible water and sewer projects.

Summary of Interim Final Rule and Final Rule Structure

Background: In the interim final rule, Treasury aligned eligible uses of the SLFRF with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF) administered

by the Environmental Protection Agency (EPA). By referring to these existing programs, with which many recipients are already familiar, Treasury intended to provide flexibility to recipients to respond to the needs of their communities while facilitating recipients’ identification of eligible projects. Furthermore, by aligning SLFRF eligible uses with these existing programs, Treasury could ensure that projects using the SLFRF are limited to “necessary investments.”

Public Comment: Treasury received many comments responding to the water and sewer infrastructure provisions of the interim final rule from state, local, and Tribal governments, industry trade associations, public interest groups, private individuals, and other interested parties. Commenters requested that Treasury provide a wider set of eligible uses for water and sewer infrastructure beyond those uses articulated by the DWSRF and CWSRF, suggesting that Treasury expand the definition of necessary water and sewer infrastructure.

Treasury Response: In response to commenters, Treasury is expanding the eligible use categories for water and sewer infrastructure, discussed in further detail below. Because the interim final rule aligned the definition of necessary water and sewer infrastructure with the eligible uses included in the DWSRF and CWSRF, Treasury is reflecting in the final rule a revised standard for determining a necessary water and sewer infrastructure investment for eligible water and sewer uses beyond those uses that are eligible under the DWSRF and CWSRF.

Interpretation of Necessary Investments and Water and Sewer Infrastructure

Necessary Investments: As discussed above, Treasury considers an investment in infrastructure to be necessary if it is (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which for some eligible project categories may include a reasonable projection of increased need, whether due to population growth or otherwise and (2) a cost-effective means for meeting that need, taking into account available alternatives. In addition, in the case of investments in drinking water service infrastructure to supply drinking water to satisfy a projected increase in population, the project must also be projected to be sustainable over its estimated useful life. As detailed further below, DWSRF and CWSRF eligible projects continue to be presumed to be necessary investments under the final

³⁰² See U.S. Department of the Treasury, *Compliance and Reporting Guidance*, 21 (June 24, 2021), <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

rule, with the exception of projects for the rehabilitation of dams and reservoirs, which the EPA has permitted in certain circumstances under the DWSRF and, as discussed below, are addressed separately in the final rule.

In evaluating whether a project would respond to a need to achieve or maintain an adequate minimum level of service, a recipient should consider whether it would meet the needs of the population to be served and would satisfy applicable standards. For example, a drinking water project must be sized such that it provides an adequate volume of water to households and other customers and must meet applicable standards for drinking water quality under the Safe Drinking Water Act (SDWA). Similarly, a centralized wastewater treatment project should be designed to manage updated estimated flow rates and comply with Clean Water Act requirements. These requirements are already reflected in the eligibility criteria of the DWSRF and CWSRF, respectively.

In evaluating whether a project is a cost-effective means of providing the water or sewer service, the recipient should consider the need for the project, the costs and benefits of the project compared to alternatives, and the effectiveness of the project in meeting the identified need. Recipients are not required to conduct a full cost-benefit analysis; however, they should consider and analyze relevant factors. For example, a recipient may not use funds to pursue a costly dam rehabilitation to provide drinking water to a community if it could provide the same service with a significantly smaller investment by drawing water from another available reservoir, assuming that doing so would meet the other requirements of the final rule. As detailed further below, recipients are only required to assess cost-effectiveness of projects for the creation of new drinking water systems, dam and reservoir rehabilitation projects, or projects for the extension of drinking water service to meet population growth needs.

Certain DWSRF eligibilities are already subject to a cost-effectiveness test. Specifically, projects that create new drinking water systems must be a cost-effective solution to addressing the identified problem.³⁰³ The EPA also imposes a cost-effectiveness condition on dam and reservoir rehabilitation projects undertaken pursuant to its class deviation from the DWSRF rule. These projects are particularly expensive and, unlike in the case of other types of eligible projects, there are often

available alternatives to conducting these projects. Projects for the extension of drinking water service to meet population growth needs are also often particularly expensive, and there are often different ways to meet the needs of expanding populations. Treasury will accordingly require that recipients engage in a cost-effectiveness analysis when engaging in projects for the creation of new drinking water systems, dam and reservoir rehabilitation projects, or projects for the extension of drinking water service to meet population growth needs. Other types of eligible water or sewer projects will not be subject to this cost-effectiveness test, including lead line replacement and lead remediation.³⁰⁴

In the case of projects that expand drinking water service infrastructure to satisfy a projected increase in population, the project must also be sustainable, meaning that the project can continue providing the adequate minimum level of service for its estimated useful life, taking into account projected impacts of changes to the climate and other expected demands on the source of water. For example, a reservoir rehabilitation project may not be pursued if the reservoir will no longer be able to provide an adequate source of drinking water before the end of the estimated useful life of the improvements to the reservoir. In areas currently impacted by drought or where drought conditions are expected to be more frequent or more severe in the future, sources of drinking water may be diminished more quickly than in prior periods. In considering how much of a source of water will be available in the future for the drinking water project, a recipient must consider that a source of water may be drawn upon or otherwise used for other current and expected uses, including use by fish and other wildlife.

The final rule applies this sustainability condition to projects that expand drinking water service infrastructure to satisfy a projected increase in population but not to other drinking water projects. When a new source of water is required to remedy an existing threat to public health, as in the case of source projects eligible under the DWSRF, sustainability should be a consideration, but in some cases, the need to replace a contaminated source may mean that a less sustainable choice

may be made. When faced with such an issue, such as in the case of a contaminated well system, a project to replace the contaminated source can be said to be “necessary” even if the replaced source is not sustainable over the long term. Expediency may dictate that a shorter-term solution is pursued if it is cost-effective and will prevent health issues while a longer-term solution can be found. In contrast, an expansion to accommodate population growth cannot be said to be necessary if it is not sustainable over its estimated useful life.

Not included in the list of criteria above is the requirement in the interim final rule that the project be unlikely to be made using private sources of funds. Given that it may be difficult to assess in a particular case what the probability of private investment in a project would be, Treasury has eliminated this standard from the meaning of necessary but nevertheless encourages recipients to apply funds to projects that would provide the greatest public benefit.

Water and Sewer Infrastructure: As stated above, Congress provided that SLFRF funds are available for “necessary water, sewer, and broadband infrastructure.” Treasury interprets the reference to water and sewer uses consistent with the inclusion of broadband uses. Water, sewer, and broadband infrastructure all involve the provision of essential services to residents, businesses, and other consumers. As the pandemic has made clear, access to broadband has itself become essential for individuals and businesses to participate in education, commerce, work, and civic matters and to receive health care and social services.

Water and sewer services provided broadly to the public as essential services include the provision of drinking water and the removal, management, and treatment of wastewater and stormwater.³⁰⁵ Although governments are engaged in other infrastructure related to water, including irrigation projects, transportation projects, and recreation projects, such projects go beyond the scope of what is provided to all residents as an essential service. Provision of drinking water and removal, management, and treatment of

³⁰⁴ In such cases, either the projects are presumptively cost-effective (e.g., lead projects would always be considered cost-effective given the costs imposed by lead poisoning) or a cost-effectiveness test is less relevant given the lack of available alternatives or the relatively low cost of the project.

³⁰⁵ In many jurisdictions, stormwater flows into the sewer system rather than into a separate stormwater system. The separate inclusion of “water” and “sewer” infrastructure also makes clear that “water” in this context cannot refer to all uses relevant to water. Given that sewer systems carry wastewater (and often stormwater), if water infrastructure were to refer to all water-related infrastructure in this context, it would make the inclusion of sewer infrastructure redundant.

³⁰³ See 40 CFR 35.3520(b)(2)(vi).

wastewater and stormwater are the typical responsibilities of “water and sewer” authorities throughout the country, and there is a tremendous need for improvements to the ability of state, local, and Tribal governments to provide such services, including to address the consequences of deferred maintenance and additional resiliency needed to adapt to changes to the climate.³⁰⁶

Although the meaning of water and sewer infrastructure for purposes of sections 602(c)(1)(D) and 603(c)(1)(D) of the Social Security Act does not include all water-related uses, Treasury has made clear in this final rule that investments to infrastructure include a wide variety of projects. Treasury interprets the word “infrastructure” in this context broadly to mean the underlying framework or system for achieving the given public purpose, whether it be provision of drinking water or management of wastewater or stormwater.³⁰⁷ As discussed below, this can include not just storm drains and culverts for the management of stormwater, for example, but also bioretention basins and rain barrels implemented across a watershed, including on both public and private property, that together reduce the amount of runoff that needs to be managed by traditional infrastructure.

Further, Treasury understands that investments in infrastructure include

improvements that increase the capacity of existing infrastructure and extend the useful life of existing infrastructure. Accordingly, water and sewer infrastructure investment projects include those that conserve water, thereby reducing pressure on infrastructure for the provision of drinking water, and that recycle wastewater and stormwater, thereby reducing pressure on the infrastructure for treating and managing wastewater and stormwater.

As with other infrastructure projects and capital expenditure projects that are permitted as responses to the public health emergency and its negative economic impacts, costs for planning and design and associated pre-project costs are eligible uses of SLFRF funds. Costs for the acquisition of land are also eligible, but only if needed for the purposes of locating eligible project components. Recipients should ensure that they have the technical, financial, and managerial capability to ensure compliance with the requirements of the SDWA, or that the assistance will ensure compliance and the owners or operators of the systems will undertake feasible and appropriate changes in operations to ensure compliance over the long-term.

Drinking Water State Revolving Fund and Clean Water State Revolving Fund

Background: As stated above, in the interim final rule, Treasury included eligible uses of the DWSRF and the CWSRF as eligible uses of the SLFRF in the water and sewer infrastructure category. By providing that projects eligible under the DWSRF and the CWSRF are also eligible uses of SLFRF funds, the interim final rule permitted 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. With respect to clean water and wastewater infrastructure, the interim final rule provided that recipients may use SLFRF funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, and facilitate water reuse, among other uses. Consistent with the DWSRF and the CWSRF, the interim final rule provided that SLFRF 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.

Use of DWSRF and CWSRF to Support Climate Change Adaptations. Many of

the types of projects eligible under either the DWSRF or CWSRF 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 CWSRF may reduce energy required to treat drinking water. Similarly, projects eligible under the DWSRF and CWSRF include measures to conserve and reuse water, for example through projects to reuse or recycle wastewater, stormwater, or subsurface drainage water. 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 bioretention basins 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 SLFRF funds for water infrastructure to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Public Comment: Many commenters expressed support for the interim final rule’s alignment of the use of funds for water and sewer infrastructure under the SLFRF with the project categories provided through the EPA’s DWSRF and CWSRF programs.

Many commenters also provided recommendations about the specific types of water infrastructure projects that should be eligible under the final rule. In many of these cases, commenters recommended that Treasury include project types that are already eligible under the DWSRF and CWSRF and thus eligible under the interim final rule and final rule. For example, several commenters requested that aquifer recharge projects, or other groundwater protection and restoration projects, be included as eligible uses of SLFRF when certain aquifer recharge projects that (1) implement a nonpoint source pollution management program³⁰⁸ or (2) constitute reuse of

³⁰⁶ In addition, Treasury interprets the eligible uses of SLFRF funds against the background of the Coronavirus Relief Fund (CRF), for which the SLFRF funds are, in part, a successor. CRF recipients expressed great interest in using the CRF to pursue water infrastructure projects, including provision of drinking water and internal plumbing on Tribal lands and in Alaskan villages, and broadband projects throughout the country; Treasury permitted these projects given the connection to the public health emergency (see Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182, 4190, 4192 (Jan. 15, 2021)), but the short deadline for use of funds made it difficult to use CRF funds in this way. Congress’ inclusion of the water, sewer, and broadband clause in the ARPA, along with the SLFRF funds’ longer eligible use date, is responsive to this unmet need. As discussed below, Congress in the Infrastructure Investment and Jobs Act amended sections 602(c) and 603(c) of the Social Security Act to add a new paragraph as sections 602(c)(4) and 603(c)(5), respectively, providing that SLFRF funds may be used to meet non-federal matching requirements of any authorized Bureau of Reclamation project. This authority was added as a separately enumerated eligible use regardless of whether the underlying project would be an eligible use of SLFRF funds under the water and sewer infrastructure eligible use category.

³⁰⁷ See, e.g., section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362), defining “green infrastructure” as “the range of measures that use plant or soil systems, permeable pavement or other permeable surfaces or substrates, stormwater harvest and reuse, or landscaping to store, infiltrate, or evapotranspire stormwater and reduce flows to sewer systems or to surface waters.”

³⁰⁸ Specifically, this would include desalination projects that decrease the burden on aquifers where there is causal relationship between aquifer withdrawals and saltwater intrusion if the projects implement a nonpoint source pollution

Continued

wastewater, stormwater, or subsurface drainage water are in fact eligible uses under the CWSRF. Furthermore, under the DWSRF, eligible projects include certain aquifer storage and recovery systems for water storage.

Treasury Response: Eligible projects articulated in the DWSRF and CWSRF continue to be eligible uses of SLFRF funds under the final rule. Recognizing that recipients have faced challenges interpreting eligible use categories under the interim final rule or cross-referencing EPA program materials to interpret eligible project types, Treasury is including in this Supplementary Information additional information on the types of projects eligible under the DWSRF and CWSRF. Treasury emphasizes that this further clarification does not represent a change in eligibility. Treasury encourages recipients to reference EPA handbooks for the DWSRF and CWSRF, which provide further information and detail about the types of projects eligible under those programs and thus under the final rule.

Eligible projects under the DWSRF. Eligibilities under the DWSRF, the interim final rule, and the final rule include projects that address present or prevent future violations of health-based drinking water standards. These include projects needed to maintain compliance with existing national primary drinking water regulations for contaminants with acute and chronic health effects. Projects to replace aging infrastructure are also eligible uses if they are needed to maintain compliance or further the public health protection objectives of section 1452 of the SDWA.³⁰⁹ The following project categories are eligible under the DWSRF, were eligible under the interim final rule, and continue to be eligible under the final rule:

(i) *Treatment projects*, including installation or upgrade of facilities to

management program under section 319 of the Clean Water Act. This could include projects in which desalinated seawater is injected into the aquifer to mitigate or prevent salt water intrusion, as well as projects in which brackish water is removed from an aquifer, desalinated, and returned to the aquifer.

³⁰⁹ See 42 U.S.C. 300j–12(a)(2)(B) (limiting financial assistance used by a public water system to expenditures (including expenditures for planning, design, siting, and associated preconstruction activities, or for replacing or rehabilitating aging treatment, storage, or distribution facilities of public water systems, but not including monitoring, operation, and maintenance expenditures of a type or category which the Administrator of the EPA has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to the system under 42 U.S.C. 300g–1 or otherwise significantly further the health protection objectives of the SDWA); See also 40 CFR 35.3520(b).

improve the quality of drinking water to comply with primary or secondary standards and point of entry or central treatment under section 1401(4)(B)(i)(III) of the SDWA.

(ii) *Transmission and distribution projects*, including installation or replacement of transmission and distribution pipes to improve water pressure to safe levels or to prevent contamination caused by leaks or breaks in the pipes.

(iii) *Source projects*, including rehabilitation of wells or development of eligible sources to replace contaminated sources.

(iv) *Storage projects*, including installation or upgrade of eligible storage facilities, including finished water reservoirs, to prevent microbiological contaminants from entering a public water system.

(v) *Consolidation projects*, including projects needed to consolidate water supplies where, for example, a supply has become contaminated or a system is unable to maintain compliance for technical, financial, or managerial reasons.

(vi) *Creation of new systems*, including those that, upon completion, will create a community water system to address existing public health problems with serious risks caused by unsafe drinking water provided by individual wells or surface water sources. Eligible projects are also those that create a new regional community water system by consolidating existing systems that have technical, financial, or managerial difficulties. Projects to address existing public health problems associated with individual wells or surface water sources must be limited in scope to the specific geographic area affected by contamination. Projects that create new regional community water systems by consolidating existing systems must be limited in scope to the service area of the systems being consolidated.

Ineligible projects under the DWSRF. Federally-owned public water systems and for-profit noncommunity water systems are not eligible to receive DWSRF funds and therefore SLFRF funds.³¹⁰ The acquisition of water rights, laboratory fees for routine compliance monitoring, and operation and maintenance expenses are not costs associated with investments in infrastructure and thus would not be eligible under the final rule.³¹¹ Projects needed primarily to serve future population growth are also ineligible under the DWSRF; the treatment of such projects under the final rule is discussed

³¹⁰ See 40 CFR 35.3520(d)(1).

³¹¹ See *id.* at § 35.3520(e)(2)–(4).

separately below under “Expansion of Drinking Water Service.” Projects eligible under the DWSRF must be sized only to accommodate a reasonable amount of population growth expected to occur over the useful life of the project.

Eligible projects under the CWSRF.

The final rule continues to allow the use of SLFRF funds for projects eligible under the CWSRF, consistent with the interim final rule. Under the CWSRF, a project must meet the criteria of one of the following CWSRF eligibilities to be eligible for assistance. Section 603(c) of the Clean Water Act (CWA)³¹² provides that the CWSRF can provide assistance:

(i) to any municipality, intermunicipal, interstate, or state agency for construction of publicly owned treatment works (as defined in section 212 of the CWA);³¹³

(ii) for the implementation of a management program established under section 319 of the CWA;³¹⁴

(iii) for the development and implementation of a conservation and management plan under section 320 of the CWA;³¹⁵

(iv) for the construction, repair, or replacement of decentralized wastewater treatment systems that treat municipal wastewater or domestic sewage. Eligible projects include, but are not limited to, the construction of new decentralized systems (e.g., individual onsite systems and cluster systems), as well as the upgrade, repair, or replacement of existing systems.

(v) for measures to manage, reduce, treat, or recapture stormwater or subsurface drainage water. Publicly and privately owned, permitted and unpermitted projects that manage, reduce, treat, or recapture stormwater or subsurface drainage water are eligible. For example, projects that are specifically required by a Municipal Separate Storm Sewer System (MS4) permit are eligible, regardless of ownership. Projects may include, but are not limited to green roofs, bioretention basins, roadside plantings, porous pavement, and rainwater harvesting.

(vi) to any municipality, intermunicipal, interstate, or state agency for measures to reduce the demand for publicly owned treatment works capacity through water conservation, efficiency, or reuse. Eligible projects include, but are not limited to, the installation, replacement, or upgrade of water meters; plumbing fixture retrofits or replacement; and gray water recycling. Water audits and water conservation plans are also eligible.

³¹² 33 U.S.C. 1383(c).

³¹³ 33 U.S.C. 1292.

³¹⁴ 33 U.S.C. 1329.

³¹⁵ 33 U.S.C. 1330.

Equipment to reuse effluent (e.g., gray water, condensate, and wastewater effluent reuse systems) is eligible.

(vii) for the development and implementation of watershed projects meeting the criteria set forth in section 122 of the CWA.³¹⁶ Projects that develop or implement a watershed pilot project related to at least one of the six areas identified in section 122 of the CWA are eligible: Watershed management of wet weather discharges, stormwater best management practices, watershed partnerships, integrated water resource planning, municipality-wide stormwater management planning, or increased resilience of treatment works.

(viii) to any municipality, intermunicipal, interstate, or state agency for measures to reduce the energy consumption needs for publicly owned treatment works. Projects may include, but are not limited to, the installation of energy efficient lighting, HVAC, process equipment, and electronic equipment and systems at publicly owned treatment works. Planning activities, such as energy audits and optimization studies are also eligible.

(ix) for reusing or recycling wastewater, stormwater, or subsurface drainage water. Projects involving the reuse or recycling of wastewater, stormwater, or subsurface drainage water are eligible. This includes, as part of a reuse project, the purchase and installation of treatment equipment sufficient to meet reuse standards. Other eligible projects include, but are not limited to, distribution systems to support effluent reuse, including piping the effluent on the property of a private consumer, recharge transmission lines, injection wells, and equipment to reuse effluent (e.g., gray water, condensate, and wastewater effluent reuse systems).

(x) for measures to increase the security of publicly owned treatment works. Security measures for publicly owned treatment works might include, but are not limited to, vulnerability assessments, contingency/emergency response plans, fencing, security cameras/lighting, motion detectors, redundancy (systems and power), secure chemical and fuel storage, laboratory equipment, securing large sanitary sewers, and tamper-proof manholes. The CWSRF cannot fund operations and maintenance activities. Therefore, maintaining a human presence (i.e., security guards) and monitoring activities are not eligible.

Other Clarifications of DSWRF and CWSRF Eligible Project Categories

Public Comment: Several commenters requested that Treasury provide clarification of the requirements associated with use of SLFRF funds for necessary investments in water and sewer infrastructure.

Treasury Response: After release of the interim final rule, Treasury clarified in further guidance that, while recipients must ensure that water and sewer infrastructure projects pursued are eligible under the final rule, recipients are not required to obtain project pre-approval from Treasury or any other federal agency when using SLFRF funds for necessary water and sewer infrastructure projects unless otherwise required by federal law. For projects that are being pursued under the eligibility categories provided through the DWSRF or CWSRF programs, project eligibilities are based on federal project categories and definitions for the programs and not on each state's eligibility or definitions. While reference in the final rule to the DWSRF, CWSRF, or other federal water programs is provided to assist recipients in understanding the types of water and sewer infrastructure projects eligible to be funded with SLFRF, recipients do not need to apply for funding from the applicable state programs or through any federal water program. Similarly, besides eligible project categories, the final rule does not incorporate other program requirements or guidance that attach to the DWSRF, CWSRF, or other federal water programs. However, as noted above, recipients should be aware of other federal or state laws or regulations that may apply to construction projects or water and sewer projects, independent of SLFRF funding conditions, and that may require pre-approval from another federal or state agency.

Expanded Eligible Uses for Water and Sewer Infrastructure Summary

Public Comment: Many commenters requested broader flexibility in the use of SLFRF funds for water and sewer infrastructure projects that are not eligible under the DWSRF and CWSRF. These commenters argued that localities are best situated to identify the highest-need water and sewer projects in their communities. Several Tribal government commenters noted that Tribes have different water and sewer infrastructure needs than states and localities and that additional flexibility in the use of funds would lift current

barriers to improving infrastructure on Tribal lands.

To achieve additional flexibility, commenters suggested a range of options for broadening the eligible use of SLFRF funds for necessary water and sewer infrastructure. For example, several commenters suggested Treasury broaden the eligibilities provided under the interim final rule to include project types eligible under other federal water and sewer programs.

Treasury Response: Treasury agrees that additional flexibility for use of SLFRF funds is warranted and is providing expanded eligibilities as described below, several of which address specific areas of need outlined by Tribal and rural communities.

As discussed below, Treasury has incorporated into the final rule projects that are eligible under certain programs established by the EPA under the Water Infrastructure Improvements for the Nation Act (WIIN Act). Other water-related grant programs cited by commenters include projects that are otherwise already covered by the final rule, for example because they are covered as eligible under the DWSRF or the CWSRF, or projects that are ineligible under the final rule because they are beyond the scope of the meaning of water and sewer projects for purposes of ARPA. To minimize the need for recipients of SLFRF funds to cross reference eligibilities across multiple federal programs, which may exacerbate current challenges to understanding eligibility under SLFRF, Treasury is providing detailed information related to expanded eligibilities within the text of this **SUPPLEMENTARY INFORMATION** for the final rule.

Stormwater Infrastructure

Public Comment: Several commenters requested that additional stormwater infrastructure projects be included as eligible uses of SLFRF funds under the final rule. Commenters suggested that culvert repair and resizing and replacement of storm sewers is necessary to address increased rainfall brought about by a changing climate. Other commenters noted that rural communities that do not manage their own sewer systems may rely on this type of water infrastructure.

Treasury Response: The CWSRF includes a broad range of stormwater infrastructure projects, and as such these projects were eligible under the interim final rule and continue to be eligible under the final rule. These projects include gray infrastructure projects, such as traditional pipe, storage, and treatment systems. Projects

³¹⁶ 33 U.S.C. 1274.

that manage, reduce, treat, or recapture stormwater or subsurface drainage water are also eligible, including real-time control systems for combined sewer overflow management, and sediment control. Culvert infrastructure projects are eligible under the CWSRF if they (1) implement a nonpoint source management plan, (2) implement National Estuary Program Comprehensive Conservation and Management Plan, or (3) implement a stormwater management plan with the goal of providing a water quality benefit. Stormwater projects under the CWSRF also encompass a number of eligible green infrastructure categories, such as green roofs, green streets, and green walls, rainwater harvesting collection, storage, management, and distribution systems, real-time control systems for harvested rainwater, infiltration basins, constructed wetlands, including surface flow and subsurface flow (e.g., gravel) wetlands, bioretention/bioswales (e.g., bioretention basins, tree boxes), permeable pavement, wetland, riparian, or shoreline creation, protection, and restoration, establishment or restoration of urban tree canopy, and replacement of gray infrastructure with green infrastructure including purchase and demolition costs.

In addition to the eligible uses under the CWSRF, Treasury is expanding the eligible uses under the final rule to include stormwater system infrastructure projects regardless of whether there is an expected water quality benefit from the project. Treasury anticipates that this eligible use will allow recipients to manage increased volumes of stormwater as a result of changes to the climate. For example, the final rule now permits the use of SLFRF funds for the repair, replacement, or removal of culverts or other road-stream crossing infrastructure to the extent the purpose of the project is to manage stormwater. In addition, Treasury understands that the repair, replacement, or removal of culverts may necessitate the repair or upgrade of roads. As noted in guidance issued after the interim final rule, recipients may use SLFRF funds for road repairs and upgrades that interact directly with an eligible stormwater infrastructure project. All stormwater infrastructure projects undertaken should incorporate updated design features and current best practices.

Private Wells and Septic Systems

Public Comment: Several commenters requested that the scope of eligible projects be expanded to allow for the expenditure of SLFRF funds on private wells or septic systems. Commenters

noted that wells may be contaminated with dangerous substances, including arsenic, lead, radon, and PFAS (per- and polyfluoroalkyl). Commenters also suggested that, because rural and underserved communities are often reliant on these infrastructure types for their drinking water or wastewater needs, lack of appropriate funding to maintain these systems could present health and safety issues that disproportionately affect certain communities.

Treasury Response: Consistent with the CWSRF, the installation, repair, or replacement of private septic units continues to be an eligible use of SLFRF funds under the final rule. For example, eligible projects include those that address groundwater contamination resulting from faulty septic units and those that would connect failing septic systems to centralized wastewater treatment. Consistent with the DWSRF, connecting homes served by a private well to a public water system is an eligible use of SLFRF funds.

In addition, Treasury has provided in the final rule that recipients may use SLFRF funds for an expanded set of infrastructure projects that improve access to and provision of safe drinking water for individuals served by residential wells. Eligible projects under this category include rehabilitation of private wells, testing initiatives to identify contaminants in wells, and treatment activities and remediation strategies that address contamination.

Remediating Lead in Water

Public Comment: Several commenters emphasized the need to fully remediate lead contamination, especially in structures that serve the public or populations like children that are particularly vulnerable to the effects of lead exposure, such as schools and daycares. Many American households and an estimated 400,000 schools and childcare centers currently lack safe drinking water.³¹⁷

Treasury Response: The replacement of lead service lines, up to premise plumbing, is an eligible use under the DWSRF and continues to be an eligible use of SLFRF funds. Such projects are eligible regardless of the pipe material of the replacement lines and ownership of the property on which the service line is located. Lead service line replacement projects can serve households, schools, or any other

entities. Given the lifelong impacts of lead exposure for children and the widespread prevalence of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

In addition, Treasury is providing in the final rule that for lead service line replacement projects, recipients must replace the full length of the service line, and not just a partial portion of the service line. Some water utilities, when replacing service lines, will only replace the “public portion” of the service line and physically slice through the lead service line at the public/private line. This action can result in elevated drinking water lead levels for some period of time after replacement, suggesting the potential for harm, rather than benefit during that time period.³¹⁸ Requiring replacement of the full length of the service line is also consistent with the requirements of the EPA’s Lead and Copper Rule Revisions for water systems that have an action level exceedance for lead³¹⁹ and certain other water systems.³²⁰

Treasury is expanding eligible uses of SLFRF funds to include infrastructure projects eligible under EPA grant programs authorized by the WIIN Act.³²¹ Eligible projects under these programs include the installation or re-optimization of corrosion control treatment, replacing lead service lines, replacing galvanized pipes downstream of a lead service line (other than lead pipes within a home as discussed below), and maintaining an inventory of the drinking water system’s service lines. Water quality testing, compliance monitoring, and remediation activities in schools and other childcare facilities, as well as activities necessary to respond to a contaminant, are eligible uses of SLFRF funds.³²² Remediation

³¹⁸ See EPA Science Advisory Board, Evaluation of the Effectiveness of Partial Lead Service Line Replacements, (September 2011), <https://www.epa.gov/sdwa/science-advisory-board-evaluation-effectiveness-partial-lead-service-line-replacements> (advising against partial lead service line replacement).

³¹⁹ Environmental Protection Agency, *supra* note 188.

³²⁰ Environmental Protection Agency, National Primary Drinking Water Regulations: Lead and Copper Rule Revisions, 86 FR 4198, 40 CFR 141.84, and preamble at 4215, January 15, 2021, <https://www.federalregister.gov/d/2020-28691>; scheduled to become effective December 16, 2021, Environmental Protection Agency, 86 FR 31939, <https://www.federalregister.gov/d/2021-12600>.

³²¹ Eligible uses of funds include those eligible under the Small, Underserved, and Disadvantaged Communities Grant (Section 2104), Reduction in Lead Exposure via Drinking Water Grant Program (Section 2105) and Lead Testing in School and Child Care Program Drinking Water Grant Program (Section 2107).

³²² Such testing and remediation programs would be an eligible use of SLFRF funds given that they

³¹⁷ The White House, Updated Fact Sheet: Bipartisan Infrastructure Investment and Jobs Act (August 2, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/02/updated-fact-sheet-bipartisan-infrastructure-investment-and-jobs-act/>.

activities such as replacement of faucets, internal plumbing, and fixtures in schools and childcare facilities are also an eligible use of SLFRF funds.

Consistent with the EPA programs, replacement of lead pipes within a home is not eligible under the final rule because the vast majority of lead contamination cases can be solved by replacing lead service lines (including on public and private property) and faucets and fixtures themselves. As such, replacement of lead pipes within a home would not be considered a cost-effective means for achieving the desired level of service and thus would not be a “necessary” investment. The provision of bottled water is also not an eligible use of SLFRF funds under this eligible use category, as it is not an investment in infrastructure. However, bottled water in areas with an action level exceedance for lead in water may be an eligible use of SLFRF funds under a separate eligible use category for “remediation of lead paint and other lead hazards;” see Assistance to Households in Public Health and Negative Economic Impacts.

Water filtration systems are eligible under the EPA grant programs and the final rule as long as they are installed as a permanent part of a facility’s system and not intended for temporary use. Conducting remediation, follow-up monitoring, and conducting public education and outreach about the availability of infrastructure programs, such as water testing and fixture replacement programs funded with SLFRF funds or otherwise, are also eligible projects. Finally, recipients should note that “remediation of lead paint and other lead hazards” is a separate eligible use category and a broader range of programs and services may be eligible under that section, including investments that are not infrastructure; see the eligible use for “remediation of lead paint and other lead hazards” in section Assistance to Households in Public Health and Negative Economic Impacts.

Dams and Reservoirs

Public Comment: Many commenters requested that Treasury broaden eligibilities to include dams and reservoirs, infrastructure that commenters noted may in its current state be unsafe and could put surrounding communities at risk. Some

commenters argued that dams and reservoirs play an important role in providing municipal water supply and water to irrigate farmland, including in areas impacted by recent droughts. Other commenters noted that a large number of dams are currently classified as high-hazard structures, the failure of which would have severe consequences for public safety and the local environment. With respect to reservoirs, commenters articulated that changing climate conditions have necessitated upgrades to reservoir infrastructure to ensure existing facilities can meet the local water needs of a community. Commenters noted that communities facing drought may also need to adjust or enhance reservoirs to maintain adequate water supply.

In contrast, several commenters suggested that infrastructure projects related to dams and reservoirs should not be considered eligible uses of SLFRF funds. These commenters noted that alternate sources of funding exist for dam and reservoir projects and that dams and reservoir infrastructure could result in negative impacts to Tribal communities and negative environmental impacts, including harm to wildlife habitats.

Treasury Response: Treasury understands that many dams and reservoirs in need of rehabilitation are dams and reservoirs whose primary purpose is to provide drinking water. As discussed above, SLFRF funds are available for projects related to the provision of drinking water. Moreover, since issuance of the interim final rule, the EPA has adopted a class deviation from the DWSRF regulations that permits such dam and reservoir rehabilitation projects in certain circumstances.³²³ In approving this class deviation, the EPA recognized that many dams used for drinking water are aging and deteriorating and pose a public health risk to communities; that current dam conditions do not meet state safety standards; and that reservoir capacity has diminished and requires dredging to meet drinking water needs of the existing population.

Treasury’s final rule provides that funds may be used for rehabilitation of dams and reservoirs if the primary purpose of the dam or reservoir is for drinking water supply and the rehabilitation project is necessary for continued provision of drinking water

supply. In considering whether a dam or reservoir project is necessary for the provision of drinking water supply, a recipient may take into consideration future population growth in certain circumstances, as discussed under “Expansion of Drinking Water Service Infrastructure” below, but the project must in any case be designed to support no more than a reasonable level of projected increased need. The recipient must also determine that the project is cost-effective, *i.e.*, that there are not significantly superior alternatives that are available, taking into consideration the relative costs and benefits of the project as compared to those alternatives.

This change to the final rule would permit a wide variety of projects.³²⁴ The limitation in the final rule to rehabilitation of existing dams and reservoirs reflects the scope of the EPA class deviation referenced above and Treasury’s understanding of the significant need for investments in rehabilitation to address deterioration of dams and the diminished capacity of reservoirs. Further, Treasury expects that in many cases it would be considerably more difficult to demonstrate that construction of a new dam or reservoir would be necessary for the purpose of the provision of drinking water than is the case for rehabilitation of dams and reservoirs already serving that purpose for a particular population, particularly given opportunities to meet drinking water needs through water reuse and conservation efforts. For these reasons, and given that the relatively short period of availability of the funds makes new dam and reservoir construction with these funds less likely, Treasury has limited the scope of the final rule to dam and reservoir rehabilitation projects.

As discussed above, Treasury has determined that ARPA does not authorize the use of SLFRF funds for uses other than the provision of drinking water and the management of wastewater and storm water. As such, the final rule does not include infrastructure projects related to dams and reservoirs as eligible uses of SLFRF funds unless they meet the conditions discussed above.

³²⁴ As noted in the EPA’s class deviation, examples of dam rehabilitation projects include spillway reconstruction or repair; dam resurfacing, patching, or other structural repairs, including minimal height increases if needed to maintain the structural integrity of the dam; grouting for seepage control or liquefaction remediation (*e.g.*, epoxy resin, asphalt, or rock); repair or replacement of drainage systems; and seismic stability efforts (*e.g.*, anchors). Examples of reservoir rehabilitation projects include sedimentation dredging and reservoir lining.

would help a recipient determine whether an infrastructure project, such as a lead line replacement, is necessary. In contrast, as mentioned above, the costs of continual testing that is part of a drinking water or wastewater facilities’ operating costs would not be considered part of an infrastructure project.

³²³ See EPA, Approval of Class Exception from the Regulatory Prohibitions on the Use of Drinking Water State Revolving Fund for Rehabilitation of Dams and Reservoirs (July 14, 2021), available at <https://www.epa.gov/system/files/documents/2021-07/dwsrf-class-deviation-dam-reservoir-rehab-2021-0.pdf>.

Public Comment: Several commenters requested that the removal of dams and associated habitat restoration should be eligible uses of SLFRF funds, noting that in some cases, dam removal will improve water quality while removing long-term operational expenses for the recipient.

Treasury Response: Dam removal projects and associated stream and habitat restoration projects are eligible uses of the CWSRF and continue to be eligible under the final rule when the removal implements either a nonpoint source management program plan or a National Estuary Program Comprehensive Conservation and Management Plan or when the removal will provide a water quality benefit. Habitat restoration projects more generally may also be eligible under the CWSRF and the final rule if they constitute a form of stormwater infrastructure.

Expansion of Drinking Water Service Infrastructure

Public Comment: Commenters asked for the ability to use funds for drinking water projects for the purpose of meeting needs arising from future growth, which, given the restrictions applicable to the DWSRF, was not permitted under the interim final rule.

Treasury Response: As provided for in the SDWA, the DWSRF is meant to serve the public health needs of the existing population. The EPA regulation implementing the DWSRF program provides that projects needed primarily to serve future population growth are not eligible uses of the DWSRF. A project that is intended primarily to address public health or regulatory compliance issues for the existing service population may be sized for a “reasonable” amount of population growth over the useful life of the project.³²⁵

ARPA does not include the same limitation as the SDWA. Accordingly, the final rule provides that recipients may use SLFRF funds for projects that are needed to support increased population in certain cases. ARPA limits projects to those investments that are “necessary.” As discussed above, Treasury interprets this to mean that the investments must be (1) responsive to an identified need to achieve or maintain an adequate minimum level of service, which for some eligible project categories may include a reasonable projection of increased need, whether due to population growth or otherwise and (2) a cost-effective means for meeting that need, taking into account

available alternatives. For this eligible use category, expansion of drinking water service infrastructure, the project must also be projected to be sustainable over its estimated useful life.

Investments must be determined to be necessary when they are initiated. Accordingly, Treasury is clarifying in the final rule that the need identified for a water or sewer project may include a need arising from reasonable expectations of future population growth, provided that it is necessary at the time the investment is initiated for the recipient to make the investment to meet this growth. For example, a recipient expecting increased population during the period of performance may install a drinking water treatment plant to meet that growth. In addition, a recipient expecting increased population growth outside the period of performance may install the treatment plant if the planning and construction timeline for the project would require work to begin during the performance period in order to meet the expected population growth. A recipient may install transmission lines as part of the development of new housing occurring during the period of performance. In this case, the housing development must be in progress; a recipient may not use the SLFRF funds to install a water main, for example, to an undeveloped tract in the expectation that in the future that tract will be developed with housing, because there would be no need for that investment to be made at the time it is initiated.

For the reasons discussed above, if a project is undertaken to address expected growth in population, the project must also be sustainable, meaning that the project can continue providing the adequate minimum level of service for its estimated useful life, taking into account projected impacts of changes to the climate and other expected demands on the source of water. In considering how much of a source of water will be available in the future for the drinking water project, a recipient must consider that a source of water may be drawn upon or otherwise used for other current and expected uses, including use by fish and other wildlife. A drinking water project that is designed to address a growing population cannot be considered a necessary investment if the source of drinking water will cease to be available to meet the population’s needs before the end of the estimated useful life of the project. In such a case, a recipient should consider alternative sources for drinking water. See “Interpretation of Necessary Investments and Water and

Sewer Infrastructure” above for more information.

Non-Federal Matching Requirements for Authorized Bureau of Reclamation Projects

The Infrastructure Investment and Jobs Act amends sections 602(c) and 603(c) of the Social Security Act to add an additional eligible use of SLFRF funds, providing that SLFRF funds “may be used for purposes of satisfying any non-Federal matching requirement required for [an authorized Bureau of Reclamation project].”³²⁶

This amendment permits the use of SLFRF funds to meet non-federal matching requirements of any authorized Bureau of Reclamation project, regardless of whether the underlying project would be an eligible use of SLFRF funds under the water and sewer infrastructure eligible use category. These amendments are effective as of March 11, 2021, as if included in the ARPA at the time of its enactment.³²⁷ Treasury will provide further guidance to recipients on the scope of Bureau of Reclamation water projects and expenses covered by this provision.

Floodplain Management and Flood Mitigation Projects

Public Comment: Several commenters requested that projects to address floodwater, including floodplain management and flood mitigation projects, be included as an eligible use of SLFRF funds. Within this category of floodplain management and flood mitigation infrastructure, several commenters requested that the installation of levees, flood walls, sea walls, elevation projects, dredging, or nature-based flood mitigation projects be included as eligible projects.

Treasury Response: Treasury notes that some floodplain management and flood mitigation infrastructure projects, including green infrastructure designed to protect treatment works from flood waters and flood impact are currently eligible under the CWSRF and therefore continue to be eligible under the final rule.

Treasury has not included floodplain management and flood mitigation projects more generally as eligible under the final rule. Although floodplain management and flood mitigation are functions of many state and local governments, they are not the sort of generally-provided essential services included within the meaning of water

³²⁵ See 40 CFR 35.3520(e)(5).

³²⁶ See Public Law 117–58, 40909(a)–(b) (Nov. 15, 2021).

³²⁷ See Public Law 117–58 § 40909(c).

and sewer projects under the ARPA, as discussed above.

Irrigation

Public Comment: Some commenters requested that irrigation projects be an eligible use because they consider such projects to be critical infrastructure. Several commenters supported this request by noting that irrigation systems may be used to replenish aquifers and recharge wells, in addition to delivering water for irrigation. One commenter also noted that the national irrigation system is antiquated and in need of repair.

Treasury Response: Some irrigation projects were eligible under the interim final rule and continue to be eligible under the final rule as a result of their inclusion as eligible projects under the CWSRF. For example, water efficient irrigation equipment that reduces the runoff of nutrients and implements a management program established under section 319 of the CWA and/or a conservation and management plan under section 320 of the CWA are eligible uses under the CWSRF and therefore continue to be an eligible use of SLFRF funds under the final rule. Likewise, projects to receive and distribute reclaimed water for irrigation systems or other agricultural use are eligible under the CWSRF and therefore continue to be an eligible use under the final rule. Unlike projects for the improvement of irrigation systems generally, these reclaimed water projects are related to wastewater treatment and stormwater management, which are within the scope of the meaning of water and sewer infrastructure for purposes of ARPA.

Treasury considered commenter requests for inclusion of additional irrigation infrastructure and determined that irrigation projects more generally are not permitted under the final rule. Although these types of projects may be water-related infrastructure, they are not the sort of generally-provided essential services included within the meaning of water and sewer projects under ARPA, as discussed above.

Consumer Incentive Programs

Public Comment: One commenter requested that consumer incentive programs in the areas of water use efficiency, conservation, green infrastructure, reuse, and other distributed solutions be an allowable use of SLFRF.

Treasury Response: The DWSRF and CWSRF eligibilities include the development and implementation of incentive and educational programs that address and promote water conservation, source water protection,

and efficiency related to infrastructure improvements, e.g., incentives such as rebates to install green infrastructure such as rain barrels or promote other water conservation activities. Treasury clarifies that such project types were eligible under the interim final rule and continue to be eligible under the final rule.

2. Broadband Infrastructure

Under the ARPA, recipient governments may use SLFRF funds to make “necessary investments in . . . broadband infrastructure.” In the Supplementary Information to the interim final rule, Treasury interpreted necessary investments in infrastructure as investments “designed to provide an adequate minimum level of service and [that] are unlikely to be made using private sources of funds.” Treasury explained that, with respect to broadband specifically, such necessary investments include projects that “establish [] or improve [] broadband service to 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.”

Summary of Interim Final Rule, Public Comments, and Treasury Response

Summary of Interim Final Rule: In implementing the ARPA, the interim final rule provided that eligible broadband infrastructure investments are limited to those that are designed to provide service to unserved or underserved households or businesses, defined as those that lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload. The interim final rule also provided that eligible projects under the SLFRF are limited to those that are designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. In instances where 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, the interim final rule provided that the project would be required to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download speed 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.

In addition, Treasury, in the Supplementary Information to the interim final rule, encouraged recipients to pursue a number of other objectives.

First, Treasury encouraged recipients to prioritize investments in fiber-optic infrastructure wherever feasible and focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last-mile connections. Second, Treasury encouraged recipients to integrate affordability options into their program design. Third, Treasury encouraged recipients to prioritize support for local networks owned, operated, or affiliated with local governments, nonprofits, and cooperatives. Fourth, Treasury encouraged recipients to avoid investing in locations with 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. Finally, following release of the interim final rule, Treasury provided further guidance clarifying some aspects of broadband infrastructure eligibility, specifically on flexibility for recipients to determine eligible areas to be served,³²⁸ middle-mile projects,³²⁹ pre-project development costs,³³⁰ broadband connections to schools or libraries,³³¹ and the applicability of the National Environmental Policy Act (NEPA) and the Davis-Bacon Act.³³²

Summary of Public Comments: Treasury received several comments on the interim final rule’s requirements regarding eligible areas for investment and build-to speed standards, as well as Treasury’s encouragements in the Supplementary Information of the interim final rule. Many commenters found the interim final rule’s requirement to limit projects to those designed to provide service to unserved or underserved households or businesses to be appropriately focused on hard-to-reach areas. In contrast, other commenters argued that this requirement was too restrictive and that it would limit the ability for some recipients, particularly local governments, to invest in broadband infrastructure.

Separately, some commenters supported the interim final rule’s requirement that eligible projects be built to reliable speeds of 100 Mbps symmetrical, with an exception for areas where it was impracticable, and encouragement that projects be built with fiber-optic infrastructure, while a

³²⁸ See FAQ 6.8, 6.9, 6.11. Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRFPFAQ.pdf>.

³²⁹ See FAQ 6.10. *Id.*

³³⁰ See FAQ 6.12. *Id.*

³³¹ See FAQ 6.16. *Id.*

³³² See FAQ 6.4, 6.17. *Id.*

few others argued that the interim final rule should remain technology-neutral and that lower speed standards would be more appropriate for today's usage needs.

Summary of Treasury Response: In response to the comments, the final rule expands eligible areas for investment by requiring recipients to invest in projects designed to provide service to households and businesses with an identified need for additional broadband infrastructure investment, which would include but not be limited to a lack of broadband service reliably delivering certain speeds. In addition, as discussed further below, the final rule further supports the expansion of affordable access to broadband service for households by requiring that recipients use a provider that participates in a qualifying affordability plan. Treasury encourages recipients to prioritize projects that are designed to provide service to locations not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed.

The final rule maintains the interim final rule's requirement that eligible projects be designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. As was the case under the interim final rule, 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, eligible projects may be designed to reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed. Treasury continues to encourage recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to focus on projects that will achieve last-mile connections, whether by focusing directly on funding last-mile projects or by ensuring that funded middle-mile projects have commitments in place to support new and/or improved last-mile service.

The final rule requires recipients to address the affordability needs of low-income consumers in accessing broadband networks funded by SLFRF, given that such a project cannot be considered a necessary investment in broadband infrastructure if it is not affordable to the population the project would serve. Recipients must require the service provider for a completed broadband infrastructure investment project that provides service to households to either participate in the

Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP), or otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP.

Treasury also recognizes the importance of affordable broadband access for all consumers beyond those that are low-income. As part of their project selection process, recipients are encouraged to consult with the community on the general affordability needs of the target markets in the proposed service area. Additionally, recipients are encouraged to require that services provided by a broadband infrastructure project include at least one low-cost option offered without data usage caps and at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Recipients will be required to report speed, pricing, and any data allowance information as part of mandatory reporting to Treasury.

The final rule also clarifies that subsidies to households and communities impacted by the pandemic to access the internet, broadband adoption programs, digital literacy programs, and device programs are eligible programs to respond to the public health and negative economic impacts of the pandemic under sections 602(c)(1)(A) and 603(c)(1)(A). See section Assistance to Households in Negative Economic Impacts.

Treasury continues to encourage recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and cooperatives. In addition, to the extent recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable service at speeds of at least 100 Mbps download speed and 20 Mbps upload speed, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams. Further, Treasury highlights that recipients are subject to the prohibition on use of grant funds to procure or obtain certain telecommunications and video surveillance services or equipment as outlined in 2 CFR 200.216 and 2 CFR

200.471 and clarifies that modernization of cybersecurity for existing and new broadband networks are eligible uses of funds under sections 602(c)(1)(D) and 603(c)(1)(D).

Finally, this Supplementary Information to the final rule incorporates and confirms guidance issued by Treasury following the interim final rule regarding middle-mile projects,³³³ pre-project development costs,³³⁴ broadband connections to schools or libraries,³³⁵ and applicability of the National Environmental Policy Act (NEPA) and Davis-Bacon Act.³³⁶

The remainder of this section provides additional details on the final rule. Specifically, these sections address: (1) Eligible areas for investment; (2) build-to speed standards; (3) affordability; (4) public networks; (5) duplication of efforts and resources; (6) cybersecurity; and (7) use of funds to meet non-federal match under the Infrastructure Investment and Jobs Act.

Eligible Areas for Investment

The interim final rule limited eligible broadband investments to projects focused on delivering service to unserved or underserved locations, defined as households or businesses that lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload. This targeted approach was generally consistent with certain speed thresholds used in other federal programs to identify eligible areas for federal investment in broadband infrastructure, such as the FCC's Rural Digital Opportunity Fund (RDOF) program and the National Telecommunication and Information Administration's (NTIA's) Broadband Infrastructure Program, and generally aligns with the FCC's benchmark for an "advanced telecommunications capability" for wireline broadband services.

Public Comment: Many commenters discussed the disadvantages of such an approach. Some commenters, including several local government recipients, argued that limiting investments to locations without access to reliable wireline 25/3 Mbps³³⁷ was too

³³³ See FAQ 6.10. Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRFPFAQ.pdf>.

³³⁴ See FAQ 6.12. *Id.*

³³⁵ See FAQ 6.16. *Id.*

³³⁶ See FAQ 6.4, 6.17. *Id.*

³³⁷ In the remainder of this Supplementary Information, "25/3 Mbps" refers to broadband infrastructure that is designed to reliably meet or exceed at least 25 Mbps download speeds and 3

restrictive because some urban jurisdictions are already mostly or entirely covered by a network with at least 25/3 Mbps speeds yet lack widespread broadband adoption for various reasons. Commenters suggested that recipients would benefit from greater flexibility to provide necessary investments in broadband access in areas that are nominally covered by speeds of at least 25/3 Mbps, such as to provide affordable broadband access in low-income areas or to address service quality and reliability issues. Further, commenters argued that Treasury's requirement that new projects meet minimum reliable speeds of 100 Mbps symmetrical was inconsistent with the requirement that broadband infrastructure projects focus on those with access to significantly lower speeds, and further noted that several states have already expanded the focus of their broadband programs beyond those without reliable access to speeds of 25/3 Mbps. Commenters argued that if the limitation to unserved and underserved households and businesses were maintained, the definition of unserved and underserved households and businesses should be revised to include households and businesses currently served by higher standards. Commenters proposed a number of alternative cutoff speeds, including 25/25 Mbps, 50/10 Mbps, and 100 Mbps symmetrical. Others expressed support for providing flexibility for recipients to make their own determination on eligible areas for investment. These commenters referenced studies indicating that 25/3 Mbps is inadequate for today's modern household or business needs.

Some commenters advocated for unserved and underserved areas to be prioritized while providing flexibility for recipients to serve areas beyond those designated as unserved or underserved. Reflecting the perceived restrictiveness of the interim final rule approach, some commenters asked for assurance that projects conducted under other categories of SLFRF eligible uses, specifically to respond to the public health and negative economic impacts of the pandemic under sections 602(c)(1)(A)–(C) and 603(c)(1)(A)–(C), were not barred by the presence of 25/3 Mbps service, including “gap networks,” which are networks designed to offer low-cost or no-cost internet access for lower-income

households with low broadband adoption rates.

Commenters suggested additional factors to be incorporated in the consideration of locations that are eligible to be served. Many commenters suggested that affordability should be considered a key factor when determining whether a community has access to broadband, as the presence of 25/3 Mbps service does not necessarily mean the service is financially accessible to the area's residents. Commenters noted that surveys indicate that affordability, not lack of coverage, is the most significant barrier for most Americans who do not have robust broadband service in their households. Some advocated that the final rule allow for investments in areas with existing reliable wireline access at or above 25/3 Mbps as long as existing broadband service has been unaffordable for a certain segment of the population; others advocated that Treasury presume eligibility when investments are made in certain areas, such as Qualified Census Tracts or neighborhoods with persistent poverty, or are made by Tribal governments. Separately, some commenters noted that Treasury should provide more clarification on what constitutes a “reliabl[e]” connection, including providing details as to latency, jitter, and other technical specifications that would meet that standard, and what it means for certain technologies, such as copper and other outdated technologies, to be deemed presumptively unreliable.

Other commenters supported the interim final rule's approach on eligible areas for investment or suggested tightening eligibility even further. They argued that higher speed thresholds beyond 25/3 Mbps would likely lead to investments in or building of new broadband infrastructure in areas already served by broadband at speeds these commenters considered sufficient; these areas, commenters suggested, are less in need of federal assistance and permitting investments here could divert funding away from rural areas to more densely populated areas.

Treasury Response: The final rule expands eligible areas for investment by requiring recipients to invest in projects designed to provide service to households and businesses with an identified need for additional broadband infrastructure investment. Recipients have flexibility to identify a need for additional broadband infrastructure investment: Examples of need include lack of access to a connection that reliably meets or exceeds symmetrical 100 Mbps download and upload speeds, lack of

affordable access to broadband service, or lack of reliable broadband service. Recipients are encouraged to prioritize projects that are designed to provide service to locations not currently served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed, as many commenters indicated that those without such service constitute hard-to-reach areas in need of subsidized broadband deployment.

Households and businesses with an identified need for additional broadband infrastructure investment do not have to be the only ones in the service area served by an eligible broadband infrastructure project. Indeed, serving these households and businesses may require a holistic approach that provides service to a wider area, for example, in order to make ongoing service of certain households or businesses within the service area economical.

Consistent with further guidance issued by Treasury,³³⁸ in determining areas for investment, recipients may choose to consider any available data, including but not limited to documentation of existing broadband internet service performance, federal and/or state collected broadband data, user speed test results, interviews with community members and business owners, reports from community organizations, and any other information they deem relevant.

In evaluating such data, recipients may take into account a variety of factors, including whether users actually receive internet service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency, jitter, or deterioration of the existing connections make their user experience unreliable, and whether the existing service is being delivered by legacy technologies, such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier),³³⁹ and other factors related to

³³⁸ See FAQ 6.11. Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

³³⁹ Legacy technologies such as copper telephone lines (typically using Digital Subscriber Line technology) and early versions of cable system technology (DOCSIS 2.0 or earlier) typically lag on speeds, latency, and other factors, as compared to more modern technologies like fiber-optic. See, e.g., https://www.fcc.gov/sites/default/files/tech_transitions_network_upgrades_that_may_affect_your_service.pdf (comparing copper to fiber and noting that copper wire networks have “limited speeds,” are “susceptible to signal interference/loss,” and have a “relatively short life”); <https://>

Continued

Mbps upload speeds. “100 Mbps” symmetrical refers to broadband infrastructure that is designed to reliably meet or exceed at least 100 Mbps download speeds and 100 Mbps upload speeds.

the services to be provided by the project. In addition, recipients may consider the actual experience of current broadband customers when making their determinations; whether there is a provider serving the area that advertises or otherwise claims to offer broadband at a given speed is not dispositive.

Build-To Speed Standards

The interim final rule provided that a recipient may use funds to make investments in broadband infrastructure that is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds. In cases where it is not practicable, because of the excessive cost of the project or the geography or topography of the area to be served by the project, eligible projects may be designed to reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, so long as it is scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed. Relatedly, Treasury in the **SUPPLEMENTARY INFORMATION** to the interim final rule encouraged recipients to prioritize investments in fiber-optic infrastructure wherever feasible and to prioritize projects that achieve last-mile connections.

Public Comment: Many commenters discussed the advantages of setting minimum symmetrical download and upload speeds of reliable 100 Mbps as the speed threshold for new projects. Some commenters indicated support for the interim final rule's standard as it takes into account growing demands on internet use resulting from pandemic broadband usage and suggested that such a standard will help to ensure that networks built with SLFRF funds remain valuable for years to come, even as demands continue to accelerate, particularly on upload speeds. Some also indicated that the interim final rule standard has the effect of prioritizing the use of fiber-optic infrastructure to deliver such speeds, which some noted was a "gold standard" future-proof technology, although some commenters noted that other technologies like fixed wireless have been shown to deliver such speeds in certain circumstances.

Other commenters suggested that 100 Mbps symmetrical speeds were unnecessary given current broadband

usage needs and that such high standards may have the potential to slow down expansion to unserved or underserved rural areas. Some argued that setting this symmetrical threshold may limit the type of technologies that can be used, thereby decreasing competition and limiting flexibility to recipients whose communities might be better served by technologies such as wireless solutions or inexpensive gap networks. Commenters suggested alternate minimum speeds, ranging from 25/3 Mbps (which some argued best balances reaching all communities and maximizing the impact of federal funds) to 100/20 Mbps (which some argued best serves the typical broadband usage patterns of households and businesses, including new pandemic-driven needs). A few commenters suggested a higher minimum speed, such as gigabit speeds, advocating that such speeds were necessary for a network to last at least a decade.

Many commenters supported the interim final rule's lower speed standards for projects where it is impracticable to meet minimum reliable speeds of 100 Mbps symmetrical, as it provides flexibility for recipients to invest in hard-to-reach areas, such as those in mountainous regions. A few commenters indicated that Treasury should more clearly define the characteristics of a location eligible for this exception. Some indicated that the minimum standard for all new projects should be 100 Mbps symmetrical. In contrast, others argued that scalability to 100 Mbps symmetrical should not be a requirement to meet today's demands, particularly in hard-to-reach areas.

Some commenters requested that Treasury clarify eligibility for middle-mile projects as these projects potentially provide connectivity to far-reaching areas, while other commenters suggested that last-mile projects generally require more capital investment and are therefore most in need of government support.

Treasury Response: The final rule maintains the interim final rule's requirement that eligible projects be designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds, with the interim final rule's exception for projects where it is impracticable to build to such speeds due to excessive cost, geography, or topography of the area to be served by the project. Given the build time associated with broadband infrastructure projects, these standards will enable SLFRF funds to fund lasting infrastructure that will be able to accommodate increased network demand once the network is

complete,³⁴⁰ while providing flexibility for certain locations to meet lower speed standards where 100 Mbps symmetrical speeds are impracticable.

To illustrate the accelerating need for higher upload speeds, by one measure, mean upload speeds as of October 2021 increased to 75.21 Mbps as compared to 62.11 Mbps a year earlier.³⁴¹ Jurisdictions are increasingly responding to the growing demands of their communities for high speeds; for example, Illinois requires 100 Mbps symmetrical service as the construction standard for their state broadband grant programs. The 100 Mbps symmetrical standard accounts for increased pandemic internet usage and provides adequate upload speeds for individuals and businesses to accommodate interactive applications such as virtual learning and videoconferencing, while also helping ensure that funding is responsibly used to provide a true and lasting benefit for years to come. Treasury continues to encourage recipients to prioritize investments in fiber-optic infrastructure wherever feasible, as such advanced technology enables the next generation of application solutions for all communities and is capable of delivering superior, reliable performance and is generally most efficiently scalable to meet future needs.³⁴² In designing these projects, recipients should ensure that the broadband infrastructure provides "reliable" service at required speeds and are not required to rely on providers' advertised speeds in their assessments.

Consistent with further guidance issued by Treasury,³⁴³ while recipients are permitted to make investments in "middle-mile" connections that otherwise satisfy the requirements of the final rule, Treasury continues to encourage recipients to focus on

³⁴⁰ Using the Federal Communications Commission (FCC) Broadband Speed Guide, a household with two telecommuters and two to three remote learners today is estimated to need 100 Mbps download to work simultaneously. See Federal Communications Commission, Broadband Speed Guide, available at <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last visited October 28, 2021).

³⁴¹ United States' Mobile and Broadband Internet Speeds—Speedtest Global Index, available at <https://www.speedtest.net/global-index/united-states#fixed>.

³⁴² Bennett Cyphers, The Case for Fiber to the Home, Today: Why Fiber is a Superior Medium for 21st Century Broadband, Electronic Frontier Foundation (October 16, 2019), <https://www.eff.org/wp/case-fiber-home-today-why-fiber-superior-medium-21st-century-broadband>.

³⁴³ See FAQ 6.10, Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

data.fcc.gov/download/measuring-broadband-america/2020/2020-Fixed-Measuring-Broadband-America-Report.pdf (comparing fiber with DSL and cable technologies on a number of dimensions); <https://www.eff.org/wp/case-fiber-home-today-why-fiber-superior-medium-21st-century-broadband> (providing a technical background comparing fiber technology to other legacy technologies).

projects that will achieve last-mile connections—whether by focusing directly on funding last-mile projects or by ensuring that funded middle-mile projects have commitments in place to support new and/or improved last-mile service.

Affordability

The interim final rule encouraged recipients to consider ways to integrate affordability options into their program design but did not require recipients to take particular actions. The interim final rule also provided that assisting households with internet access and digital literacy is an eligible use of SLFRF funds under sections 602(c)(1)(A) and 603(c)(1)(A) to respond to the negative economic impacts of COVID–19.

Public Comment: Many commenters suggested that Treasury provide recipients with a broader set of tools to tackle what the commenters characterized as an affordability crisis in the broadband sector. As noted above, some commenters proposed that Treasury consider affordability when determining whether an area is unserved or underserved by broadband. Some commenters indicated that the final rule should allow for the construction of broadband networks in low-income neighborhoods including low-cost or no-cost gap networks, even in areas with existing service at the speeds required under the interim final rule. Other commenters voiced support for direct subsidies to low-income communities to afford broadband service, which would provide additional incentives for providers to serve these communities.

Treasury Response: In response to many commenters that highlighted the importance of affordability in providing meaningful access to necessary broadband infrastructure, the final rule provides additional requirements to address the affordability needs of low-income consumers in accessing broadband networks funded by SLFRF. Recipients must require the service provider for a completed broadband infrastructure investment project that provides service to households to:

- Participate in the Federal Communications Commission's (FCC) Affordable Connectivity Program (ACP); or
- Otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP.

Recipients must require providers to participate in or provide access to these programs through the life of the ACP. This requirement will no longer apply once the SLFRF-funded broadband infrastructure is no longer in use.

Furthermore, Treasury also recognizes the importance of affordable broadband access for all consumers beyond those that are low income. As part of their project selection process, recipients are encouraged to consult with the community on the general affordability needs of the target markets in the proposed service area. Additionally, recipients are encouraged to require that services provided by a broadband infrastructure project include at least one low-cost option offered without data usage caps at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning. Treasury will require recipients to report speed, pricing, and any data allowance information as part of their mandatory reporting to Treasury.

Further, Treasury is clarifying that, as a response to the public health and negative economic impacts of the pandemic, recipients may provide households and communities impacted by the pandemic with subsidies to help pay for internet service, digital literacy programs, broadband adoption programs, and device programs that provide discounted or no-cost devices for low-income households to access the internet. For further discussion of this eligible use category, see the section internet Assistance in Assistance to Households in Public Health and Negative Economic Impacts.

Public Networks

The interim final rule encouraged recipients to prioritize support for local networks owned, operated, or affiliated with local governments, nonprofits, and cooperatives.

Public Comment: Many commenters voiced their support for Treasury's encouragement that recipients work with governmental or community entities to establish local networks, arguing that they have been shown to effectively provide broadband access to areas that would otherwise be left with unaffordable or insufficient service. These commenters suggested that, since these entities are less driven by financial returns to investment than private providers, in some circumstances they may be able to provide robust service at a lower price as compared to private providers, along with potentially increasing local competition in a service area.

Other commenters argued against Treasury's encouragement, remarking that private businesses have a robust track record of serving hard-to-reach customers. These commenters argued that commercial providers have greater technical and operational expertise in deploying and operating broadband networks and may be able to construct broadband networks with greater efficiency. Additionally, some commenters argued that providing what they considered an unfair competitive advantage for government- or community-owned or operated networks may hurt consumers over time.

Treasury Response: The final rule maintains the interim final rule's encouragement for recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, nonprofits, and cooperatives, given that these networks have less pressure to generate profits and a commitment to serve entire communities.³⁴⁴ This encouragement provides flexibility for recipients to select providers that best fit their needs, while noting the critical role that networks owned, operated, or affiliated with local governments and community organizations can play in providing sufficient coverage, affordable access, or increased competition in the broadband sector.

Duplication of Efforts and Resources

Public Comment: Some commenters raised concerns that Treasury's encouragement in the interim final rule that recipients avoid funding projects in locations with an existing agreement to provide service that reliably delivers 100/20 Mbps by December 31, 2024 was too restrictive. Commenters noted that many plans do not always lead to a successful and complete deployment, as issues may arise that prevent such infrastructure from deploying on time or at all, and that several existing federal grants were designed and awarded before the onset of the COVID–19 pandemic and do not meet the critical broadband needs highlighted by the pandemic. Other commenters argued that Treasury's encouragement to avoid duplication of resources should be strengthened, as investing in areas with existing agreements would be an inefficient duplication of efforts.

Treasury Response: Given the final rule's revised requirements on eligible areas for investment, this

³⁴⁴ The Executive Office of the President, Community-Based Broadband Solutions (January 2015), https://obamawhitehouse.archives.gov/sites/default/files/docs/community-based_broadband_report_by_executive_office_of_the_president.pdf.

Supplementary Information to the final rule also modifies the interim final rule's requirements around duplication of resources. Since recipients must ensure that the objective of the broadband projects is to serve locations with an identified need for additional broadband investment, the final rule provides that, to the extent recipients are considering deploying broadband to locations where there are existing enforceable federal or state funding commitments for reliable service at speeds of at least 100 Mbps download speed and 20 Mbps upload speed, recipients must ensure that SLFRF funds are designed to address an identified need for additional broadband investment that is not met by existing federal or state funding commitments. Recipients must also ensure that SLFRF funds will not be used for costs that will be reimbursed by the other federal or state funding streams.

Cybersecurity

Public Comment: Several commenters expressed concern about the cybersecurity of new broadband projects funded with SLFRF funds and urged Treasury to prohibit recipients from utilizing SLFRF funds to procure equipment from certain providers from the People's Republic of China that may pose a national security risk. These commenters pointed out that the 2019 National Defense Authorization Act (NDAA) and the FCC's Universal Service Fund have similar prohibitions. Further, several commenters requested that Treasury explicitly include cybersecurity costs as an eligible use for broadband infrastructure investment given the growing threat of cyber-attacks and cyber-intrusions into the nation's infrastructure.

Treasury Response: Treasury highlights that investments in broadband infrastructure must be carried out in ways that comply with applicable federal laws, including the 2019 NDAA. Among other requirements contained in 2 CFR part 200, 2 CFR 200.216 implements certain provisions of the NDAA and contains prohibitions on the use of federal financial assistance to procure or obtain certain telecommunications and video surveillance services or equipment provided or produced by designated entities, including certain entities owned or controlled by the People's Republic of China. In addition, 2 CFR 200.471 provides that certain telecommunications and video surveillance costs associated with 2 CFR 200.216 are unallowable.

Further, the final rule allows for modernization of cybersecurity for existing and new broadband infrastructure as an eligible use under sections 602(c)(1)(D) and 603(c)(1)(D) as such investments are necessary for the reliability and resiliency of broadband infrastructure.³⁴⁵ Recipients may provide necessary investments in cybersecurity, including modernization of hardware and software, for existing and new broadband infrastructure regardless of their speed delivery standards. The final rule maintains the interim final rule's provision that allows for broader modernization of cybersecurity, including hardware, software, and protection of critical infrastructure as an eligible provision of government services, to the extent of revenue loss due to the pandemic, under sections 602(c)(1)(C) and 603(c)(1)(C).

Use of Funds To Meet Non-Federal Match Under the Infrastructure Investment and Jobs Act

The Infrastructure Investment and Jobs Act specifies that, except as otherwise provided, an entity using funding under section 60102 of the law for broadband deployment "shall provide, or require a subgrantee to provide, a contribution, derived from non-Federal funds (or funds from a Federal regional commission or authority) . . . of not less than 25 percent of project costs."³⁴⁶ It further states that the matching contribution may include funds provided to an eligible entity or subgrantee under the American Rescue Plan Act for the purpose of deployment of broadband service, which includes funds provided under the SLFRF program.

SLFRF and the program established under section 60102 of the Infrastructure Investment and Jobs Act are separate programs with separate requirements. While section 60102 allows states and other eligible entities to use SLFRF funds as the source of matching funds for broadband deployment, the requirements of the SLFRF program still apply. As such, recipients that use SLFRF funds to meet the section 60102 matching requirement will continue to be subject to the requirements of the SLFRF program.

³⁴⁵ For more on the importance of cybersecurity to the reliability and resiliency of broadband networks, see: Federal Communications Commission, <https://docs.fcc.gov/public/attachments/FCC-10-63A1.doc>; Brookings Institute, Protecting the Cybersecurity of America's Networks (February 11, 2021), <https://www.brookings.edu/blog/techtank/2021/02/11/protecting-the-cybersecurity-of-americas-networks/>.

³⁴⁶ See Infrastructure Investment and Jobs Act, Public Law 117–58 (2021).

III. Restrictions on Use

While recipients have considerable flexibility to use funds to address the diverse needs of their communities, some restrictions on use of funds apply. The ARPA includes two statutory provisions that further define the boundaries of the statute's eligible uses. First, section 602(c)(2)(A) of the Social Security 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." Second, sections 602(c)(2)(B) and 603(c)(2) prohibit all recipients, except Tribal governments, from using funds for deposit into any pension fund. These restrictions support use of funds only for the congressionally permitted purposes described in the Eligible Uses section by providing a backstop against the use of funds for purposes outside of the eligible use categories provided for in the statute.

In addition to the restrictions on use of funds provided for in the ARPA statute, the interim final rule noted that several uses of funds would be ineligible under any eligible use category, including as a response to the public health and negative economic impacts of the pandemic or as a "government service" under the revenue loss eligible use category. Specifically, use of funds for debt service, to replenish financial reserves, or to satisfy an obligation arising from a judicial settlement or judgment were ineligible uses of funds under the eligible use categories for public health and negative economic impacts and revenue loss. These restrictions apply to all recipients.

Recipients should note that restrictions on use of funds for debt service, to replenish financial reserves, or to satisfy an obligation arising from a judicial settlement or judgment apply to all eligible use categories, not just the eligible use categories in which they were discussed in the interim final rule.

Recipients are also subject to other restrictions on use of funds in the ARPA, the Award Terms and Conditions, and other federal laws. As discussed further below, uses of funds may not conflict with the overall statutory purpose of the ARPA to reduce the spread of COVID–19. Per the Award Terms and Conditions, recipients must adopt and abide by policies to prevent conflicts of interest. Finally, recipients are reminded that other federal laws

also apply to uses of funds, including environmental and civil rights laws.

To enhance clarity, this

SUPPLEMENTARY INFORMATION for the final rule consolidates these restrictions on use of funds into one section and makes clear that they apply to all eligible use categories and any use of funds under the program by recipients to whom each specific restriction applies.

This section discusses the aforementioned restrictions, public comments received, and Treasury's response to these comments. For clarity, Treasury has divided the following discussion into (A) statutory restrictions under the ARPA, which include (1) offsetting a reduction in net tax revenue, and (2) deposits into pension funds, and (B) other restrictions on use, which include (1) debt service and replenishing reserves, (2) settlements and judgments, and (3) general restrictions.

A. Ineligible Uses of Funds Under the ARPA Statute

1. Offset a Reduction in Net Tax Revenue

For states and territories (recipient governments³⁴⁷), section 602(c)(2)(A)—the offset provision—prohibits the use of SLFRF funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation³⁴⁸ during the covered period. If a state or territory uses SLFRF funds to offset a reduction in net tax revenue resulting from a change in law, regulation, or interpretation, the ARPA provides that the state or territory must repay to Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount of SLFRF funds received by the state or territory. A state or territory that uses SLFRF funds to offset a reduction in net tax revenue does not forfeit its entire allocation of SLFRF funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-SLFRF funding.

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. The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than SLFRF funds: Organic revenue growth, increases in revenue due to policy changes (*e.g.*, an increase in a tax rate), and certain cuts in spending.

Specifically, the interim final rule establishes a step-by-step process for determining whether, and the extent to which, SLFRF funds have been used to offset a reduction in net tax revenue, based on information reported 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 SLFRF 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 it is 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 SLFRF funds. These are:

- State or territory tax changes that would increase any source of general

fund revenue, such as a change that would increase a tax rate; and

- Spending cuts in areas not being replaced by SLFRF 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 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 along with an explanation of such amounts. This process is discussed in greater detail in section Remediation and Recoupment 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 SLFRF funds.

Overview of Comments: Many commenters supported the framework established under the interim final rule. These commenters argued that the offset provision, and the interim final rule's implementation of the offset provision, was essential to ensuring SLFRF funds are used in a manner consistent with the statute's defined eligible uses and, in particular, to support the use of SLFRF funds to build public sector capacity. Several commenters argued that the framework should be made more restrictive; for example, some comments advocated that the offset provision be applied to local governments.

Other commenters argued that the offset provision and the interim final rule's implementation of the offset provision is too restrictive, with some asserting that the offset provision prohibits states from making changes to reduce taxes. Many of these commenters argued that the offset provision presents constitutional concerns. These commenters asserted that the offset provision is ambiguous and the restriction is unrelated to the purpose of the ARPA. These commenters also

³⁴⁷ 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 SLFRF.

³⁴⁸ For brevity, this phrase is referred to as “changes in law, regulation, or interpretation” for the remainder of this **SUPPLEMENTARY INFORMATION**.

argued that the generous amount of SLFRF funds provided to those governments gave recipient governments little choice as to whether to accept the SLFRF funds and, as a result, the offset provision is coercive. In describing these concerns and arguments, several of these commenters referenced litigation regarding the offset provision.³⁴⁹ Many of these commenters also expressed concern regarding the interim final rule's implementation of the offset provision. Some of these commenters argued that Treasury lacked the authority to implement the provision, asserting that the significance of the provision required Congress to make an explicit delegation of rulemaking authority and provide clearer principles by which Treasury should implement the provision. Finally, one commenter argued that the offset provision should only apply if the recipient expressly and intentionally uses SLFRF funds to offset a reduction in revenue, arguing that the term "offset" implies a deliberate use SLFRF funds to "pay for" a tax cut.

As discussed in the interim final rule, the offset provision does not prevent a recipient government from enacting a broad variety of tax changes. Rather, the offset provision prevents a recipient government from using SLFRF funds to offset a revenue reduction resulting from a tax cut. A recipient government would only be considered to have used SLFRF 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 SLFRF funds to offset the reduction in net tax revenue. Only 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, will the remaining amount not covered by these sources be considered to have been offset by SLFRF funds, in contravention of the offset provision. Consistent with the statutory text, the approach taken in the interim final rule recognizes that, because money is fungible, even if SLFRF 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. As discussed below, the scope of changes in law, regulation, or interpretation is further limited to those that the recipient government voluntarily enacted during the covered period.

Congress has the authority under the Spending Clause in Article I, section 8 of the Constitution to specify the permissible and impermissible uses of federal grants. The Supreme Court has repeatedly "upheld Congress's authority to condition the receipt of funds on the States' complying with restrictions on the use of those funds, because that is the means by which Congress ensures that the funds are spent according to its view of the 'general Welfare.'" ³⁵⁰ "The power to keep a watchful eye on expenditures . . . is bound up with congressional authority to spend in the first place." ³⁵¹ Assertions that the amount of SLFRF funds are sufficiently large to be coercive are inconsistent with the Supreme Court's reasoning in *NFIB*, which distinguished between conditions placed on new federal funds and conditions placed on existing federal funds and not based on the size of funds.³⁵² Further, the conditions placed on the use of SLFRF funds under the ARPA—both the eligible uses and additional limitations on deposits into pension funds and the offset provision—were well known to recipient governments prior to recipient governments requesting to receive SLFRF funds. Finally, the ARPA provides Treasury with the express authority "to issue such regulations as may be necessary or appropriate to carry out" section 602, which includes the offset provision.

A number of commenters expressed concern regarding the burden associated with complying with the offset provision and the interim final rule. Similarly, other commenters argued that the framework provided in the interim final rule complicated implementation

of the offset provision. Treasury took several steps to minimize burden for recipient governments in the interim final rule. For example, the interim final rule 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 SLFRF funds based on information they likely have or can readily obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of SLFRF funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or interpretation, making the funds potentially subject to recoupment. To further reduce burden, Treasury is considering whether the scope of reporting requirements can be further tailored.

As described in greater detail below, Treasury is finalizing its implementation of the offset provision largely without change. This approach is consistent with the text of the ARPA. The remainder of this section discusses and responds to comments on specific aspects of the framework.

1. Definitions

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from "a change in law, regulation, or administrative interpretation." Consistent with this language, the interim final rule defines a "covered change" to include 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. Thus, 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. For example, 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.³⁵³ Changed

³⁵⁰ *National Fed'n of Indep. Bus. v. Sebelius* (*NFIB*), 567 U.S. 519, 580 (2012) (plurality opinion); see, e.g., *South Dakota v. Dole*, 483 U.S. 203, 206–208 (1987); *Gruver v. Louisiana Bd. of Supervisors for Louisiana State Univ. Agric. & Mech. Coll.*, 959 F.3d 178, 183 (5th Cir.), cert. denied, 141 S. Ct. 901 (2020). For additional discussion of these issues, see, e.g., *Brief Reply for Appellants, Ohio v. Yellen*, No. 21–3787 (6th Cir. Oct. 26, 2021).

³⁵¹ *Sabri v. United States*, 541 U.S. 600, 608 (2004).

³⁵² The new federal funds offered by the Affordable Care Act totaled \$100 billion per year. Even the dissenting Justices agreed that "Congress could have made just the new funding provided under the ACA contingent on acceptance of the terms of the Medicaid Expansion," although they disagreed with the majority about whether that funding condition was severable. *NFIB* at 687–688 (joint dissent).

³⁴⁹ See, e.g., *State of West Virginia v. U.S. Department of the Treasury*, No. 7:21-cv-00465–LSC, 2021 WL 2952863 (N.D. Ala. Jul. 14, 2021); *State of Ohio v. Yellen*, No. 1:21-cv-181, 2021 WL 2712220 (S.D. Ohio Jul. 1, 2021).

³⁵³ 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. See, e.g., Tax

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 changes within the control of the state or territory are considered covered changes. Finally, covered changes do not include changes 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).

Scope of Covered Changes

Public Comment: Several commenters argued that the definition of covered change, and thus the limitations of the offset provision, should apply to subsidies for businesses. Similarly, other commenters requested that Treasury clarify that the offset provision applies to tax abatements and reductions in corporate taxes, even if administered by a sub-unit of the recipient government. Citing to empirical research and other evidence, these commenters argued that these types of economic development policies were poorly administered, reduced public sector capacity, and were ineffective at achieving stated objectives of creating jobs, increasing income, and increasing economic growth. On the other hand, some commenters argued that, because subsidies were economically similar to some tax cuts, neither action should be considered a covered change and subject to the offset provision. Finally, other commenters requested that Treasury clarify whether covered changes must be broad-based policies or whether administrative decisions applicable to individuals would be considered covered changes.

Treasury Response: Section 602(c)(2)(A) applies to any change that “reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise or delays the imposition of any tax or tax increase.” Accordingly, and consistent with this statutory text, the final rule applies to covered changes that reduce any tax, which can include tax abatements, but does not apply to loans,

grants, or other types of interventions that do not reduce tax revenue.³⁵⁴ In addition, by including changes in regulation or administrative interpretation, in addition to changes in law, within the scope of the offset provision, the ARPA recognizes that a recipient government may make a covered change through its legislature or may delegate the authority to make a covered change including, but not limited to, to a sub-unit of government. Treasury has revised the definition of “covered change” in the final rule using the statutory language above to make clear that the offset provision only applies to such changes in law, regulation, or administrative interpretation. With respect to the question of whether covered changes could include administrative decisions applicable to individuals, as discussed above, a covered change includes a change in law, regulation, or administrative interpretation that reduces any tax. Such changes may apply to one or more individuals or entities, provided that—consistent with the statutory text—they result from a change in law, regulation, or administrative interpretation.

Prior Enactment and Phase-In

Public Comment: A number of commenters expressed concern, or requested clarification, regarding changes that were enacted prior to the covered period but take effect or phase-in during the covered period. Several commenters argued that the definition of covered change should include changes that were made prior to the covered period but that phase-in during the covered period.

Treasury Response: As discussed above, the offset provision is triggered by a reduction in net tax revenue resulting from “a change in law, regulation, or administrative interpretation” made during the covered period. Consistent with the statutory text, “covered change” is defined to include 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.

Conformity

Public Comment: A number of commenters requested clarification on the scope of covered changes. Specifically, several commenters

requested clarification on the scope of changes that would be considered as conforming to recent changes in federal law. These commenters requested that Treasury clarify whether actions to selectively conform with federal law would be considered covered changes and requested clarification regarding the extent to which changes would be considered “recent.” For example, these commenters requested clarification regarding conformance with the Global Intangible Low-Taxed Income provision of the 2017 Tax Cuts and Jobs Act. Some commenters further argued that changes that selectively conform or decouple from the Internal Revenue Code should be included within scope of covered changes and thus subject to the offset provision.

Treasury Response: The final rule maintains the treatment of changes that simply conform with recent changes in federal law, such as those to conform to recent changes in federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program³⁵⁵ and including other changes over the past several years. Regardless of the particular method of conformity and the effect on net tax revenue, Treasury views such changes as permissible under the offset provision.

Accordingly, and for the reasons discussed above, Treasury is maintaining the definition of covered change without change.

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.³⁵⁶ It provides a consistent, well-established definition with which states and territories will be familiar and is consistent with the approach taken in section Revenue Loss of this **SUPPLEMENTARY INFORMATION** describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act regarding revenue loss. A number of commenters expressed concern and requested clarification regarding the definition of “tax revenue.” These comments and responses are discussed in section Revenue Loss of this Supplemental Information and, for the reasons discussed above, Treasury is finalizing the definition of tax revenue without

³⁵⁵ See Statement on State Fiscal Recovery Funds and Tax Conformity, April 7, 2021, available at <https://home.treasury.gov/news/press-releases/jy0113>.

³⁵⁶ 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).

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).

³⁵⁴ Assistance must be consistent with eligible uses of SLFRF funds. See section Eligible Uses of this **SUPPLEMENTARY INFORMATION**.

change and maintaining a consistent definition of “tax revenue.”³⁵⁷

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 is 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.³⁵⁸

Public Comment: Some commenters expressed concern regarding the choice of FY 2019 as the baseline, arguing that the choice lacked justification and would make the offset provision more restrictive as applied to recipient governments that experienced a decline in revenue independent of making any covered changes.

Treasury Response: Measuring a “reduction” in net tax revenue requires identification of a baseline. In other words, a “reduction” can be assessed only by comparing two amounts. The Act defines “covered period” to begin on March 3, 2021, and thus the baseline year must end prior to March 3, 2021. As discussed in the interim final rule, FY 2019 is the last full fiscal year prior to the COVID–19 public health emergency, and thus is consistent with the statutory definition and does not include the extraordinary effects of the pandemic that began in 2020. Further, as discussed above, the interim final rule recognizes three potential ways that a recipient government may offset or “pay for” a reduction in net tax revenue due to a covered change: Increases in taxes, decreases in spending, and organic revenue growth. U.S. gross domestic product rebounded to exceed its pre-pandemic level in 2021,³⁵⁹ suggesting that an FY 2019 pre-

pandemic baseline is a reasonable comparator for future revenue levels and provides recipients with flexibility to identify organic growth as a permissible offset. Finally, this baseline year is consistent with the approach directed by 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. For these reasons, Treasury is finalizing the definition of “baseline” without change.

The interim final rule includes several other definitions that are applicable to the implementation of the offset provision, such as the term “reporting year.”³⁶⁰ Commenters did not express concern regarding other definitions in the interim final rule.

2. Framework

The interim final rule provides a step-by-step framework, to be used in each reporting year, to determine whether a state or territory used SLFRF funds to offset a reduction in net tax revenue. Consistent with section 602(c)(2) and the interim final rule, the final rule applies to states and territories:

(1) *Covered changes that reduce tax revenue.* Under the interim final rule, a recipient government identifies and values 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 interim final rule states that 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 these effects relative to a current law baseline. If the recipient would prefer, 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).³⁶¹ Further, estimation approaches may not use dynamic methodologies that incorporate the

projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework.

Estimation

Public Comment: A number of commenters expressed concern that estimating the value of covered changes required a number of assumptions and that the actual effects of covered changes on tax revenue would be difficult to predict. Several commenters expressed support for the interim final rule’s approach to dynamic scoring methodologies, and one commenter argued that the final rule should prohibit the use of prior cash balances in calculations of permissible tax cuts.

Treasury Response: Treasury recognizes that estimating the effects of covered changes requires assumptions and that many other factors influence the amount of tax revenue received. The interim final rule addresses these concerns in several ways. First, 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, by relying on scoring methodologies that do not incorporate projected effects of macroeconomic growth, the estimation of the value of covered changes relies on fewer assumptions and thus provide greater consistency among states and territories. Finally, as discussed below, the interim final rule includes a de minimis threshold, below which the sum of covered changes will be deemed not to have any revenue-reducing effects.

Timing of the Impact of Covered Changes

Public Comment: Several commenters expressed concern that recipient governments, to evade the offset provision, may backload the costs of certain covered changes outside of the covered period, and advocated that covered changes be instead evaluated as the net present value in the year that the covered change is enacted. These commenters argued that some tax cuts could have effects on tax revenue for many decades or could be structured to take effect after the end of the covered period.

Treasury Response: As discussed in section Timeline for Use of SLFRF Funds, SLFRF funds must be used to cover costs incurred prior to December 31, 2024. Accordingly, SLFRF funds

³⁵⁷ As discussed in section Revenue Loss of this Supplementary Information, for purposes of measuring revenue lost due to the pandemic under sections 602(c)(1)(C) and 603(c)(1)(C), recipients must adjust the amount of revenue lost to reflect changes that resulted from a tax increase or decrease. These adjustments do not apply to or affect the definition of tax revenue.

³⁵⁸ U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, <https://www.bea.gov/data/prices-inflation/gdp-price-deflator> (last visited Apr. 30, 2021). The FY 2019 baseline revenue is 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.

³⁵⁹ Economy Statement by Catherine Wolfram, Acting Assistant Secretary for Economy Policy, for the Treasury Borrowing Advisory Committee November 1, 2021 (Nov. 1, 2021), available at <https://home.treasury.gov/news/press-releases/jy0453>.

³⁶⁰ One commenter requested clarification that references to fiscal year refer to the fiscal year of the recipient. “Reporting year” is defined in the interim final rule and final rule to mean “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.”

³⁶¹ By permitting recipient governments to use actual or estimated values, the interim final rule and final rule provide flexibility to recipients and thus minimizes burden.

generally would not be able to offset a reduction in net tax revenue occurring after December 31, 2024.

For these reasons, Treasury is maintaining this element of the interim final rule without change.

(2) *In excess of the de minimis.* Under the framework established in the interim final rule, after establishing that a covered change occurred, the recipient government next calculates 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 is 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. Under the interim final rule, the de minimis level is calculated as 1 percent of the reporting year's baseline.

Public Comment: Many commenters supported the inclusion of the de minimis, noting that the de minimis protects recipients from penalty resulting from minor or incidental changes, minimizes administrative burden, and enhances predictability of the application of the offset provision. Some commenters expressed concern that the fixed threshold could result in cliff effects.

Treasury Response: A clear de minimis threshold supports recipient governments' compliance with the offset provision. A de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. In other words, 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. However, a de minimis does not automatically result in consequences under the offset provision, since a recipient government could demonstrate that other, non-SLFRF funds to offset a net reduction in tax revenue. Accordingly, any cliff effects associated with a clear de minimis threshold are mitigated by other aspects of the framework.

Public Comment: Commenters expressed a range of views regarding the amount of the de minimis. Some commenters argued that the de minimis was too generous, noting that the choice of 1 percent could, in some cases, permit reductions in net tax revenue of hundreds of millions of dollars. These commenters advocated that the de minimis be lowered (e.g., to 25 basis points) or be tied to a fixed amount. Other commenters argued that the choice of de minimis was not well supported by the statute, advocated for a larger de minimis and suggested that the amount be tied to the recipient government's total expenditures in the prior fiscal year.

Treasury Response: Treasury adopted a de minimis threshold as an administrative accommodation for the reasons discussed above. As discussed in the interim final rule, Treasury determined that the 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies and was determined 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.³⁶²

For these reasons, Treasury is adopting the 1 percent de minimis without change.

(3) *Safe harbor.* Next, under the interim final rule, if the revenue reduction caused by the covered changes exceeds the 1 percent de minimis threshold, the recipient government compares 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 SLFRF 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, the offset 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 any covered changes. One commenter argued that the offset for organic growth be adjusted to reflect population growth. To minimize administrative burden, and

for the reasons discussed above, Treasury is maintaining the measurement of actual tax revenue without adjustment for population growth.

(4) *Consideration of other sources of funding.* The recipient government will then 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. Recipient governments should use the same approach to identify and value covered changes that increase tax revenue as applied to covered changes that reduce tax revenue. For the reasons discussed above, Treasury is adopting these aspects of identifying and valuing covered changes without change.

(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 in an area where the recipient government has not spent SLFRF funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent SLFRF funds on that same department, agency, or authority. If the recipient government has not spent SLFRF 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 spent SLFRF funds in such department, agency, or authority, the SLFRF funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of SLFRF funds spent on the department, agency, or authority would count. This approach—allowing only spending reductions in areas where the recipient government has not spent SLFRF funds to be used as an offset for a reduction in net tax revenue—aims to prevent recipient governments from using SLFRF funds to supplant state or territory funding in the eligible use

³⁶² Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004–2017.

areas, and then using those state or territory funds to offset tax cuts. Such an approach helps ensure that SLFRF funds are not used to “indirectly” offset revenue reductions due to covered changes.

Department, Agency, or Authority

Public Comment: Several commenters supported the interim final rule’s approach to considering spending cuts at the department, agency, or authority level, on the basis that this approach is supported by the statutory language prohibiting SLFRF funds from being used to “directly or indirectly” offset a reduction in net tax revenue. On the other hand, some commenters argued that the methodology for identifying offsetting spending cuts was too restrictive; specifically, that measurement at the agency or department-level may not adequately account for the size and various programs that could occur in one agency or department. One commenter argued that recipient governments should instead be permitted to consider spending cuts on a more granular sub-unit of a department but noted that this additional flexibility would come at the cost of transparency and clarity.

Treasury Comment: Treasury recognizes that some recipients may vary in their budgeting processes, with some budgeting on a department level and others budgeting at more or less granular sub-units of government. Relying on spending at a department, agency, or authority level allows recipient governments to report how SLFRF funds have been spent using reporting units already incorporated into their budgeting process.

Spending Cuts Baseline

Under the interim final rule, 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 SLFRF funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offset other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding SLFRF 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.

Public Comment: Several commenters expressed concern regarding the measurement of spending cuts relative to the recipient’s FY 2019, for example arguing that the choice did not take into account increases in spending in 2020. As one commenter noted, the fiscal year 2020 required extraordinary intervention by recipient governments and the ongoing public health emergency continues to require extraordinary intervention.

Treasury Response: FY 2019 provides a reasonable and relatively generous baseline for considering spending because it is the last full fiscal year prior to the COVID–19 public health emergency and governments’ extraordinary efforts to address the impact of the pandemic. This approach also aligns with the FY 2019 baseline for measuring revenue loss. 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.

For the reasons discussed above, Treasury is adopting the approach taken in the interim final rule without change.

(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 SLFRF funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of the reduction revenue due to covered changes that a recipient government must cover is capped at the difference between the baseline and actual tax revenue.³⁶³ In the event that the baseline is above actual tax revenue but 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. The revenue reduction cap implements this approach for

permitting organic revenue growth to cover the cost of tax cuts.

Finally, a recipient government may request reconsideration of any amounts identified in a notice from Treasury as subject to recoupment under this framework. Comments and responses to the recoupment process are discussed in section Remediation and Recoupment of this Supplemental Information.

3. Reporting

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, recipient governments are required to report certain information. The interim final rule indicated that Treasury would provide additional guidance at a later date and that, on an annual basis, it expected each recipient government would be required to provide the following information:

- 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; and
- 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.

Since the adoption of the interim final rule, Treasury has provided guidance on reporting regarding eligible uses and has required recipient governments to indicate whether they have made covered changes and the value of such changes.³⁶⁴

Reporting Burden

Public Comment: Some commenters argued that the framework for identifying and reporting impermissible offsets was burdensome and that the burdens should be accounted for under Executive Order 13132 (Federalism, August 4, 1999).

Treasury Response: Taking into consideration comments received regarding burden, Treasury is considering a tiered approach to reporting on the offset provision. Specifically, under this approach, a recipient would only be required to report information to the extent needed to determine whether SLFRF funds had been used to offset a reduction in net tax revenue. For example, a recipient government would be required to report

³⁶³ This cap is applied in section 35.8(c) of the final rule, calculating the amount of funds used in violation of the tax offset provision.

³⁶⁴ See Reporting Guidance, Section C.11, available at <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

information regarding permissible offsets only if it had also reported covered changes that were in excess of the de minimis and had reported a net reduction in tax revenue. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

As discussed in section Regulatory Analyses of this Supplemental Information, Treasury maintains that the final rule does not have federalism implications within the meaning of Executive Order 13132 (Federalism, August 4, 1999). In the ARPA, Congress requires states and territories to repay the Secretary for amounts used in violation of the prohibition on using SLFRF funds to offset reductions in net tax revenue, and it authorizes the Secretary to issue regulations to carry out this limitation and other requirements of the statute. Section 6(b) of Executive Order 13132 contemplates that certain regulations will be required by statute, as is the case with the interim final rule and the final rule, in which case section 6(b)(2)(B)'s requirement to include a federalism summary impact statement in the Supplementary Information to the regulation does not apply. 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.

Reporting Transparency

Public Comment: Several commenters argued that information supporting the net tax offset calculation should be publicly available. Some of these commenters requested that reporting be made available in a machine-readable format, and others advocated that recipient governments disclose this information on their local budget agency's website. These commenters argued that making information regarding tax changes publicly available would increase transparency and accountability. Further, several commenters suggested that Treasury provide a mechanism for citizens to register their concerns about particular tax actions.

Treasury Response: As discussed in other sections, reporting requirements promote transparency and accountability for the general public and constituents of recipient governments to understand how state, local, and Tribal governments have used SLFRF funds. Since the publication of the interim final rule, Treasury issued supplementary reporting guidance in the Compliance and Reporting Guidance

and in the User Guide: Treasury's Portal for Recipient Reporting (User Guide), which addresses the particular content and form of required reporting. Treasury will continue to issue updated guidance prior to each reporting period clarifying any modifications to requested report content and will continue to consider how reporting can best support transparency and accountability while minimizing recipient administrative burden. Further, as discussed in the section Remediation and Recoupment, Treasury may address potential violations of this final rule based on both information submitted from recipients, either through quarterly reports or self-reporting, and from other sources of information (e.g., information submitted from the public).

2. Deposit Into Pension Funds

Background: Subsection 602(c)(2)(B) of the Social Security Act provides that "[n]o State or territory may use funds made available under this section for deposit into any pension fund." Similarly, subsection 603(c)(2) of the Social Security Act provides that "[n]o metropolitan city, nonentitlement unit of local government, or county may use funds made available under this section for deposit into any pension fund."

For purposes of this restriction on pension deposits, the interim final rule defined deposit to mean "an extraordinary payment of an accrued, unfunded liability." The interim final rule also specified that a deposit does not include routine contributions made as part of a payroll obligation, such as the normal cost component of a pension contribution or the component that consists of amortization of unfunded liabilities calculated by reference to the employer's payroll costs. The interim final rule applied the restriction on pension deposits to all recipients.

Public Comment: Several commenters observed that the statutory restriction on deposits into pension funds does not apply to Tribal governments.

Treasury Response: In response, Treasury is clarifying in the final rule that the pension restriction does not apply to Tribal governments.

Public Comment: Treasury also received a comment expressing concern that the interim final rule permitted recipients to make a larger than usual pension contribution, so long as the timing of that contribution aligns with the historical timing of contributions.

Treasury Response: The interim final rule prohibited the use of SLFRF funds from the ARPA to make extraordinary payments, and the **SUPPLEMENTARY INFORMATION** to the interim final rule said that a payment would be an

extraordinary payment if it reduces a liability incurred prior to the start of the COVID-19 public health emergency and occurs outside the recipient's regular timing for making the payment. At the same time, however, as suggested by the comment Treasury received, a payment made at the regular time for pension contributions may very well be an extraordinary payment, for example, if it is larger than a regular payment would have been. Such a payment would be a restricted use.

Public Comment: Other commenters asked which pension contributions are permitted.

Treasury Response: To be an eligible use of SLFRF funds, a use must (1) be eligible under one of the eligible use categories and (2) not contravene any of the applicable restrictions on uses of funds. Some pension contributions may be eligible because they both fit within an eligible use category and do not contravene the restriction on deposits into pension funds (i.e., they are not an extraordinary payment of an accrued, unfunded liability). For example, payroll and covered benefits for public health and safety staff responding to COVID-19 are an eligible use of funds to respond to the public health and negative economic impacts of the pandemic; routine pension contributions as part of an employee's regular covered benefits are permissible under that eligible use category.

B. Other Restrictions on Use of Funds

1. Debt Service and Replenishing Financial Reserves

The **SUPPLEMENTARY INFORMATION** to the interim final rule provided that debt service is not an eligible use of funds either to respond to the public health emergency or its negative economic impacts or as a provision of government services to the extent of revenue loss.³⁶⁵ The interim final rule also provided that replenishing financial reserves (e.g., rainy day funds) is not an eligible use of funds either to respond to the public health emergency or its negative economic impacts or as a provision of

³⁶⁵ "[G]overnment 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." 86 FR 26796-97 (May 17, 2021).

government services to the extent of revenue loss.³⁶⁶

As explained in greater detail below, Treasury, in the final rule, has retained these restrictions and is clarifying that these restrictions on the use of SLFRF funds apply to all eligible use categories.

Public Comments

Several commenters suggested that debt service and reserve replenishment should qualify as the provision of a government service and be an eligible use of funds, up to the amount of revenue loss due to the pandemic. Many commenters indicated that they had been forced to borrow money or dip into reserve funds to continue providing government services during the public health emergency and that using SLFRF funds for resulting debt service or reserve replenishment costs should therefore be considered a government service.

Many comments from Tribal governments noted that their governments depend on revenue from Tribal enterprises to pay government debts and provide services. The comments suggest that it should be an eligible use of SLFRF to replace lost revenue from these enterprises that would typically be used to pay debt service costs. Other commenters argued that paying the interest or principal on debt should in some cases be considered provision of government services and an eligible use of funds as such expenditures facilitate the provision of government services.

Some commenters argued that debt costs or reserve drawdowns during the public health emergency constitute a negative economic impact to recipient governments, and thus debt service or reserve replenishment should be an eligible use to respond to that negative economic impact. For example, several commenters suggested that there should be a specific carve-out allowing the use of SLFRF funds for debt service on debt incurred for government services after January 27, 2020, the start of the public health emergency, or short-term debt incurred for this purpose. Others suggested that recipient governments should be able to service debt, up to the amount of debt incurred in direct response to the pandemic. These commenters generally reasoned that the cost of responding to the public health emergency and its negative economic impacts prior to APRA's passage

constitutes a negative economic impact of the pandemic.

Some commenters argued that the specific impacts of the pandemic on the travel, tourism, and hospitality sector had affected their ability to meet debt service costs. For example, some commenters explained that specific tax streams (*e.g.*, hotel room taxes) or revenue sources (*e.g.*, hospitality generally) are tied to specific debt instruments and that these revenue sources had declined during the public health emergency; commenters argued that this constitutes a negative economic impact that SLFRF funds should be permitted to address.

Finally, some commenters questioned why servicing debt incurred after March 3, 2021 for an otherwise eligible project (*e.g.*, a broadband infrastructure project) would not be an eligible use of funds.

On the other hand, many commenters expressed support for the interim final rule's prohibition on use of funds for debt service and reserve replenishment. These commenters largely argued that SLFRF funds should be used to provide current services to communities in response to the public health emergency and that use of funds for debt service or reserve replenishment represented, respectively, payment for past costs or savings for potential future costs. In addition to the prohibition on debt service and reserve replenishment, some commenters suggested that the final rule should also prevent funds from being used for state UI trust fund replenishment or for paying off debt owed through UI trust funds. One commenter argued that Treasury should further restrict recipient governments, for example by preventing recipients from making cuts to an allowable budget item, filling the budget gap with SLFRF funds, and then using the savings from the initial cut for debt service or reserve replenishment.

Treasury Response

The final rule maintains the restriction on the use of funds for debt service or reserve replenishment for the reasons described below and clarifies that this restriction applies to all eligible use categories.

First, debt service and reserve replenishment costs do not constitute the provision of services to constituents. As noted in the interim final rule, financing expenses—such as issuance of debt or payment of debt service—do not provide services or aid to citizens. Similarly, contributions to rainy day funds and similar financial reserves constitute savings for future spending needs. As such, these expenses do not respond to the current and ongoing

public health and negative economic impacts of the pandemic, nor do they provide a government service.

Second, payments from the SLFRF are intended to be used prospectively (see section Timeline for Use of SLFRF Funds). The interim final rule provided that funds may be used for costs incurred beginning on March 3, 2021, which Treasury has maintained in the final rule. Use of funds for debt service on indebtedness issued prior to March 3, 2021 necessarily entails using funds for costs incurred during prior time periods, rather than the present response to the public health emergency and its negative economic impacts or to provide government services.

Third, SLFRF funds provide recipients with substantial latitude to use funds to support the diverse needs in their communities. With SLFRF resources available, recipients have less need to incur debt for otherwise-eligible SLFRF uses.

Finally, given the strong performance of overall revenues and low municipal bond yields, state and local governments generally do not face high levels of fiscal stress. Limits on debt service or replenishment of reserves would not have a substantial impact on recipients' ability to provide services. The ratio of state and local debt-to-GDP, which spiked briefly during the pandemic, has recovered to its pre-pandemic level and remains well below levels seen during the Great Recession.³⁶⁷

2. Settlements and Judgments

The interim final rule also provided that 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 would not be an eligible use of funds to respond to the public health and negative economic impacts of the pandemic or as a government service provided under the revenue loss eligible use category. However, if the judgment or settlement requires the recipient to provide services that are otherwise eligible under an SLFRF eligible use category, specifically if the settlement or judgment requires the recipient to provide services to respond to the COVID-19 public health emergency or its negative economic impacts or to provide government services, then those costs are eligible uses of SLFRF funds.

³⁶⁶ "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."

³⁶⁷ Table Z.1 of the Financial Accounts of the United States, Board of Governors of the Federal Reserve System, and Table 1.1.5 of National Income and Product Accounts, Bureau of Economic Analysis.

In other words, satisfaction of a settlement or judgment itself is not itself an eligible use of funds, unless the settlement requires the recipient to provide services or incur other costs that are eligible uses of SLFRF funds.

In the final rule, Treasury is maintaining the interim final rule approach and clarifying that it applies to all eligible use categories and any use of funds under the SLFRF program.

3. General Restrictions

In addition to the above restrictions, there are three general restrictions that apply to SLFRF funds. These restrictions, which reflect existing laws and regulations, the Award Terms and Conditions, and application of the ARPA statute, applied under the interim final rule, and they continue to apply under the final rule.

A primary purpose of the SLFRF in the ARPA is to support efforts to stop the spread of COVID-19.³⁶⁸ As discussed above, recipients of SLFRF funds are required to comply with the Award Terms and Conditions established for the use of such funds. The interim final rule and final rule implement this objective by, in part, providing that recipients may use SLFRF funds for COVID-19 mitigation and prevention.³⁶⁹ See section Public Health in Public Health and Negative Economic Impacts.

The CDC has provided recommendations and guidelines to help mitigate and prevent COVID-19 and has identified vaccines and masks as two of the best tools to prevent the spread of COVID-19. The interim final rule and final rule help support recipients in stopping the spread of COVID-19 through these recommendations and guidelines. Consistent with the purpose of the ARPA and as implemented through the interim final rule and final rule, a recipient may not use SLFRF funds for a program, service, or capital expenditure that includes a term or condition that undermines efforts to stop the spread of COVID-19. A program or service that imposes conditions on participation or acceptance of the service that would undermine efforts to stop the spread of COVID-19 or discourage compliance with recommendations and guidelines in CDC guidance for stopping the spread of COVID-19 is not a permissible use of SLFRF funds.

In other words, recipients may not use funds for a program that undermines

practices included in the CDC's guidelines and recommendations for stopping the spread of COVID-19. This includes programs that impose a condition to discourage compliance with practices in line with CDC guidance (e.g., paying off fines to businesses incurred for violation of COVID-19 vaccination or safety requirements), as well as programs that require households, businesses, nonprofits, or other entities not to use practices in line with CDC guidance as a condition of receiving funds (e.g., requiring that businesses abstain from requiring mask use or employee vaccination as a condition of receiving SLFRF funds).

Second, a recipient may not use SLFRF funds in violation of the conflict of interest requirements contained in the Award Terms and Conditions or the Office of Management and Budget's Uniform Guidance, including any self-dealing or violation of ethics rules. Recipients are required to establish policies and procedures to manage potential conflicts of interest.³⁷⁰ Treasury may provide further guidance on the types of activities or conflicts that the recipient's policies and procedures must cover.

Lastly, recipients should also be cognizant that federal, state, and local laws and regulations, outside of SLFRF program requirements, may apply. Recipients may not use revenue loss funds, for instance, to violate other background laws that limit the scope of activities that may be conducted as "government services," including other state and federal laws. State and local procurement, contracting, and conflicts-of-interest laws and regulations may include applicable requirements, including, for example, required procurement processes for contractor selection or competitive price setting. Furthermore, recipients are also required to comply with other federal, state, and local background laws, including environmental laws³⁷¹ and federal civil rights and nondiscrimination requirements, which include prohibitions on discrimination on the basis of race, color, national origin, sex, (including sexual orientation

and gender identity), religion, disability, or age, or familial status (having children under the age of 18).

IV. Program Administration Provisions

The interim final rule included several sections that described the processes and requirements for administering the program on an ongoing basis, specifically: Distribution of funds, transfer of funds, use of funds for program administration, reporting on the use of funds, and remediation and recoupment of funds used for ineligible purposes.

To enhance clarity, this **SUPPLEMENTARY INFORMATION** for the final rule organizes these issues into one section on Program Administration Provisions. Recipients should also consult Treasury's Compliance and Reporting Guidance for additional information on program administration processes and requirements, including the applicability of the Uniform Guidance.

A. Payments in Tranches to Local Governments and Certain States

Section 602(b)(6)(A)(ii) of the Social Security Act authorizes the Secretary to withhold payment of up to 50 percent of the amount allocated to each state and territory for a period of up to 12 months from the date on which the state or territory provides its statutorily-required certification to the Secretary. The Social Security Act requires any such withholding be based on the unemployment rate in the state or territory as of the date of the certification.

Under the interim final rule, Treasury provided that it would withhold 50 percent of the amount allocated from any state that had an unemployment rate less than two percentage points above its unemployment rate in February 2020 as of the date the state submitted its initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act. Based on data available at the time of the issuance of the interim final rule, this threshold was expected to result in a majority of states being paid in two tranches. Treasury did not split the payments of any territories.

Public Comment: One commenter asked Treasury to allow a state to request release of the portion of the state's second tranche payment after the state could demonstrate that it had allocated the entirety of the first tranche, a need to continue ongoing programs, and a desire to avoid borrowing costs. Another commenter asked Treasury to clarify whether states that received half their funding in the

³⁶⁸ See Sec. 602(a)(1); 603(a)(1); 602(c)(1); 603(c)(1).

³⁶⁹ See 35.6(b); Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 26786.

³⁷⁰ Specifically, the Award Terms and Conditions provide that "[r]ecipient understands and agrees it must maintain a conflict of interest policy consistent with 2 CFR 200.318(c), and that such conflict-of-interest policy is applicable to each activity funded under this award. Recipients and subrecipients must disclose in writing to Treasury or the pass-through agency, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 CFR 200.112."

³⁷¹ An exception is statutes that do not apply unless explicitly stated, including, e.g., the National Environmental Policy Act and the Davis-Bacon Act.

first payment would receive their second half payment within 12 months. Similarly, some recipients requested clarification on whether they could obligate second tranche funds before receipt or use second tranche funds for costs incurred prior to receipt.

Treasury Response: The final rule maintains the approach in the interim final rule with two modifications. As described in the interim final rule, splitting payments for most states provides consistency with payments to local governments and encourages states to adapt their use of funds to developments that arise in the course of the economic recovery. Moreover, SLFRF funds may be used for costs incurred during the period of performance. Recipients may use their jurisdiction's budgeting and procurement practices and laws to determine how and when second tranche funds may be obligated.

The final rule makes two adjustments for operational purposes. First, the final rule provides that Treasury expects to make all second tranche payments to states available beginning 12 months from the date that funding was first made available by Treasury (May 10, 2021) regardless of when each individual state submitted its initial certification. This should increase clarity and consistency on the timing of second tranche payments for both states and Treasury. Second, also to ease recipient states' administrative burden, the final rule strikes a requirement from the interim final rule that states must certify for their second tranche payments and file all required reports at least 30 days prior to the date on which their second payment is made available. The final rule simply requires that states certify for their second tranche payment and file all required reports before receiving their second tranche payment, with no 30 day wait period required.

B. Payments to Nonentitlement Units of Local Government (NEUs) and Units of Local Government (UGLGs) Within Non-UGLG Counties

The interim final rule established requirements related to distributions of SLFRF funds by states and territories to NEUs and UGLGs within non-UGLG counties. Specifically, the interim final rule provided that the total distribution to an NEU cannot exceed 75 percent of the most recent budget for the NEU (the 75 percent budget cap); a requirement set forth in section 603(b)(2)(C)(iii) of the Social Security Act. The interim final rule **SUPPLEMENTARY INFORMATION** defined the NEU's budget for purposes of calculating the 75 percent budget cap as the NEU's "most recent annual total

operating budget, including its general fund and other funds, as of January 27, 2020." The interim final rule further provided that 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 75 percent budget cap. Further, the interim final rule prohibited states and territories from placing additional conditions or requirements on distributions to NEUs beyond those required by the statute, the interim final rule, or Treasury's guidance and from offsetting any debt owed by such NEUs against such distributions.

Commenters predominantly focused on the definition of an NEU's budget for purposes of calculating the 75 percent budget cap, NEU allocations and eligibility, and the prohibition on states and territories imposing additional conditions or requirements in the NEU distribution process.

Definition of NEU Budget

Public Comment: Commenters suggested that Treasury provide greater clarification on the definition of an NEU's "most recent budget" for purposes of the 75 percent budget cap calculation. Treasury provided updated guidance on its interpretation of the 75 percent budget cap on June 30, 2021, and a commenter suggested that Treasury incorporate such updated interpretation into the **SUPPLEMENTARY INFORMATION** of the final rule.

Treasury Response: Consistent with the Update on Interpretation for the 75 Percent Budget Cap Calculation published on June 30, 2021,³⁷² the **SUPPLEMENTARY INFORMATION** of the final rule defines an NEU's budget for purposes of calculating the 75 percent budget cap as its total annual budget, including both operating and capital expenditure budgets, in effect as of January 27, 2020. The guidance also gives states and territories flexibility to provide further guidance to their NEUs to operationalize the 75 percent budget cap. Given the variance in local financial accounting, this updated definition will better facilitate states' and territories' distribution of SLFRF funds to NEUs.

Allocations and Eligibility

Public Comment: Many commenters provided feedback on specific allocation calculations and eligibility of local governments for NEU funding.

³⁷² Treasury's Update on Interpretation for the 75 Percent Budget Cap Calculation can be found at: <https://home.treasury.gov/system/files/136/NEU-Update-75-Percent-Budget-Cap.pdf>.

Commenters addressed how a locality was classified as an NEU or metropolitan city, deviations between Treasury's allocation calculations and earlier estimates from other sources, treatment of unincorporated areas, sources for population data, and Treasury's allocation of NEU funding to states and territories based on the population of a state and territory outside of its metropolitan cities. Two commenters proposed that Treasury provide an appeal process for localities that were not identified on the List of Local Governments used by states and territories as part of the process in which a state or territory determines the eligibility of an NEU in accordance with Treasury guidance, or for Minor Civil Divisions (MCDs) that were denied funding as part of a facts-and-circumstances test undertaken by a weak-MCD state.

Treasury Response: Neither the interim final rule nor the final rule addresses eligibility or allocations issues, and comments on these topics are outside the scope of this rulemaking. These questions are addressed in other Treasury guidance, including the Guidance on Distribution of Funds to Non-entitlement Units of Local Government and Non-entitlement Unit of Local Government Definitional and Data Methodology guidance documents available on Treasury's website.³⁷³ Because Treasury interpreted the definition of an NEU³⁷⁴ in accordance with the statute and established an NEU distribution process in May 2021, the final rule does not incorporate an appeals process regarding the definitions or the facts-and-circumstances test used for eligibility determinations.

Prohibition on Additional Conditions or Requirements in the NEU Distribution Process

Public Comment: One commenter expressed support for Treasury's prohibition on states and territories

³⁷³ The Guidance on Distribution of Funds to Nonentitlement Units of Local Government can be found at this link: https://home.treasury.gov/system/files/136/NEU_Guidance.pdf. The Nonentitlement Unit of Local Government Definitional and Data Methodology can be found at this link: https://home.treasury.gov/system/files/136/NEU_Methodology.pdf.

³⁷⁴ Treasury has interpreted NEU to generally include both incorporated places and MCDs with active functioning governments, subject to the state determining, in the case of weak-MCD States, that a weak MCD has the legal and operational capacity to accept SLFRF funds and provides a broad range of services that would constitute eligible uses under ARPA. More details can be found in the Nonentitlement Unit of Local Government Definitional and Data Methodology, available at https://home.treasury.gov/system/files/136/NEU_Methodology.pdf.

placing additional conditions or requirements on distributions to NEUs. This prohibition restricts states and territories from imposing limitations on NEUs' use of SLFRF funds based on an NEU's proposed spending plan or other policies, offsetting any debt owed by an NEU against the NEU's distribution, or providing funding on a reimbursement model. In particular, the commenter noted that a reimbursement model would lead to inequities in accessing SLFRF funds.

Treasury Response: The final rule maintains and finalizes the prohibition on states and territories placing additional conditions or requirements on distributions to NEUs as well as to any UGLGs within counties that are non-UGLGs. Such conditions or requirements may contravene the statutory requirement that states and territories make distributions based on population and within the statutorily defined timeframe.

Other Provisions

Treasury did not receive substantive comments on the requirement that states and territories 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 75 percent budget cap, or Treasury's interpretation of the 75 percent budget cap applying only to a consolidated government's NEU allocation under section 603(b)(2) but not to a consolidated government's county allocation under section 603(b)(3). Further, Treasury did not receive substantive comments on the interim final rule's allowance that states and territories be able to use SLFRF funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local government. As such, the final rule maintains these provisions as written in the interim final rule without modification.

Treasury received some comments that are not addressed because they are beyond the scope of the NEU provision of the interim final rule or not authorized by the statute, including comments related to state accounting practices, re-allocations of NEU allocations that exceed the 75 percent budget cap, and concerns around eligible uses under SLFRF that small local governments may find particularly salient.

C. Timeline for Use of SLFRF Funds

The interim final rule provided that “[a] recipient may only use funds to cover costs incurred during the period

beginning March 3, 2021 and ending December 31, 2024.” The interim final rule also provides that the period of performance will run until December 31, 2026, which will provide recipients an additional two years during which they may expend funds for costs incurred (*i.e.*, obligated).

As explained in more detail below, in the final rule Treasury is maintaining these time periods. Treasury will retain March 3, 2021 as the first date when costs may be incurred, to provide for forward-looking or prospective use of funds and to align with the start date of the “covered period” as such term is used in section 602(c)(2)(A). The deadline for costs to be incurred—which the final rule clarifies means obligated—December 31, 2024, is specified in the ARPA statute, and Treasury will retain December 31, 2026 as the end of the period of performance to provide a reasonable amount of time for recipients to liquidate obligations incurred by the statutory deadline.

Public Comments. Some commenters expressed concerns about costs incurred before March 3, 2021 not being covered and recommended the “start date” be changed to January 2020 to coincide with the declaration of the public health emergency. These commenters argued that recipient governments began incurring costs to respond to COVID-19 and its economic impacts in January 2020 and that prior federal fiscal relief, such as relief provided in the Coronavirus Aid, Relief, and Economic Security Act, did not fully compensate recipient governments for these costs. These commenters recommended that costs incurred before March 3, 2021 that otherwise fit within eligible use categories for SLFRF should be permissible uses of funds.

Some commenters asked Treasury to clarify whether local governments are subject to the same covered period as states and territories beginning March 3, 2021. Commenters noted that section 603(g) of the Social Security Act does not contain the same definition of “covered period” as section 602(g)(1) of the Social Security Act, which references a statutory provision that only applies to states and territories.

Many commenters requested that the deadline for costs to be incurred and the period of performance be extended due to the longer timeline for completing water and sewer projects. One commenter requested that recipients be able to split projects into different phases so that funds could be expended on larger, longer term projects (*e.g.*, by obligating funds on one portion of the project by the statutory deadline). One commenter recommended that the

period of performance be extended for at least two additional years beyond the expenditure deadline set forth in the interim final rule, *i.e.*, until December 31, 2028. One commenter wrote that the final rule should allow for extended projects (*e.g.*, over a time horizon of more than ten years) for recipients working to develop long-term water supplies to prepare for extreme drought.

Treasury Response. In the final rule, Treasury is maintaining March 3, 2021 as the date when recipients may begin to incur costs using SLFRF funds. As described in the interim final rule, use of SLFRF funds is forward looking and the eligible use categories provided by statute are all prospective in nature. While recipients may identify and respond to negative economic impacts that occurred during 2020, the costs incurred to respond to these impacts remain prospective. Further, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be a relevant reference point for this purpose that provides some flexibility for recipients that began incurring costs in the anticipation of enactment of the ARPA or in advance of the issuance of the interim final rule and receipt of payment.

Finally, establishing an earlier start date would permit governments to use funds received in 2021 to satisfy obligations incurred in 2020. This use raises a substantial risk of SLFRF funds being used to supplant other recipient funds previously used to pay for such 2020 obligations, freeing funds for recipients to use for any purpose rather than eligible uses of SLFRF funds under the ARPA. Permitting such usage would undermine the provisions setting forth permissible and impermissible uses in the statute. Therefore, a reading of the statute permitting use of funds prior to March 3, 2021 would be inconsistent with the statutory structure.

In the final rule, Treasury is also maintaining the deadlines by which funds must be obligated (*i.e.*, December 31, 2024) and by which such obligations must be liquidated (*i.e.*, December 31, 2026). The December 31, 2024 deadline by which eligible costs must be incurred is established by statute. Treasury is finalizing its interpretation of “incurred” to be equivalent to the definition of “obligation,” based on the definition used for purposes of the Uniform Guidance. Treasury is also maintaining the period of performance, which will run through December 31, 2026, and provides the deadline by which recipients must expend obligated funds. Most recipients received SLFRF funds in the spring and summer of 2021,

meaning that they have over three years to obligate and over five years to expend funds. This provides a sufficient amount of time for recipients to plan and execute projects.

D. Transfers of Funds

Under section 602(c)(3) of the Social Security Act, a state, territory, or Tribal government may transfer SLFRF 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.” Similarly, section 603(c)(3) authorizes a local government to transfer SLFRF funds to the same entities (other than Tribal organizations). Separately, section 603(c)(4) authorizes a local government to transfer SLFRF funds to the state in which it is located.

Entities Eligible for a Transfer Under Sections 602(c)(3) and 603(c)(3)

Regarding transfers permitted under sections 602(c)(3) and 603(c)(3) of the Act, the interim final rule Supplementary Information clarified that the lists of transferees in these sections are not exclusive and that state, local, territorial, and Tribal governments may transfer funds to other constituent units of government or private entities beyond those specified in the statute.

Public Comment: Several commenters supported Treasury’s interpretation of eligible transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive. However, many commenters asked for greater clarity as to whether specific entities not listed in Treasury’s examples of eligible subrecipients, such as nonprofits and Tribal governments, were eligible transferees. One commenter also asked whether a recipient may transfer SLFRF funds to a higher level of government, such as a locality to the county in which it is located.

Treasury Response: The final rule clarifies that, in addition to the entities enumerated in sections 602(c)(3) and 603(c)(3), recipients may transfer SLFRF funds to any entity to carry out as a subrecipient an eligible use of funds by the transferor, as long as they comply with the Award Terms and Conditions and other applicable requirements, including the Uniform Guidance at 2 CFR 200.331–200.333. Eligible subrecipients include, but are not limited to, other units of government (including Tribal governments), nonprofits and other civil society organizations, and private entities. Further, the final rule clarifies that transfers may be made to both constituent or non-constituent units of

government. For example, county A may transfer SLFRF funds to county B as long as county B abides by the use restrictions applicable to county A and the transfer would constitute an eligible use of the funds by county A. County A must receive a benefit proportionate to the amount transferred.

As detailed in the interim final rule Supplementary Information, once transfers are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law, regulations, and program guidance. Further, the transferor remains responsible for monitoring and overseeing the subrecipient’s use of SLFRF funds and other activities related to the award to ensure that the subrecipient complies with the statutory and regulatory requirements and the Award Terms and Conditions. Recipients also remain responsible for reporting to Treasury on their subrecipients’ use of payments from the SLFRF for the duration of the award.

Pooling Funds

Public Comment: Several commenters asked for clarification about whether they may pool SLFRF funds for a project with other recipients, including when doing so involves a transfer to another entity, such as a regional organization or government that undertakes projects on behalf of a number of local governments. Commenters also asked for clarification on the oversight and reporting obligations that would result from such transfers.

Treasury Response: Consistent with guidance issued following the interim final rule,³⁷⁵ the final rule clarifies that recipients may pool SLFRF funds for projects, provided that the project is itself an eligible use of SLFRF funds for each recipient that is contributing to the pool of funds and that recipients are able to track the use of funds in line with the reporting and compliance requirements of the SLFRF. In general, when pooling funds for regional projects, recipients may expend funds directly on the project or transfer funds to another government or other entity that is undertaking the project on behalf of multiple recipients. To the extent recipients undertake regional projects via transfer to another organization or government, recipients would need to comply with the rules on transfers specified in the final rule

SUPPLEMENTARY INFORMATION. A

³⁷⁵ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

recipient may transfer funds to a government outside its boundaries (e.g., county transfers to a neighboring county), provided that the transferor can document that the transfer constitutes an eligible expense of the transferor government and that its jurisdiction receives a benefit proportionate to the amount transferred.

Blending and Braiding of Funds

Treasury is clarifying in the final rule that, consistent with further guidance issued by Treasury following the interim final rule,³⁷⁶ recipients may fund a project with both SLFRF funds and other sources of funding, provided that the costs are eligible costs under each source program and are compliant with all other related statutory and regulatory requirements and policies. The recipient must comply with applicable reporting requirements for all sources of funds supporting the SLFRF projects and with any requirements and restrictions on the use of funds from the supplemental funding sources and the SLFRF program. Specifically,

- All funds provided under the SLFRF program must be used for projects, investments, or services that are eligible under the SLFRF program. SLFRF funds may not be used to fund an activity that is not, in its entirety, an eligible use under the SLFRF program. For example:

- SLFRF funds may be used in conjunction with other sources of funds to make an investment in water infrastructure that is eligible under section 602 or 603 of the Social Security Act and the final rule.

- SLFRF funds could *not* be used to fund the entirety of a water infrastructure project that was partially, although not entirely, an eligible use under Treasury’s final rule. However, the recipient could use SLFRF funds only for a smaller component project that does constitute an eligible use, while using other funds for the remaining portions of the larger planned water infrastructure project that do not constitute an eligible use. In this case, the “project” for SLFRF purposes under this program would be only the eligible use component of the larger project.

- In addition, because SLFRF funds must be obligated by December 31, 2024, and recipients must expend all funds under the award no later than December 31, 2026, recipients must be able to, at a minimum, determine and report to Treasury on the amount of SLFRF funds obligated and expended and when such funds were obligated and expended.

³⁷⁶ See FAQ 4.10. *Id.*

Scope of a 603(c)(4) Transfer

Unlike in the case of a transfer under sections 602(c)(3) or 603(c)(3), the interim final rule **SUPPLEMENTARY INFORMATION** specified that transfers from a local government to the state 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.

Public Comment: Two commenters suggested that Treasury expand section 603(c)(4) beyond transfers from localities to the state to include transfers from counties to their constituent local governments, which would incentivize counties to augment funds to address the needs of local governments. These commenters noted that counties are disincentivized to make transfers under section 603(c)(3), as is currently allowed, as such transfers would require that counties provide oversight and monitoring over its subrecipients.

Treasury Response: Section 603(c)(4), by its terms, applies only to transfers from local governments to states. Accordingly, the final rule must maintain the interim final rule's limitation of section 603(c)(4) transfers as applicable only to transfers from local governments to states. Expansions of section 603(c)(4) transfer authority beyond transfers from local governments to states were not explicitly authorized by Congress. As such, transfers under section 603(c)(4) may only be made by local governments to the state in which they are located.

Congress enumerated two separate transfer provisions for local governments—section 603(c)(3) and section 603(c)(4)—that use different language and were intended to operate differently. Section 603(c)(4) contains prefatory language (“Notwithstanding paragraph (1)”—a reference to the eligible SLFRF uses) that section 603(c)(3) does not. In other words, section 603(c)(4) transfers are not required to constitute an eligible use of the funds from the perspective of the transferor local government, but section 603(c)(3) transfers are required to constitute an eligible use. A transfer to accomplish an eligible use fits within the recipient-subrecipient framework.

Further, treating section 603(c)(3) transfers as leading to a cancellation of the award for the transferor local government would result in scenarios that are inconsistent with the statutory language. An award cancellation pursuant to a section 603(c)(3) transfer would result in either (1) non-governmental entities becoming award recipients under the program, which

would contravene the purpose of SLFRF or (2) transfers to governmental and non-governmental entities being treated in a distinct and inconsistent manner. That is, section 603(c)(3) transfers to governmental entities would lead to award cancellation but section 603(c)(3) transfers to non-governmental entities would lead to a recipient-subrecipient relationship. Therefore, in the final rule, Treasury maintains its distinct treatment of a section 603(c)(3) transfer and section 603(c)(4) transfer.

The final rule clarifies that a transfer under section 603(c)(4) will result in a modification, termination, or cancellation of the award on the part of the transferor local government and a modification of the award to the transferee state or territory. As detailed in the **SUPPLEMENTARY INFORMATION** to the interim final rule, the transferor must provide notice of the transfer to Treasury in a format specified by Treasury. Until the local government provides such notice and Treasury provides confirmation of its acceptance of the notice, the local government will remain responsible for ensuring that the SLFRF award is being used in accordance with the Award Terms and Conditions, section 602 or 603 of the Social Security Act, the final rule, and program guidance including reporting on such uses of the award funds to Treasury.

A state that receives a transfer from a local government under section 603(c)(4) will be bound, by statute, by all of the use restrictions set forth in section 602(c) with respect to the use of those SLFRF funds, including the prohibitions on use of such SLFRF funds to offset certain reductions in taxes or to make deposits into pension funds. The state will be responsible as the prime recipient for the use and reporting on any funds transferred under section 603(c)(4) by the local government. Such transferred funds will be subject to the Award Terms and Conditions previously accepted by the state in connection with its SLFRF award.

Subrecipient Transfers

Public Comment: Commenters sought clarification as to how funds may be transferred from a recipient to another entity. For instance, one commenter requested that recipients be able to advance funds to subrecipients as opposed to reimbursing subrecipients for expenses incurred.

Treasury Response: Treasury did not specify in the interim final rule whether recipients may advance funds to subrecipients. This omission was not intended to prevent recipients from

advancing funds to subrecipients, consistent with the various methods permitted under the Uniform Guidance. Given the broad flexibility that recipients have in selecting eligible uses and the broad variety of potential subrecipients, Treasury believes that specifying a single method of advancement or reimbursement would add unnecessary administrative difficulty to program administration. Recipients may determine the optimal payment structure for the transfer of funds (e.g., advance payments, reimbursement basis, etc.) from recipients to subrecipients. Ultimately, recipients must comply with the eligible use requirements and any other applicable laws or requirements and are responsible for the actions of their subrecipients.

E. Administrative Expenses

The interim final rule permitted, under the heading “[e]xpenses to improve efficacy of public health or economic relief programs,” use of funds for “[a]dministrative 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.”

Following release of the interim final rule, Treasury issued Compliance and Reporting Guidance that provided that “recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the SLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are [sic] allocable to the SLFRF award such as the cost of facilities or administrative functions like a director’s office.”³⁷⁷ Several commenters

³⁷⁷ U.S. Department of the Treasury, Recipient Compliance and Reporting Responsibilities, as of November 5, 2021; <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal>

requested clarity on which administrative expenses are permissible uses of funds and how recipients should structure administrative costs.

In the final rule, Treasury is clarifying that direct and indirect administrative expenses are permissible uses of SLFRF funds and are a separate eligible use category from “[e]xpenses to improve efficacy of public health or economic relief programs,” which refers to efforts to improve the effectiveness of public health and economic programs through use of data, evidence, and targeted consumer outreach. For details on permissible direct and indirect administrative costs, recipients should refer to Treasury’s Compliance and Reporting Guidance.³⁷⁸ Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect costs.

F. Treatment of Loans

The interim final rule allowed recipients to use SLFRF funds to make loans for uses that are otherwise eligible (for example, for small business assistance). Subsequent guidance clarified how recipients must track and dispose of program income from loans, consistent with the statutory requirements for the timing of SLFRF expenditures.

SLFRF funds must be used to cover “costs incurred” by the recipient between March 3, 2021 and December 31, 2024. The interim final rule provided that SLFRF funds must be obligated by December 31, 2024 and expended by December 31, 2026. In using SLFRF funds to make loans, recipients must be able to determine the amount of funds used to make a loan and must comply with restrictions on the timing of the use of funds and with restrictions in the Uniform Guidance.

When SLFRF funds are used as the principal for loans, there is an expectation that a significant share of the loaned funds will be repaid. Thus, recipients may not simply consider the full amount of loaned funds to be permanently expended and must appropriately account for the return of loaned funds.

For loans that mature or are forgiven on or before December 31, 2026, the recipient must account for the use of funds on a cash flow basis, consistent with Treasury’s guidance regarding loans made by recipients using payments from the Coronavirus Relief

Fund.³⁷⁹ Recipients may use SLFRF funds to fund the principal of the loan and in that case must track repayment of principal and interest (*i.e.*, “program income,” as defined under 2 CFR 200). When the loan is made, recipients must report the principal of the loan as an expense.

Repayment of principal may be re-used only for eligible uses and is subject to restrictions on the timing of the use of funds. Interest payments received prior to the end of the period of performance will be considered an addition to the total award and may be used for any purpose that is an eligible use of funds under the statute and final rule. Recipients are not subject to restrictions under 2 CFR 200.307(e)(1) with respect to such payments.

For loans with maturities longer than December 31, 2026, the recipient must estimate the cost to the recipient of extending the loan over the life of the loan. In other words, at origination, the recipient must measure the projected cost of the loan and may use SLFRF funds for the projected cost of the loan. Recipients have two options for estimating this amount: They may estimate the subsidy cost (*i.e.*, net present value of estimated cash flows) or the discounted cash flow under current expected credit losses (*i.e.*, CECL method). See further guidance issued by Treasury for further explanation.³⁸⁰

Public Comment: Many commenters asked for further clarification on the treatment of loans and the calculation of “costs incurred.” Some commenters requested that grants made for eligible activities prior to December 31, 2024 to a revolving loan fund, an economic development corporation, a land bank, or a similar facility should be considered obligated and expended at the time of the grant. This would allow funds to be expended by the grantee beyond the covered period and for funds returned to the grantee to be re-invested in further uses outside of the covered period.

Treasury Response: The final rule maintains the treatment of loans from the interim final rule and subsequent guidance, as discussed above. This approach is consistent with the statutory requirement that funds be used for costs incurred for eligible purposes by December 31, 2024 and is consistent

with standard accounting practices and the Uniform Guidance.

G. Use of Funds for Match or Cost-Share Requirements

As a general matter and as referenced in the **SUPPLEMENTARY INFORMATION** to the interim final rule, funds provided under one federal program may not be used by a recipient to meet the non-federal match or cost-share requirements of another federal program.

However, Treasury has since determined that, consistent with this general principle and the requirements of the Uniform Guidance at 2 CFR 200.306(b)(5), the funds available under sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act for the provision of government services, up to the amount of the recipient’s reduction in revenue due to the public health emergency, generally may be used to meet the non-federal cost-share or matching requirements of other federal programs. Federal funds that constitute revenue sharing to state and local governments may generally be used to meet non-federal match requirements.³⁸¹ The broad eligible uses of the SLFRF funds available under sections 602(c)(1)(C) and 603(c)(1)(C) of the Social Security Act, combined with the purpose of these provisions (which is to provide general fiscal assistance to governments facing revenue losses due to the public health emergency), demonstrate that these funds are revenue sharing. They thus should generally be permitted to be used to meet the non-federal match and cost-share requirements of other federal programs. As such, the SLFRF funds available for the provision of government services, up to the amount of the recipient’s reduction in revenue due to the public health emergency, may be used to meet the non-federal match requirements of the Drinking Water State Revolving Fund and Clean Water State Revolving Fund programs administered by the EPA, for example.

Pursuant to 2 CFR 200.306(b) of the Uniform Guidance, if funds are legally available to meet the match or cost-share requirements of an agency’s federal program, such awarding agency is required to accept such funds for the purpose of that program’s match or cost-share requirements except in the circumstances enumerated in that section. The Office of Management and Budget has authority under 2 CFR

recovery-funds/recipient-compliance-and-reporting-responsibilities.

³⁷⁸ *Id.*

³⁷⁹ Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR at 4192.

³⁸⁰ See *FAQ 4.11*. Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

³⁸¹ See U.S. Government Accountability Office, *Principles of Federal Appropriations Law, Third Edition, Volume II*, p. 10–99, GAO–06–382SP (February 2006), <https://www.gao.gov/assets/gao-06-382sp.pdf>.

200.102 of the Uniform Guidance to issue waivers of this requirement on request of the relevant awarding agency. Analogous requirements and waiver authorities may be present in other regulations. If a recipient seeks to use SLFRF funds to satisfy match or cost-share requirements for a federal grant program, it should first confirm with the relevant awarding agency that no waiver has been granted for that program, that no other circumstances enumerated under 2 CFR 200.306(b) would limit the use of SLFRF funds to meet the match or cost-share requirement, and that there is no other statutory or regulatory impediment to using the SLFRF funds for the match or cost-share requirement. Note that SLFRF funds may not be used as the non-federal share for purposes of a state's Medicaid and CHIP programs because the Office of Management and Budget has approved a waiver as requested by the Centers for Medicare & Medicaid Services pursuant to 2 CFR 200.102 of the Uniform Guidance and related regulations.

SLFRF funds beyond those that are available under sections 602(c)(1)(C) or 603(c)(1)(C) of the Social Security Act for the provision of government services may not be used to meet the non-federal match or cost-share requirements of other federal programs other than as specifically provided for by statute. For example, as discussed in other sections of this final rule, section 40909 of the Infrastructure Investment and Jobs Act provides that SLFRF funds may be used to meet the non-federal match requirements of any authorized Bureau of Reclamation project, and section 60102 of the Infrastructure Investment and Jobs Act provides that the SLFRF may be used to meet the non-federal match requirements of the broadband infrastructure program authorized under that section (see sections Water and Sewer Infrastructure and Broadband Infrastructure).

H. Reporting

The interim final rule established Treasury's authority to collect information from recipients through requested reports and any additional requests for information. The interim final rule also provided Treasury flexibility to extend or accelerate reporting deadlines and to modify requested content for the Interim Report, Project and Expenditure reports, and Recovery Plan Performance reports.

The **SUPPLEMENTARY INFORMATION** of the interim final rule provided initial guidance on the reporting requirements for the SLFRF funds. States (defined to include the District of Columbia), territories, metropolitan cities, counties,

and Tribal governments were required to submit one interim report and quarterly Project and Expenditure reports thereafter. Non-entitlement units of local government were not required to submit an interim report. States, territories, and metropolitan cities and counties with a population greater than 250,000 residents were also required to submit an annual Recovery Plan Performance report to Treasury. The Supplementary Information of the interim final rule provided guidance on the deadlines and content required for each type of report.

Public Comment: Treasury received many comments on the content and specific data elements required of program reporting. Some commenters expressed enthusiasm for including particular details in reporting to promote transparency. Other commenters requested that Treasury streamline reporting requirements to avoid imposing undue administrative burdens and compliance costs. Many commenters requested further clarification on or amendments to particular elements of reporting content. Some commenters requested that reports and specific reporting elements be public, including a request for a public website with a number of programmatic data metrics about the use of SLFRF funds. Some commenters sought clarification and guidance for using the reporting portal, which allows recipients to upload the required information, or requested user modifications to the portal. Finally, some commenters requested that Treasury provide example materials and reporting metrics to aid recipient understanding.

Treasury Response: Since the publication of the interim final rule, Treasury issued supplementary reporting guidance in the Compliance and Reporting Guidance and in the User Guide: Treasury's Portal for Recipient Reporting (User Guide).³⁸² Treasury has addressed many of these comments in the Compliance and Reporting Guidance and User Guide and will continue to issue updated guidance prior to each reporting period clarifying any modifications to requested report content. Treasury notes that the interim final rule did not address the specific content and data elements required in reporting, the reporting portal or submission process, and the specific

form of reporting (e.g., example templates, machine readability); comments on these topics are outside the scope of the final rule and, as noted, are addressed instead in Compliance and Reporting Guidance.

Reporting Deadlines

Public Comment: Treasury received comments requesting various changes to reporting deadlines to ease compliance burdens. For example, Treasury received several comments requesting that Treasury delay early reporting deadlines for various reasons, including to align with the timeline for issuing a final rule and to allow for more time for recipients to determine SLFRF allocations. Commenters also requested changes to the immediacy of reporting, for example requesting that Treasury allow expenses to be reported with a lag instead of the quarter in which they were accrued or that reports be due 90 days after period close instead of 30 days after the close of a reporting period. Some commenters requested changes to the reporting frequency, for example to report biannually rather than quarterly.

Treasury Response: Treasury has clarified reporting deadlines in the Compliance and Reporting guidance.³⁸³ Treasury is retaining the reporting deadline of 30 days after the close of the reporting period to ensure timely accounting of the use of SLFRF funds; this timeline also aligns with practices in many other federal programs. The final rule maintains Treasury's discretion to extend or delay reporting deadlines.

Administrative Costs for Reporting and Compliance

Public Comment: Many commenters sought clarification about whether various administrative costs related to reporting and compliance were eligible uses of funds and asked for clarification on the limits of such use.

Treasury Response: Treasury notes that administrative costs are generally allowable uses of SLFRF funds, including for reporting. For additional information on administrative expenses, please see section Administrative Expenses under Program Administration Provisions.

Uniform Guidance

Public Comment: The **SUPPLEMENTARY INFORMATION** of the interim final rule clarified that SLFRF funds were generally subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit

³⁸² U.S. Department of the Treasury, Recipient Compliance and Reporting Responsibilities, as of November 5, 2021; <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds/recipient-compliance-and-reporting-responsibilities>.

³⁸³ *Id.*

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. Treasury received many comments requesting clarification about or modifications to the applicability of the Uniform Guidance on various issues.

For example, one commenter requested that Treasury remove requirements that expenditures of funds be made in conformance with the Uniform Guidance, particularly in case of expenditures made during period from March 3, 2021 to the release of the interim final rule, while other comments requested that Treasury raise the single-audit threshold from \$750,000 to \$5 million. Commenters sought clarification on items such as: The applicability of the Uniform Guidance for funds that are used for the provision of government services, the applicability of particular sections of the cost principles provided in subpart E of the Uniform Guidance, the applicability of the procurement provisions of the Uniform Guidance, and requirements for subrecipient reporting.

Treasury Response: Recipients of SLFRF funds are subject to the provisions of the Uniform Guidance (2 CFR part 200) from the date of award to the end of the period of performance on December 31, 2026 unless otherwise specified in this rule or program-specific guidance. Costs must follow the requirements in 2 CFR 200 Subpart E, Cost Principles, including procurement standards. Recipients that receive an aggregate amount of federal financial assistance in a given fiscal year that exceeds the Single Audit threshold are subject to the requirements in 2 CFR 200 Subpart F, Audit Requirements, unless otherwise specified in program-specific guidance.

SLFRF funds transferred to subrecipients are also subject to reporting and Uniform Guidance requirements. Additional information about the definition of subrecipients is available in the section Distinguishing Subrecipients versus Beneficiaries.

Recipients should refer to the Assistance Listing for details on the specific provisions of the Uniform Guidance that do not apply to this program. The Assistance Listing is available on SAM.gov. Additional changes to compliance and reporting guidelines, including any clarifications on Uniform Guidance requirements, will be addressed in Compliance and Reporting Guidance and the User Guide.³⁸⁴

I. Remediation and Recoupment

Sections 602(e) and 603(e) of the Social Security Act provide the Secretary with the power to recoup “funds used in violation” of the Social Security Act. The interim final rule implemented these provisions by establishing a process for recoupment. Treasury may identify funds used in violation of the Social Security Act based on information submitted by recipients, including as part of reporting requirements, as well as information from other sources.³⁸⁵ If a potential violation is identified, Treasury will provide the recipient an initial written notice of the amount subject to recoupment along with an explanation of such amounts. A recipient then has 60 calendar days following receipt of a recoupment notice to submit a request for reconsideration containing any information it believes supports its use of funds. Within 60 calendar days of receipt of the request for reconsideration, the interim final rule provided that a recipient will receive a final notice of the Secretary’s decision to affirm, withdraw, or modify the recoupment notice. If the recipient did not submit a request for reconsideration, the initial notice of recoupment would be deemed a final notice. A recipient would then be required to repay any amounts subject to recoupment within 120 calendar days of either the initial recoupment notice, if the recipient does not request reconsideration, or the final recoupment notice, if the recipient does request reconsideration.

Public Comments

Treasury received several comments on the process for recoupment. For instance, some commenters, including many Tribal governments, requested additional time to file a request for reconsideration and submit repayment to ensure that small entities have the time necessary to carry out any logistical steps and consult with counsel. Treasury was also asked to align its recoupment process with that of the Office of the Inspector General and other departmental administrative processes to resolve findings, agency decisions, and related timelines. One commenter asked if the 120-calendar-day time limit for repayment was based on the initial notice, rather than a final decision issued by the Secretary. Several commenters expressed concern regarding the recoupment process, arguing that consideration of “all relevant facts and circumstances” provided Treasury with too much

authority and created ambiguity. Other commenters urged Treasury to establish a robust enforcement and compliance program and process and advocated for the creation of a whistleblower mechanism or public complaint process to allow public and private entities to report suspected misuses of funds. Finally, some commenters requested clarification regarding the process after a violation is identified and becomes final. One commenter also asked to allow recipients to amend reports deemed to contain ineligible expenses and inform recipients how the agency intends to resolve instances where a use was later deemed unacceptable. Another commenter asked if recouped funds could be released back to the recipient.

Commenters also expressed concern about Treasury’s authority to recoup funds used in violation of the tax offset provision. Some commenters requested additional clarity around when tax cuts would trigger Treasury’s recoupment authority and the duration of Treasury’s authority to seek recoupment of such funds.

Treasury Response

The final rule largely preserves the process established in the interim final rule but includes several adjustments to clarify certain elements.

Like the interim final rule, the final rule provides that, after an initial determination is made that a recipient has used SLFRF funds in violation of the law, a recipient may submit a request for reconsideration concerning any amounts identified in a notice provided by Treasury. If a recipient chooses to seek reconsideration of the initial notice, the recipient must submit a request for reconsideration as provided under the final rule. If a recipient does not request reconsideration, the initial notice that the recipient received will be deemed the final notice.³⁸⁶ Treasury has clarified that a recipient must invoke and exhaust the procedures available under section 35.10 of the final rule prior to seeking judicial review of a recoupment decision. Consistent with Section 602(b)(6)(A)(ii)(III) of the Social Security Act, if a state or territory is required to repay funds pursuant to the Secretary’s recoupment authority, the Secretary may reduce the amount payable to the state or territory in a second tranche payment by the amount that the state or territory would be required to repay as recoupment.

In the final rule, Treasury has clarified that, if it identifies a potential

³⁸⁴ *Id.*

³⁸⁵ Treasury will also consider the tax offset provision on an annual basis.

³⁸⁶ Funds subject to recoupment cannot later be returned.

violation,³⁸⁷ it may request additional information from a recipient before initiating the recoupment process and, where necessary, provide written notice to the recipient along with an explanation of such amounts potentially subject to recoupment. Furthermore, Treasury has also made clear that it retains the ability to expedite or extend timelines in any adjudication or pre-adjudication process pursuant to section 35.4(b) of the final rule, although the general timelines set forth in the interim final rule are maintained in the final rule.

This process is intended to provide the recipient with an adequate opportunity to present additional information regarding its uses of funds and provides flexibility for recipients to determine the information relevant to the particular facts and circumstances. It is also flexible enough to align with other adjudication procedures in other ARPA recovery programs administered by the Office of Recovery Programs at Treasury. As discussed above, the initial notice will provide recipients with an explanation of the identified potential violation in order to provide recipients with a meaningful opportunity to respond. Such initial notice will generally include information regarding the specific use of SLFRF funds and the source of such information.³⁸⁸ This process also will allow the Secretary to take into consideration the information provided by recipients, along with other relevant information, to ensure SLFRF funds are used in a manner consistent with the Social Security Act.

Finally, Treasury expects to work with recipients to support the use of SLFRF funds consistent with the law. For example, Treasury may request additional information from a recipient before initiating the recoupment process. In addition, Treasury may pursue other forms of remediation and monitoring in conjunction with, or as an alternative to, recoupment.³⁸⁹ These efforts may include working with recipients to identify and substitute permissible uses of SLFRF funds or amending uses of SLFRF funds to comply with applicable restrictions.

In response to comments regarding the amount of time provided to respond to an initial notice, the final rule clarifies that Treasury retains the ability

to expedite or extend timelines in any adjudication or pre-adjudication process pursuant to section 35.4(b) of the final rule, although the general timelines set forth in the interim final rule are maintained in the final rule.

V. Regulatory Analyses

Executive Orders 12866 and 13563

Regulatory Impact Assessment

This final rule is a “significant regulatory action” under section 3(f) of Executive Order 12866 for the purposes of Executive Orders 12866 and 13563 because it is likely to have an annual effect on the economy of \$100 million or more.

As explained below, this regulation meets a substantial need: ensuring that recipients—states, territories, Tribal governments, and local governments—of SLFRF 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’ intent to provide necessary relief to recipient governments adversely impacted by the COVID–19 public health emergency. Furthermore, as required by Executive Orders 12866 and 13563, Treasury has weighed the costs and benefits of this final rule and varying alternatives and has reasonably determined that the benefits of the final rule to recipients and their communities far outweigh any costs.

The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866.

Executive Orders 12866 and 13563

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, among other things, have an annual effect on the economy of \$100 million or more. This rule is likely to have an annual effect on the economy of \$100 million or more, and therefore, it is 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 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.”

Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this final rule is consistent with the principles set forth in Executive Orders 12866 and 13563. This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs. Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this 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.

Need for Regulatory Action

This final rule implements the \$350 billion SLFRF program 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 final rule is needed to ensure that recipients of SLFRF funds fully

³⁸⁸ Treasury may address potential violations based on information submitted from recipients, either through quarterly reports or self-reported information, and from other sources of information as Treasury deems necessary and appropriate (e.g., press, information submitted from the public).

³⁸⁹ Treasury intends to work with recipients to support the use of SLFRF funds consistent with the law.

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 final rule governs the use of \$350 billion in grant funds from the federal government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. 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 SLFRF 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.³⁹⁰ 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 2007–2009 recession.³⁹¹

This final rule provides benefits across several areas by implementing the four eligible use categories, as defined in statute: strengthening the response to the COVID-19 public health emergency and its negative economic impacts; replacing lost revenue to ease 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 water, sewer, and broadband infrastructure.

These benefits are achieved in the final rule through a broadly flexible

approach that sets clear guidelines on eligible uses of SLFRF funds and provides state, local, and Tribal government officials discretion within those eligible uses to direct SLFRF funds to areas of greatest need within their jurisdiction. While preserving recipients' overall flexibility, the final rule includes several provisions that implement statutory requirements and will help support use of SLFRF funds to achieve the intended benefits. Preserving flexibility for recipients not only serves an important public policy goal by allowing them to meet particularized and diverse needs of their local communities but also enhances the economic benefits of the final rule by allowing recipients to choose eligible uses of funds that provide the highest utility in their jurisdictions.

In implementing the ARPA, Treasury has also prioritized supporting underserved communities that have been disproportionately impacted by the pandemic. The SLFRF program as implemented by the final rule provides even greater flexibility to recipients for uses of funds in underserved communities, recognizing that pre-existing health and economic disparities in these communities amplified the impact of the pandemic there. In general, investments in improving health outcomes and economic opportunities provide high economic returns, so this approach is likely to achieve substantial near-term economic and public health benefits, in addition to the longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure.

The remainder of this section clarifies how Treasury's approach to key provisions in the final rule will contribute to greater realization of benefits from the program.

Public Health and Negative Economic Impacts

The eligible use category for responding to the public health and negative economic impacts of the pandemic covers a wide range of eligible uses of funds. Treasury addresses several key uses of funds in this analysis, as well as ways that Treasury has structured this eligible use to minimize recipient administrative burden while also maintaining targeting of the funding to entities that experienced negative impacts from the pandemic.

Government Employment: In order to bolster the government's ability to effectively administer services, the final rule allows for a broader set of eligible uses to restore and support public sector employment relative to the interim final

rule. In particular, eligible uses include hiring up to a pre-pandemic baseline that is adjusted for historic underinvestment in the public sector by allowing funds to be used to pay for payroll and covered benefits associated with the recipient increasing its number of employees up to 7.5 percent above its pre-pandemic baseline. Eligible uses also include providing additional funds for employees who experienced pay cuts or were furloughed, avoiding layoffs, providing worker retention incentives, and paying for ancillary administrative costs related to hiring.

Treasury believes this expanded approach, relative to the interim final rule, provides useful flexibility to recipients, which may increase a state or local government's ability to effectively deliver services to its residents. While the interim final rule already explicitly permitted using funds to restore recipients' workforces up to pre-pandemic levels, the final rule's inclusion of an upward adjustment factor recognizes that, as the population or economy of a jurisdiction grows over time, more workers are generally needed to effectively meet responsibilities. It also provides recipients greater room to employ funds toward building back the public sector workforce after years of chronic underinvestment since the Great Recession. Treasury arrived at the 7.5 percent adjustment factor through an analysis of data from the Bureau of Labor Statistics on state and local government employment and data from the Census Bureau on population to estimate the extent of underinvestment in the public sector since the onset of the Great Recession. While Treasury considered a range of methodologies and point estimates to set the adjustment factor, a 7.5 percent factor errs on the side of recipient flexibility. Treasury believes this adjustment enhances recipients' ability to identify and meet the particularized needs of their communities. Treasury also believes that the additional enumerated eligible uses for supporting the workforce provide recipients several means to help retain current workers, decreasing turnover costs.

Identifying Eligible Populations

Treasury has provided several methods for recipients to identify households, populations, and communities eligible for services that respond to the public health and negative economic impacts of the pandemic. In general, these methods seek to provide recipients options to identify eligible populations with minimal administrative burden, while also maintaining targeting of the funds

³⁹⁰ See, e.g., Gabriel Chodorow-Reich et al., *Does state Fiscal Relief During Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act*, 4 American Economic Journal 118–145 (2012) <http://dx.doi.org/10.1257/pol.4.3.118>.

³⁹¹ See, e.g., Fitzpatrick, *supra* note 278.

to entities impacted by the pandemic. Recipients also retain flexibility to identify and serve other populations and entities that experienced pandemic impacts, ensuring that recipients can meet the particularized needs of their local communities.

Defining Low and Moderate Income: To streamline the provision of funds relating to negative economic impacts resulting from the pandemic, Treasury has created an eligibility standard making it easier for recipients to provide assistance to low- and moderate-income populations without needing to identify and document a specific negative economic impact. Populations falling under the definition of low income are presumed to have been disproportionately impacted by the pandemic, while those falling under the definition of moderate income are presumed to have been impacted by the pandemic. In addition, the final rule recognizes categorical eligibility for certain enumerated programs and populations if a recipient chooses to implement categorical eligibility when identifying impacted and disproportionately impacted populations. Treasury considered several options for eligibility standards that would reduce administrative burdens for recipients when determining who qualifies as low and moderate income.

One option involved defining a household as low income or moderate income based only on FPG thresholds and could use levels lower than those selected. This option involved setting uniform thresholds throughout the country.

A second option took a broader approach, defining a household as low income if it has (i) income at or below 185 percent of the FPG for the size of its household or (ii) income at or below 40 percent of the AMI for its county and size of household. The option defined a household as moderate income if it has (i) income at or below 300 percent of the FPG for the size of its household or (ii) income at or below 65 percent of the AMI for its county and size of household. The combination of an FPG floor with AMI allows for a regional adjustment in areas with substantially higher costs and incomes. Finally, Treasury also considered a range of FPG and AMI thresholds above and below these levels.

Treasury chose the second option. Treasury believes that the higher FPG floor will ease administrative burdens by making more households presumptively eligible for funds meant to address negative economic impacts in a targeted manner. With respect to the

low-income cutoff, 185 percent of the FPG for a family of four is \$49,025, which is approximately the wage earnings for a two-earner household where both earners receive the median wage in occupations, such as waiters and waitresses and hotel clerks, that were heavily impacted by COVID-19. As such, this cutoff is likely to include more workers in industries heavily impacted by COVID-19, who may be most likely to face disproportionate impacts of the pandemic, than a lower threshold.³⁹² With respect to the moderate-income cutoff, many households with incomes between 200 percent and 300 percent of the FPG struggle with a lack of economic security, suggesting that 300 percent of the FPG was an appropriate cutoff for moderate income.

Treasury also considered relatively higher thresholds for both an FPG and AMI approach; however, increasing income thresholds for presumed eligibility increases the likelihood that higher-income workers, who generally experienced fewer economic impacts from the pandemic, would become presumed eligible for responsive services. Providing services to households that did not experience a negative economic impact, or experienced a relatively minimal impact, would provide much less benefit than serving households that experienced more severe impacts, diluting the benefits of the SLFRF funds.

In all, Treasury anticipates that these selected thresholds, combined with the regional adjustment, will allow resources to be targeted toward individuals and households with the greatest need while also reducing administrative burdens on recipients.

Disproportionately Impacted Populations: In the interim final rule, Treasury enumerated a broader set of eligible uses for disproportionately impacted communities, in recognition of the pre-existing health, economic, and social disparities that contributed to disproportionate pandemic impacts in certain communities and that addressing root causes of those disparities constitutes responding to the public health and negative economic impacts of the pandemic. To identify these communities and reduce administrative burden, Treasury allowed recipients to presume that certain populations—those in QCTs and those being served by Tribal

governments—were disproportionately impacted. In the final rule, to further decrease administrative burden and enhance recipient flexibility, Treasury is allowing recipients to also presume that low-income households were disproportionately impacted. Treasury anticipates that adding low-income households as a presumed eligible population will maintain targeting of funds to populations and communities most likely to have experienced severe pandemic impacts, while providing a more flexible approach for recipients.

Identifying Impacted Classes: In the final rule, Treasury reiterated its stance in the interim final rule allowing recipients to designate a class of households or other entities as impacted or disproportionately impacted and provide responsive services. After designating a class, recipients can serve a household or entity by simply identifying that the household or entity is a member of the class. Relative to restricting services to only presumed eligible populations identified by Treasury, this decision provides vital administrative flexibility for recipients that may identify particular impacted classes in the context of their jurisdiction. Treasury anticipates that SLFRF funds will be targeted to impacted or disproportionately impacted communities, as recipients must demonstrate that the designated class experienced negative economic impacts or meaningfully more severe negative economic impacts. This approach maintains the requirement that entities served have to have experienced a negative economic impact, while simultaneously minimizing any administrative costs associated with meeting this requirement.

Additional Enumerated Uses

The interim final rule enumerated eligible uses of SLFRF funds to serve both impacted and disproportionately impacted communities. For example, enumerated eligible uses to serve impacted communities included food assistance; rent, mortgage, or utility assistance; and counselling and legal aid to prevent eviction or homelessness. Examples of enumerated eligible uses to serve disproportionately impacted communities included remediation of lead paint or other lead hazards and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity. In the final rule, Treasury had the option to retain, expand, or reduce enumerated eligible uses, or shift use eligibility between disproportionately impacted and impacted communities. Many

³⁹² See U.S. Bureau of Labor Statistics, Occupational Employment and Wage Estimates, https://www.bls.gov/oes/current/oes_nat.htm (last visited November 9, 2021).

public comments suggested potential expansions of uses, including shifting enumerated eligible uses for disproportionately impacted communities to serve a broader population of impacted communities. Taking these comments into account, Treasury generally took this approach, in anticipation that the benefits of the program will increase while recipient administrative costs in identifying and justifying non-enumerated uses of funds will decrease.

Specifically, Treasury added enumerated eligible uses for impacted populations including paid sick, medical, or family leave; health insurance subsidies; and services for the unbanked and underbanked, on the basis that impacts of the pandemic that were broadly experienced by many communities would be addressed by these uses. Treasury also shifted some eligible uses, formerly restricted only to disproportionately impacted communities, to impacted communities. These uses included community violence intervention, assistance accessing or applying to public benefits and services, affordable housing development, and services to promote healthy childhood environments like childcare and early learning. These uses were shifted on the basis that the associated impacts of the pandemic were experienced by a broader population, and responses are, accordingly, eligible to benefit a broader population.

Additionally, the final rule clarified that investments in parks and other public outdoor recreation spaces are enumerated eligible uses for disproportionately impacted communities. In including these uses, Treasury took into account evidence on the social determinants of health, or the ways that social context, like the neighborhood built environment, impacts health outcomes. By taking a more holistic approach to public health, the final rule allows recipients to respond more broadly to factors that contributed to the pandemic's health impacts and more fully mitigate those health impacts.

To balance administrative flexibility with a maintenance of focus on impacts of the pandemic, Treasury considered, but did not include, other proposed enumerated uses that did not respond to the impacts of the pandemic or responded to impacts that were not experienced generally across the country by many jurisdictions and populations. For example, Treasury did not include pollution remediation broadly, a proposed enumerated eligible use for disproportionately impacted

communities, on the basis that associated projects would only respond to disproportionate impacts of the pandemic depending on the specific issue addressed. In sum, Treasury expanded enumerated eligible uses while retaining a focus on broadly experienced impacts of the pandemic. Treasury anticipates that this will give recipients further flexibility to presume eligibility and respond to pandemic impacts without increasing administrative burden.

Capital Expenditures: In the interim final rule, Treasury permitted funds to be used for a limited number of capital expenditures mostly related to the COVID-19 public health response. This decision granted recipients some discretion to use SLFRF funds to address COVID-19 prevention and mitigation through certain investments in equipment, real property, and facilities, which Treasury recognized as critical components of the public health response. In the final rule, Treasury considered maintaining the provisions in the interim final rule or expanding allowable capital expenditures to provide recipients greater flexibility to pursue other capital investments that are responsive to the public health emergency and its negative economic impacts. While expanding allowable capital expenditures may increase the risk that recipients will undertake large expenditures that do not sufficiently address intended harms, or address harms in a less cost-efficient manner than an alternative investment (e.g., a program or service), expanding allowable capital expenditures would likely help fill critical gaps in recipients' response to the pandemic and provide equipment and facilities that generate benefits beyond SLFRF's period of performance. To preserve flexibility while mitigating risks, the final rule allows recipients to undertake an expanded set of capital expenditures while requiring additional written justifications for projects with an expected total cost at or over \$1 million. Treasury believes this approach balances the implementation of appropriate risk-based compliance requirements and the provision of administrative convenience for smaller capital expenditures, while generally allowing recipients the flexibility to undertake a greater variety of responsive capital expenditures.

Revenue Loss

Revenue Loss Formula: In this final rule, Treasury's approach to revenue loss allows recipients to 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 has made several adjustments in the final rule to decrease administrative burden, reducing costs for recipients, while still accurately capturing reductions in revenue due to the pandemic.

Under the interim final rule, Treasury specified that recipients calculate revenue loss on a calendar year basis. In this final rule, Treasury is providing recipients the option to calculate revenue loss on a calendar year or fiscal year basis, which will allow recipients the administrative flexibility to minimize administrative burdens based on the data available to them.

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. Recipients will have the opportunity to 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 is intended to 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. The final rule also provides for removing the impact of tax increasing or decreasing changes, which affect the amount of revenue collected but are not "due to" the pandemic, from the calculation of revenue loss due to the public health emergency. Both of these components of Treasury's approach provide a more accurate representation of the effect of the pandemic on overall revenues.

Revenue Loss Standard Allowance: In addition to largely preserving the formula to calculate revenue loss from the interim final rule, Treasury also added an alternative "standard allowance" option for the revenue loss calculation to this final rule. Treasury's decision to elect to allow a fixed amount of loss that can be used to fund "government services" allows recipients the flexibility to use minimal administrative capacity on the calculation if desired. The decision also benefits recipients by allowing them to avoid expending administrative

resources to determine how unique variations in revenue interact with the revenue loss formula.

Premium Pay

Per the ARPA statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay. While the final rule provides significant flexibility to implement the statutory requirement that premium pay respond to essential workers, it requires recipients give written justification in the case that premium pay would increase a worker's annual pay above a certain threshold or is awarded to an individual whose annual pay is already above that 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. Alternatively, a recipient need not submit written justification to Treasury if the worker receiving premium pay is eligible for overtime under the FLSA. Treasury believes this alternative, which is an addition to the final rule, will give recipients more flexibility and will simplify application of the final rule as employers, public and private, are already legally required to determine whether an employee is eligible for overtime pay under the FLSA. Treasury believes the threshold and overtime eligibility provision in the final rule strike the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The final rule also requires that workers eligible for premium pay have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

Water and Sewer Infrastructure

In the interim final rule, Treasury aligned eligible uses of funds for water and sewer infrastructure to those projects eligible to receive financial assistance through the DWSRF and CWSRF administered by the EPA.

The benefits of this approach included giving recipients an existing list that would provide them clarity as well as flexibility in identifying eligible

projects, particularly given the broad range of projects eligible under the CWSRF and DWSRF. The approach also ensured that projects would conform to vetted project types from a widely used program. Treasury received comments from recipients requesting additional project categories to be considered eligible, indicating a potential cost to maintaining alignment with the CWSRF and DWSRF.

For the final rule, Treasury has expanded eligibility to include several additional project types beyond those covered by the CWSRF and DWSRF.

Treasury believes that expanded eligibility will benefit recipients by allowing them additional flexibility to pursue beneficial projects, including project categories that support the provision of drinking water and the removal, management, and treatment of wastewater and stormwater: Additional stormwater management projects, private well infrastructure, additional projects that address lead in water, and certain dam and reservoir rehabilitation projects undertaken to address the provision of drinking water. A potential cost of this approach is that uses beyond the CWSRF and DWSRF may have less public guidance available to understand project eligibilities. However, Treasury anticipates that this eligibility expansion will provide a net benefit to recipients by allowing them to pursue projects relevant to their goals that were ineligible under the interim final rule.

The expansion to allow private well infrastructure may also affect the distributional impact of SLFRF. Private wells disproportionately serve rural Americans, including low-income households, and expanding eligibility to include this use may allow SLFRF funds to benefit such households. While distributional impacts are uncertain, Treasury believes that the potential for benefits to accrue to rural and low-income households makes it important to clarify that these types of projects are eligible.

Broadband Infrastructure

In the final rule, Treasury expands eligible areas for broadband investment by requiring that recipients invest in projects designed to provide service to households and businesses with an identified need for additional broadband investment, including increasing access to high-speed broadband, increasing the affordability of broadband services, and improving the reliability of broadband service.³⁹³

³⁹³ Further, the final rule encourages, but does not require, that recipients pursue broadband infrastructure projects in locations not currently

Treasury considered multiple alternatives when selecting this standard. The threshold for the interim final rule allowed benefits to accrue in a more targeted manner to the approximately 9 percent of the country with access to speeds under the 25/3 Mbps threshold.³⁹⁴ However, since SLFRF funds are distributed to tens of thousands of governments across the country with a variety of broadband needs, Treasury believes that allowing recipients greater flexibility to determine locations to serve in their jurisdictions—including considering affordability and competition barriers—will lead to greater long-term public benefit. Further, given that many federal broadband grant programs are focused solely on unserved and underserved areas, Treasury believes that the final rule's flexibility enables these funds to fill an important role in the overall federal broadband landscape.

In the final rule, Treasury also requires that broadband projects must meet a standard of reliably delivering at least 100 Mbps download speeds and upload speeds, or in cases where it is not practicable to do so, reliably delivering at least 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed while being scalable to 100 Mbps upload and download speeds. Treasury expects that this threshold will yield long-term benefits and allow networks to meet both pandemic-related and future needs. The Federal Communications Commission (FCC) estimates that currently a household with two to three remote learners using the internet simultaneously needs a connection supporting 100 Mbps download speeds.³⁹⁵ While a lower threshold may have resulted in lower near-term costs to build, it would have potentially constrained future utility from the infrastructure by producing infrastructure that would more quickly—potentially in the near-term—become obsolete and no longer meet household needs, potentially requiring sooner replacement and generally decreasing the return on investment. As

served by a wireline connection that reliably delivers at least 100 Mbps of download speed and 20 Mbps of upload speed.

³⁹⁴ 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. Federal Communications Commission, Fixed Broadband Deployment, <https://broadbandmap.fcc.gov/#/> (last visited May 9, 2021).

³⁹⁵ See Federal Communications Commission, Broadband Speed Guide, available at <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last visited October 28, 2021).

such, projects meeting a lower threshold could not be considered “necessary” investments in broadband infrastructure, so Treasury has retained the threshold from the interim final rule.

Further, the final rule adds a requirement that recipients address the affordability needs of low-income consumers in accessing broadband networks funded by SLFRF, either by requiring service providers that provide service to households to either participate in the FCC’s Affordable Connectivity Program (ACP), or a broad-based affordability program with commensurate benefits. Treasury believes that this requirement will increase the number of customers that are able to take advantage of broadband infrastructure funded by SLFRF, increasing the effectiveness of funds in connecting households and businesses to high-speed internet that is critical to work, health, and education. There is a potential that this requirement may marginally increase project costs for recipients and providers, but this impact is uncertain, given the varying business models and pricing structures of broadband projects and providers.

Labor Standards

In this Supplementary Information for the final rule, Treasury encourages recipients to ensure that capital expenditures to respond to the public health and negative economic impacts of the pandemic and water, sewer, and broadband projects use strong labor standards, including, for example, project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions. Treasury believes that its encouragement of labor standards carries benefits because it will ensure that workers have access to strong employment opportunities associated with infrastructure projects, which will in turn aid the economic recovery. Treasury believes that infrastructure projects may also benefit from stronger labor standards due to the potential of these standards to ensure a stronger skilled labor supply and minimize labor disputes and workplace injuries, which can result in costly disruptions to projects. Treasury assesses that these benefits will increase the economy and efficiency of infrastructure projects undertaken through SLFRF and will outweigh the potential for a marginal increase in labor costs.

Splitting Payments to Recipients

Treasury is required by statute to deliver funds to local governments in

two payments separated by at least twelve months, and the interim final rule provided for split payments to a majority of states as well. As discussed above, splitting 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 has provided funds in one payment. Treasury believes that this approach strikes an 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.

Reaching Underserved Communities

Finally, the final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need, particularly communities that have been historically underserved 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.” To this end, the final rule enumerates a list of services that may be provided using SLFRF funds in disproportionately impacted communities, including low-income areas, to address the more severe 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 SLFRF funds to restore state and local workforces, where women and people of color are disproportionately represented; and requires that broadband infrastructure projects participate in programs to support affordability of broadband service. 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 SLFRF funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires states to allocate SLFRF 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 many 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 Coronavirus Relief Fund (CRF) and Treasury expects them to rely heavily on established processes developed through that program or other prior grant funding, mitigating burden on these governments. Treasury has enhanced the level of recipient reporting as compared to the CRF, incorporating feedback from the Government Accountability Office and others that additions would improve the oversight of recipients’ use of funds. To balance the oversight benefits with the costs of added reporting burdens, Treasury has incorporated other mechanisms to mitigate burden. For example, Treasury is “tiering” reporting requirements so that recipients that receive relatively lesser amounts of SLFRF funds are required to submit less frequent reports than recipients receiving greater amounts of funds. Treasury is noting administrative costs as a generally allowable use of SLFRF funds, which defrays administrative expenses to recipients that may be needed to comply with reporting requirements. Treasury has also provided options for recipients to use eligibility thresholds they are already familiar with during administration of SLFRF funds, which will enable recipients to avoid the costs of setting up new programs and reporting mechanisms to meet reporting and compliance requirements. For example, Treasury has permitted recipients to use “categorical eligibility” when delivering assistance to particular groups, such as impacted or disproportionately impacted households.

In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—states, cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Furthermore, Treasury has made clear in guidance that SLFRF funds may be used to cover certain expenses related to administering programs established using SLFRF funds.³⁹⁶

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 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 and this 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 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 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)(B). The interim final rule was issued without prior notice and comment procedures because it implemented statutory conditions on the eligible uses of SLFRF funds, and addressed the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses to help address the economic and public health emergency. See the **SUPPLEMENTARY INFORMATION** section of the May 17, 2021 interim final rule for the applicability of the requirements of

5 U.S.C. 553. In addition, under the exception discussed in that section for matters relating to agency grants, the requirements of 5 U.S.C. 553 also do not apply to this final rule. After careful consideration of the comments received, this final rule adopts the May 17, 2021 interim final rule with the revisions discussed in this **SUPPLEMENTARY INFORMATION**.

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 generally may take effect no earlier than 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3).

Paperwork Reduction Act

The information collections associated with the SLFRF program have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35) (PRA) and assigned control number 1505–0271. 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.

Reporting	Number respondents	Number responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondents (\$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
Tribal Employment Information Form	584	1	584	.75 (45 minutes)	438	21,374
Request for Extension Form	96	1	96	1	96	4,685
Annual Recovery Plan Performance Report	430	1	430	100	43,000	2,098,400
NEU Distribution Template	55	2	110	10	1,100	53,680
Non-UGLG Distribution Template	55	2	110	5	550	26,840
Transfer Forms	1,500	1	1,500	1	1,500	73,200
Project and Expenditure Report	37,000	1	37,000	5	185,000	9,028,000
Total	54,870		54,980		236,735	11,552,619

* 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.

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 or any other law are also exempt from the RFA

³⁹⁶ See Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, 10.2,

as of July 19, 2021; <https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>.

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. Because this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

Rule Text

List of Subjects in 31 CFR Part 35

Executive compensation, State and Local Governments, Tribal Governments, Public health emergency.

For the reasons stated in the preamble, the United States Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

■ 1. Revise 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.

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f).

§ 35.1 Purpose.

This part 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 part 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.

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.

Capital expenditures has the same meaning given in 2 CFR 200.1.

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 that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase. 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 or territory, the period that:

- (1) Begins on March 3, 2021; and
- (2) Ends on the last day of the fiscal year of such State or territory in which all funds received by the State or territory 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 lasting 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 childcare; 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; and 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 non-public 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 non-public 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 and 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 also includes revenue from liquor stores that are owned and operated by state and local governments. General revenue does not include revenues from utilities, except recipients may choose to include revenue from utilities that are part of their own government as general revenue provided the recipient does so consistently over the remainder of the period of performance. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Low-income household means a household with:

(1) Income at or below 185 percent of the Federal Poverty Guidelines for the size of its household based on the poverty guidelines published most recently by the Department of Health and Human Services; or

(2) Income at or below 40 percent of the Area Median Income for its county and size of household based on data published most recently by the Department of Housing and Urban Development.

Micro-business means a small business that has five or fewer employees, one or more of whom owns the small business.

Moderate-income household means a household with:

(1) Income at or below 300 percent of the Federal Poverty Guidelines for the size of its household based on poverty guidelines published most recently by the Department of Health and Human Services; or

(2) Income at or below 65 percent of the Area Median Income for its county and size of household based on data published most recently by the Department of Housing and Urban Development.

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 for that reporting year.

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) or 501(c)(19) 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.

Period of performance means the time period described in § 35.5 during which a recipient may obligate and expend funds in accordance with sections 602(c)(1) and 603(c)(1) of the Social Security Act and this subpart.

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 in total over the period of performance with respect to any single eligible worker. Premium pay may be awarded to non-hourly and part-time eligible workers performing essential work. 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 per hour 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 worker's 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.

Title I eligible schools means schools eligible to receive services under section 1113 of Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6313), including schools served under section 1113(b)(1)(C) of that Act.

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 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)).

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this part 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 part, 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 period of performance, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, 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 § 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. A recipient must also return funds obligated by December 31, 2024 but not expended 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 (f) 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 if the use meets the criteria provided in paragraph (b)(1) of this section or is enumerated in paragraph (b)(3) of this section; provided that, in the case of a use of funds for a capital expenditure under paragraphs (b)(1) or (b)(3) of this section, the use of funds must also meet the criteria provided in paragraph (b)(4) of this section. Treasury may also articulate additional eligible programs, services, or capital expenditures from time to time that satisfy the eligibility criteria of this paragraph (b), which shall be eligible under this paragraph (b).

(1) *Identifying eligible responses to the public health emergency or its negative economic impacts.* (i) A

program, service, or capital expenditure is eligible under this paragraph (b)(1) if a recipient identifies a harm or impact to a beneficiary or class of beneficiaries caused or exacerbated by the public health emergency or its negative economic impacts and the program, service, or capital expenditure responds to such harm.

(ii) A program, service, or capital expenditure responds to a harm or impact experienced by an identified beneficiary or class of beneficiaries if it is reasonably designed to benefit the beneficiary or class of beneficiaries that experienced the harm or impact and is related and reasonably proportional to the extent and type of harm or impact experienced.

(2) *Identified harms: Presumptions of impacted and disproportionately impacted beneficiaries.* A recipient may rely on the following presumptions to identify beneficiaries presumptively impacted or disproportionately impacted by the public health emergency or its negative economic impacts for the purpose of providing a response under paragraph (b)(1) or (b)(3) of this section:

(i) Households or populations that experienced unemployment; experienced increased food or housing insecurity; qualify for the Children's Health Insurance Program (42 U.S.C. 1397aa *et seq.*), Childcare Subsidies through the Child Care and Development Fund Program (42 U.S.C. 9857 *et seq.* and 42 U.S.C. 618), or Medicaid (42 U.S.C. 1396 *et seq.*); if funds are to be used for affordable housing programs, qualify for the National Housing Trust Fund (12 U.S.C. 4568) or the Home Investment Partnerships Program (42 U.S.C. 12721 *et seq.*); if funds are to be used to address impacts of lost instructional time for students in kindergarten through twelfth grade, any student who did not have access to in-person instruction for a significant period of time; and low- and moderate-income households and populations are presumed to be impacted by the public health emergency or its negative economic impacts;

(ii) The general public is presumed to be impacted by the public health emergency for the purposes of providing the uses set forth in subparagraphs (b)(3)(i)(A) and (b)(3)(i)(C); and

(iii) The following households, communities, small businesses, and nonprofit organizations are presumed to be disproportionately impacted by the public health emergency or its negative economic impacts:

(A) Households and populations residing in a qualified census tract;

households and populations receiving services provided by Tribal governments; households and populations residing in the territories; households and populations receiving services provided by territorial governments; low-income households and populations; households that qualify for Temporary Assistance for Needy Families (42 U.S.C. 601 *et seq.*), the Supplemental Nutrition Assistance Program (7 U.S.C. 2011 *et seq.*), Free and Reduced Price School Lunch and/or Breakfast programs (42 U.S.C. 1751 *et seq.* and 42 U.S.C. 1773), Medicare Part D Low-income Subsidies (42 U.S.C. 1395w–114), Supplemental Security Income (42 U.S.C. 1381 *et seq.*), Head Start (42 U.S.C. 9831 *et seq.*), Early Head Start (42 U.S.C. 9831 *et seq.*), the Special Supplemental Nutrition Program for Women, Infants, and Children (42 U.S.C. 1786), Section 8 Vouchers (42 U.S.C. 1437f), the Low-Income Home Energy Assistance Program (42 U.S.C. 8621 *et seq.*), Pell Grants (20 U.S.C. 1070a), and, if SLFRF funds are to be used for services to address educational disparities, Title I eligible schools;

(B) Small businesses operating in a qualified census tract, operated by Tribal governments or on Tribal lands, or operating in the territories; and

(C) Nonprofit organizations operating in a qualified census tract, operated by Tribal governments or on Tribal lands, or operating in the territories.

(3) *Enumerated eligible uses:* Responses presumed reasonably proportional. A recipient may use funds to respond to the public health emergency or its negative economic impacts on a beneficiary or class of beneficiaries for one or more of the following purposes unless such use is grossly disproportionate to the harm caused or exacerbated by the public health emergency or its negative economic impacts:

(i) Responding to the public health impacts of the public health emergency for purposes including:

(A) COVID–19 mitigation and prevention in a manner that is consistent with recommendations and guidance from the Centers for Disease Control and Prevention, including vaccination programs and incentives; testing programs; contact tracing; isolation and quarantine; mitigation and prevention practices in congregate settings; acquisition and distribution of medical equipment for prevention and treatment of COVID–19, including personal protective equipment; COVID–19 prevention and treatment expenses for public hospitals or health care facilities, including temporary medical

facilities; establishing or enhancing public health data systems; installation and improvement of ventilation systems in congregate settings, health facilities, or other public facilities; and assistance to small businesses, nonprofits, or impacted industries to implement mitigation measures;

(B) Medical expenses related to testing and treating COVID–19 that are provided in a manner consistent with recommendations and guidance from the Centers for Disease Control and Prevention, including emergency medical response expenses, treatment of long-term symptoms or effects of COVID–19, and costs to medical providers or to individuals for testing or treating COVID–19;

(C) Behavioral health care, including prevention, treatment, emergency or first-responder programs, harm reduction, supports for long-term recovery, and behavioral health facilities and equipment; and

(D) Preventing and responding to increased violence resulting from the public health emergency, including community violence intervention programs, or responding to increased gun violence resulting from the public health emergency, including payroll and covered benefits associated with community policing strategies; enforcement efforts to reduce gun violence; and investing in technology and equipment;

(ii) Responding to the negative economic impacts of the public health emergency for purposes including:

(A) Assistance to households and individuals, including:

(1) Assistance for food; emergency housing needs; burials, home repairs, or weatherization; internet access or digital literacy; cash assistance; and assistance accessing public benefits;

(2) Paid sick, medical, or family leave programs, or assistance to expand access to health insurance;

(3) Childcare, early learning services, home visiting, or assistance for child welfare-involved families or foster youth;

(4) Programs to address the impacts of lost instructional time for students in kindergarten through twelfth grade;

(5) Development, repair, and operation of affordable housing and services or programs to increase long-term housing security;

(6) Financial services that facilitate the delivery of Federal, State, or local benefits for unbanked and underbanked individuals;

(7) Benefits for the surviving family members of individuals who have died from COVID–19, including cash assistance to surviving spouses or

dependents of individuals who died of COVID–19;

(8) Assistance for individuals who want and are available for work, including those who are unemployed, have looked for work sometime in the past 12 months, who are employed part time but who want and are available for full-time work, or who are employed but seeking a position with greater opportunities for economic advancement;

(9) Facilities and equipment related to the provision of services to households provided in subparagraphs (b)(3)(ii)(A)(1)–(8);

(10) The following expenses related to Unemployment Trust Funds:

(i) Contributions to a recipient Unemployment Trust Fund and repayment of principal amounts due on advances received under Title XII of the Social Security Act (42 U.S.C. 1321) up to an amount equal to the difference between the balance in the recipient's Unemployment Trust Fund as of January 27, 2020 and the balance of such account as of May 17, 2021 plus the principal amount outstanding as of May 17, 2021 on any advances received under Title XII of the Social Security Act between January 27, 2020 and May 17, 2021; provided that if a recipient repays principal on Title XII advances or makes a contribution to an Unemployment Trust Fund after April 1, 2022, such recipient shall not reduce average weekly benefit amounts or maximum benefit entitlements prior to December 31, 2024; and

(ii) Any interest due on such advances received under Title XII of the Social Security Act (42 U.S.C. 1321); and

(11) A program, service, capital expenditure, or other assistance that is provided to a disproportionately impacted household, population, or community, including:

(i) Services to address health disparities of the disproportionately impacted household, population, or community;

(ii) Housing vouchers and relocation assistance;

(iii) Investments in communities to promote improved health outcomes and public safety such as parks, recreation facilities, and programs that increase access to healthy foods;

(iv) Capital expenditures and other services to address vacant or abandoned properties;

(v) Services to address educational disparities; and

(vi) Facilities and equipment related to the provision of these services to the disproportionately impacted household, population, or community.

(B) Assistance to small businesses, including:

(1) Programs, services, or capital expenditures that respond to the negative economic impacts of 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, or providing technical assistance; and

(2) A program, service, capital expenditure, or other assistance that responds to disproportionately impacted small businesses, including rehabilitation of commercial properties; storefront and façade improvements; technical assistance, business incubators, and grants for start-ups or expansion costs for small businesses; and programs or services to support micro-businesses;

(C) Assistance to nonprofit organizations including programs, services, or capital expenditures, including loans or grants to mitigate financial hardship such as declines in revenues or increased costs, or technical assistance;

(D) Assistance to tourism, travel, hospitality, and other impacted industries for programs, services, or

capital expenditures, including support for payroll costs and covered benefits for employees, compensating returning employees, support for operations and maintenance of existing equipment and facilities, and technical assistance; and

(E) Expenses to support public sector capacity and workforce, including:

(1) 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;

(2) Payroll, covered benefit, and other costs associated with programs or services to support the public sector workforce and with the recipient:

(i) Hiring or rehiring staff to fill budgeted full-time equivalent positions that existed on January 27, 2020 but that were unfilled or eliminated as of March 3, 2021; or

(ii) Increasing the number of its budgeted full-time equivalent employees by up to the difference between the number of its budgeted full-time equivalent employees on January 27, 2020, multiplied by 1.075, and the number of its budgeted full-time equivalent employees on March 3, 2021,

provided that funds shall only be used for additional budgeted full-time equivalent employees above the recipient's number of budgeted full-time equivalent employees as of March 3, 2021;

(3) Costs to improve the design and execution of programs responding to the COVID-19 pandemic and to administer or improve the efficacy of programs addressing the public health emergency or its negative economic impacts; and

(4) Costs associated with addressing administrative needs of recipient governments that were caused or exacerbated by the pandemic.

(4) *Capital expenditures.* A recipient, other than a Tribal government, must prepare a written justification for certain capital expenditures according to Table 1 to paragraph (b)(4) of this section. Such written justification must include the following elements:

(i) Describe the harm or need to be addressed;

(ii) Explain why a capital expenditure is appropriate; and

(iii) Compare the proposed capital expenditure to at least two alternative capital expenditures and demonstrate why the proposed capital expenditure is superior.

TABLE 1 TO PARAGRAPH (b)(4)

If a project has total expected capital expenditures of	and the use is enumerated in (b)(3), then	and the use is not enumerated in (b)(3), then
Less than \$1 million	No Written Justification required	No Written Justification required.
Greater than or equal to \$1 million, but less than \$10 million.	Written Justification required but recipients are not required to submit as part of regular reporting to Treasury.	Written Justification required and recipients must submit as part of regular reporting to Treasury.
\$10 million or more	Written Justification required and recipients must submit as part of regular reporting to Treasury.	

(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 that have eligible workers who perform essential work, 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:

(1) The eligible worker's total wages and remuneration, including the premium pay, is less than or equal to 150 percent of the greater of such eligible worker's residing State's or county's average annual wage for all

occupations as defined by the Bureau of Labor Statistics' Occupational Employment and Wage Statistics;

(2) The eligible worker is not exempt from the Fair Labor Standards Act overtime provisions (29 U.S.C. 207); or

(3) The recipient has submitted to the Secretary a written justification that explains how providing premium pay to the eligible worker is responsive to the eligible worker performing essential work during the COVID-19 public health emergency (such as a description of the eligible workers' duties, health, or financial risks faced due to COVID-19, and why the recipient determined that the premium pay was responsive despite the worker's higher income).

(d) *Providing government services.* A recipient may use funds for the provision of government services to the extent of the reduction in the recipient's general revenue due to the public health

emergency, calculated according to this paragraph (d). A recipient must make a one-time election to calculate the amount of the reduction in the recipient's general revenue due to the public health emergency according to either paragraph (d)(1) or (d)(2) of this section:

(1) *Standard allowance.* The reduction in the recipient's general revenue due to the public health emergency over the period of performance will be deemed to be ten million dollars; or

(2) *Formula.* The reduction in the recipient's general revenue due to the public health emergency over the period of performance equals the sum of the reduction in revenue, calculated as of each date identified in paragraph (d)(2)(i) of this section and according to the formula in paragraph (d)(2)(ii) of this section:

(i) A recipient must make a one-time election to calculate the reduction in its general revenue using information as of either:

(A) December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023; or

(B) The last day of each of the recipient's fiscal years ending in 2020, 2021, 2022, and 2023.

(ii) A reduction in a recipient's general revenue for each date identified in paragraph (d)(2)(i) of this section equals:

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{(n/12)}] - \text{Actual General Revenue}; 0 \}$$

Where:

(A) Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency;

(B) Growth Adjustment is equal to the greater of 5.2 percent (or 0.052) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency;

(C) n equals the number of months elapsed from the end of the base year to the calculation date;

(D) Subscript t denotes the specific calculation date; and

(E) Actual General Revenue is a recipient's actual general revenue collected during the 12-month period ending on each calculation date identified in paragraph (d)(2)(i) of this section, except:

(1) For purposes of all calculation dates on or after April 1, 2022, in the case of any change made after January 6, 2022 to any law, regulation, or administrative interpretation that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase and that the recipient assesses has had the effect of decreasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must add to actual general revenue the amount of such decrease in tax revenue;

(2) For purposes of any calculation date on or after April 1, 2022, in the case of any change made after January 6, 2022 to any law, regulation, or administrative interpretation that increases any tax (by providing for an increase in a rate, the reduction of a rebate, a deduction, or a credit, or otherwise) or accelerates the imposition of any tax or tax increase and that the

recipient assesses has had the effect of increasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must subtract from actual general revenue the amount of such increase in tax revenue;

(3) If the recipient makes a one-time election to adjust general revenue to reflect tax changes made during the period beginning on January 27, 2020 and ending on January 6, 2022, for purposes of each calculation date identified in paragraph (d)(2)(i) of this section:

(i) In the case of any change made during such prior period to any law, regulation, or administrative interpretation that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase and that the recipient assesses has had the effect of decreasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must add to actual general revenue the amount of such decrease in tax revenue; and

(ii) In the case of any change made during such prior period to any law, regulation, or administrative interpretation that increases any tax (by providing for an increase in a rate, the reduction of a rebate, a deduction, or a credit, or otherwise) or accelerates the imposition of any tax or tax increase and that the recipient assesses has had the effect of increasing the amount of tax revenue collected during the 12-month period ending on the calculation date relative to the amount of tax revenue that would have been collected in the absence of such change, the recipient must subtract from actual general revenue the amount of such increase in tax revenue; and

(4) With respect to any calculation date during the period beginning on January 6, 2022 and ending on March 31, 2022, if the recipient makes the election in paragraph (d)(3) of this section, the recipient must also make the adjustments referenced in paragraph (d)(3) of this section with respect to any such changes in law, regulation, or administrative interpretation during the period beginning on January 6, 2022 and ending on such calculation date.

(e) *Making necessary investments in water, sewer, and broadband infrastructure.* A recipient may use funds to make the following

investments in water, sewer, and broadband infrastructure.

(1) *Water and sewer investments—(i) Clean Water State Revolving Fund projects.* Projects or activities of the type that meet the eligibility requirements of section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c));

(ii) *Additional stormwater projects.* Projects to manage, reduce, treat, or recapture stormwater or subsurface drainage water regardless of whether such projects would improve water quality if such projects would otherwise meet the eligibility requirements of section 603(c)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)(5));

(iii) *Drinking Water State Revolving Fund projects.* Projects or activities of the type that meet the eligibility requirements of section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12) as implemented by the regulations adopted by the Environmental Protection Agency (EPA) under 40 CFR 35.3520, provided that:

(A) The recipient is not required to comply with the limitation under 40 CFR 35.3520(c)(2) to acquisitions of land from willing sellers or the prohibition under 40 CFR 35.3520(e)(6) on uses of funds for certain Tribal projects; and

(B) In the case of lead service line replacement projects, the recipient must replace the full length of the service line and may not replace only a partial portion of the service line.

(iv) *Additional lead remediation and household water quality testing.* Projects or activities to address lead in drinking water or provide household water quality testing that are within the scope of the programs the EPA is authorized to establish under sections 1459A(b)(2), 1459B(b)(1), 1464(d)(2), and 1465 of the Safe Drinking Water Act (42 U.S.C. 300j-19a(b)(2), 300j-19b(b)(1), 300j-24(d)(2), and 300j-25), provided that:

(A) In the case of lead service line replacement projects, the recipient must replace the full length of the service line and may not replace only a partial portion of the service line; and

(B) In the case of projects within the scope of the program the EPA is authorized to establish under section 1459B(b)(1) of the Safe Drinking Water Act, the recipient may determine the income eligibility of homeowners served by lead service line replacement projects in its discretion.

(v) *Drinking water projects to support increased population.* Projects of the type that meet the eligibility requirements of 40 CFR 35.3520 other than the requirement of subparagraph

(b)(1) of such regulation to address present or prevent future violations of health-based drinking water standards, if the following conditions are met:

(A) The project is needed to support increased population, with need assessed as of the time the project is undertaken;

(B) The project is designed to support no more than a reasonable level of projected increased need, whether due to population growth or otherwise;

(C) The project is a cost-effective means for achieving the desired level of service; and

(D) The project is projected to continue to provide an adequate level of drinking water over its estimated useful life.

(vi) *Dams and reservoirs.*

Rehabilitation of dams and reservoirs if the following conditions are met:

(A) The project meets the requirements of 40 CFR 35.3520 other than the following requirements:

(1) The prohibition on the rehabilitation of dams and reservoirs in 40 CFR 35.3520(e)(1) and (3); and

(2) The requirement in 40 CFR 35.3520(b)(1) that the project is needed to address present or prevent future violations of health-based drinking water standards, provided that if the dam or reservoir project does not meet this requirement, the project must be needed to support increased population, with need assessed as of the time the project is undertaken, and the project must be projected to continue to provide an adequate level of drinking water over its estimated useful life;

(B) The primary purpose of the dam or reservoir is for drinking water supply;

(C) The project is needed for the provision of drinking water supply, with need assessed as of the time the project is initiated;

(D) The project is designed to support no more than a reasonable level of projected increased need, whether due to population growth or otherwise; and

(E) The project is a cost-effective means for achieving the desired level of service.

(vii) *Private wells.* Rehabilitation of private wells, testing initiatives to identify contaminants in private wells, and treatment activities and remediation projects that address contamination in private wells, if the project meets the requirements of 40 CFR 35.3520 other than the limitation to certain eligible systems under 40 CFR 35.3520(a).

(2) *Broadband investments—(i) General.* Broadband infrastructure if the following conditions are met:

(A) The broadband infrastructure is designed to provide service to households and businesses with an

identified need, as determined by the recipient, for such infrastructure;

(B) The broadband infrastructure is designed to, upon completion:

(1) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(2) 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 reliably meeting or exceeding symmetrical 100 Mbps download speed and upload speeds:

(i) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(ii) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed; and

(C) The service provider for a completed broadband infrastructure investment project that provides service to households is required, for as long as the SLFRF-funded broadband infrastructure is in use, by the recipient to:

(1) Participate in the Federal Communications Commission's Affordable Connectivity Program (ACP) through the lifetime of the ACP; or

(2) Otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP through the lifetime of the ACP.

(ii) *Cybersecurity infrastructure investments.* Cybersecurity infrastructure investments that are designed to improve the reliability and resiliency of new and existing broadband infrastructure. Such investments may include the addition or modernization of network security hardware and software tools designed to strengthen cybersecurity for the end-users of these networks.

(f) *Meeting the non-federal matching requirements for Bureau of Reclamation projects.* A recipient may use funds to meet the non-federal matching requirements of any authorized Bureau of Reclamation project.

§ 35.7 Pensions.

A recipient (other than a Tribal government) 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) of this section.

§ 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, the Secretary 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.* The Secretary 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) *Initial notice.* If the Secretary calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient an initial written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless the Secretary extends or accelerates the time period, within 60 calendar days of receipt of an initial notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to the Secretary 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 the Secretary 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 the Secretary extends or accelerates the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section or the expiration of the period for requesting reconsideration provided under paragraph (d), 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. A recipient must invoke and exhaust the procedures available under this subpart prior to seeking judicial review of a decision under § 35.10.

(f) *Repayment of funds.* Unless the Secretary extends or accelerates the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by the Secretary:

(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.

(g) *Other remedial actions.* Prior to seeking recoupment or taking other appropriate action pursuant to paragraph (c), (d), (e), or (f) of this section, the Secretary may notify the recipient of potential violations and provide the recipient an opportunity for informal consultation and remediation.

§ 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 at least May 10, 2022 and not more than 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 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 part 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 the Secretary pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of local 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. For purposes of this section 35.12, a nonentitlement unit of local government's most recent budget shall mean the nonentitlement unit of local government's total annual budget, including both operating and capital expenditure budgets, in effect 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 section 35.12.

(c) *Units of general local government.* Each State or Territory that receives a payment from the Secretary 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.

Jacob Leibenluft,

Chief Recovery Officer.

[FR Doc. 2022-00292 Filed 1-26-22; 8:45 am]

BILLING CODE P

Recategorization of American Rescue Plan Act Projects According to Final Rule Issued by US Treasury

City Council, March 29, 2022

Adam Smith, Project Manager



RECOMMENDATION

2

That the City Council:

1. Recategorize \$15,670,000 of ARPA projects into the Replacing Lost Public Sector Revenue category according to the Final Rule issued by the U.S. Department of the Treasury;
2. Make final decisions on remaining ARPA projects tabled in 2021 and newly staff-proposed ARPA projects; and
3. Authorize the City Manager or designee to approve budget appropriations necessary to recognize revenue and appropriate funding for all ARPA projects.

- 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

- In May 2021, US Treasury released preliminary guidance on ARPA in the form of an Interim Final Rule
- On January 6th, US Treasury released its Final Rule
- Most of the new content aims to provide greater clarity, direction, and examples for rules already in effect under the Interim Final Rule (Attachment I)

- Beginning in July 2021, Council started the process of deliberating and selecting which ARPA projects to fund with the City's \$59 million allocation
- The initial total ARPA project investments Council selected and appropriated in September and December 2021 was \$48,192,200 (Attachment 2)
- ARPA costs must be incurred or encumbered by December 31, 2024, and all projects must be completed by December 31, 2026.

REPLACING LOST PUBLIC SECTOR REVENUE

- The "Replacing Lost Public Sector Revenue" category remains the most flexible ARPA spending category
- It provides governments broad latitude to use funds to provide general government services with few restrictions
- Examples of general government services include street resurfacing, infrastructure, maintenance, public safety payroll, and other administrative costs

- Funds under this category can generally be spent by local governments using an amount up to a local or state government's revenue loss figure
- US Treasury provides a calculation formula for determining a local government's revenue loss (Attachment I, pg 9)
- Calculations are to begin from the "base year" or last fiscal year before the onset of the pandemic, which was Fiscal Year 2018-19

- Revenue loss by recipients of ARPA funds must be calculated at four distinct points in time, either at the end of each calendar year (e.g., December 31 for years 2020, 2021, 2022, and 2023) or fiscal year
- Using guidance from the Final Rule, for the reporting period ending December 31, 2020, the City had a calendar year general revenue loss of \$16,520,363
- For the period ending December 31, 2021, the City had general revenue losses totaling \$4,712,379
- The projected general revenue loss at the end of calendar year 2022 is estimated to be \$12,365,188.

- The City's total general revenue loss due to the pandemic since December 2020 is projected to be \$33,597,930

RECATEGORYIZATION OF ARPA FUNDS

10

- After the Council meetings of September 21, 2021, and December 7, 2021, Council selected and appropriated \$9,190,000 of projects in the Replacing Lost Public Sector Revenue category (Attachment 2)
- With the approval of the recommended action, the City will elect to recognize an additional \$23,015,000 in ARPA funds to the Replacing Lost Public Sector Revenue category
- Doing so will repay the General Fund, or other City funds, for the general government services (e.g., street resurfacing, infrastructure, maintenance, public safety payroll) that the City has already spent funds on or will shortly

The recategorization \$23,015,000 includes:

1. Newly recategorized projects (\$15,670,000, green section on Attachment 3);
2. New staff-proposed projects (\$3,295,000, yellow section on Attachment 3); and
3. Projects that Council had previously tabled in the Replacing Lost Public Sector Revenue category (\$4,050,000, Items 51 and 52 in orange section on Attachment 3).

- Coupled with the \$9,190,000 Council already categorized into the Replacing Lost Public Sector Revenue category, this action will categorize a total of \$32,205,000 (\$9,190,000 + \$23,015,000) into the Replacing Lost Public Sector Revenue category
- This action effectively frees up City funds to fund the ARPA projects previously approved by Council but without the fast-approaching deadline to encumber ARPA funds (December 31, 2024) since the projects will be completed using regular City funds instead of ARPA dollars

ARPA projects that Council appropriated and are now proposed to be recategorized will still be funded and completed, although, under the recommended action, with newly available City funding and more realistic deadlines

RECATEGORYIZATION OF ARPA FUNDS - EXAMPLE

14

Seed Money for Park Shade Structures - Item 8:

- This project is proposed to be completed as needed and when certain parks receive upgrades or repairs to their equipment or changes to their physical layout
- As the timeline for completing this project is variable and based on park needs with an unknown timeline, staff proposes recategorizing this project

Olympic Skatepark in Colonia - Item 33:

- Unlike typical construction projects, an Olympic-certified skateboard park requires a partnership with World Skate from start to finish
- World Skate is the only global body that can certify Olympic skateboard parks
- World Skate's nine-stage qualification system contains forty-six components from application to certification
- The City is currently in stage one, having submitted an application after an initial interview, with a second interview to be scheduled in the spring between the City and World Skate

- Currently, the Public Works Engineering Division (Division) is managing over one hundred (100) funded capital projects
- Council has approved approximately forty (40) new capital projects through ARPA, resulting in a roughly 40% increase in project management workload for the Division
- Under the weight of the current workload, it will be challenging to complete the Division's ARPA projects on the timeline that ARPA outlines, even with the added Project Managers Council previously approved

- Not all ARPA projects will be recategorized under Replacing Public Sector Revenue Loss
- Since December 7, 2021, staff has gotten underway on some of the Council-approved ARPA projects and is planning to begin work on the balance of the projects shortly

SELECTION OF TABLED PROJECTS

- During the ARPA project selection process, seventy-three (73) projects were selected and appropriated by Council, totaling approx \$48 million
- Five projects “tabled” until a further discussion amongst the Council would take place. These five (5) tabled projects total \$6,250,000:

Item No.	Description	Amount
20	City-wide wayfinding program	\$1,000,000
38	Heritage Square building & site enhancements, repairs, and event support	\$1,000,000
45	Oxnard Employee Pipeline and Homeless Vocational programs	\$200,000
51	City-wide painting of curbs red next to fire hydrants	\$250,000
52	Bike / Pedestrian project: Path along the SCR-3 levee road north of the River Ridge Golf Course between Ventura Rd and Victoria Rd	\$3,800,000
TOTAL:		\$6,250,000

NEW ARPA PROJECTS FOR CONSIDERATION

The four projects below are newly recommended by staff and will be categorized under the Replacing Public Sector Revenue Loss category:

1. Fire Department D.R.A.F.T.S. - \$100,00
2. City Library Technology Upgrade - \$445,000
3. PD Mobile Command Post - \$750,000
4. Ventura County Family Justice Center - \$2,000,000

- The City has been allocated \$59,540,662 in ARPA funding from the federal government, 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
- If Council approves all projects as listed, a total of \$57,737,200 worth of ARPA projects will be selected out of \$59,540,662 made available by US Treasury
- This action would leave \$1,803,462 in unappropriated ARPA funds

- Staff will have the opportunity to ask Council to update the various budgets based on the actual costs as projects begin
- Approval of the recommended action will authorize the City Manager or designee to approve budget appropriations necessary to recognize revenue and appropriate funding to newly selected ARPA projects
- Project numbers will be assigned to each specific ARPA project Council selects for tracking and federal reporting purposes

That the City Council:

1. Recategorize \$15,670,000 of ARPA projects into the Replacing Lost Public Sector Revenue category according to the Final Rule issued by the U.S. Department of the Treasury;
 2. Make final decisions on remaining ARPA projects tabled in 2021 and newly staff-proposed ARPA projects; and
 3. Authorize the City Manager or designee to approve budget appropriations necessary to recognize revenue and appropriate funding for all ARPA projects.
-



THE END



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. K.3

DATE: March 29, 2022

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: Update on the City of Oxnard's Participation in Clean Power Alliance. (0/5/5)

RECOMMENDATION

That the City Council receive and file this report.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/OwP9wwMa9WU>

BACKGROUND

EXECUTIVE SUMMARY

This yearly report provides an update regarding the City of Oxnard's participation in the Clean Power Alliance (CPA) of Southern California. CPA is a Joint Powers Authority (JPA) that has been the default supplier of electricity generation for residents and businesses in Oxnard and most of Ventura County since 2019.

As a Community Choice Aggregator (CCA), CPA purchases clean power on behalf of the customers in each of its 32 member agencies, including the County of Ventura, County of Los Angeles, and 29 municipalities in addition to the City of Oxnard. Southern California Edison (SCE) remains responsible for electricity delivery and billing for all CPA customers as well as resolving any electricity service issues.

On February 27, 2018, the City Council introduced Ordinance No. 2935 approving the execution of a Joint Powers Agreement with the Los Angeles Community Choice Energy (LACCE) authority, authorizing implementation of a Community Choice Aggregator (CCA) program here in the City of Oxnard. LACCE was subsequently renamed Clean Power Alliance of Southern California (CPA). Oxnard's residential customers were enrolled in CPA service in February 2019, and non-residential accounts were enrolled in May 2019.

A CCA is a legal structure that allows cities and counties to aggregate the buying power of individual electricity customers within their jurisdiction, to secure energy supply contracts on a community-wide basis. CCAs create an alternative electrical service option to the incumbent investor-owned utility, which in Oxnard is Southern California Edison (SCE). This introduction of competition to the marketplace of electricity services provides customers with a choice in deciding which provider best meets their needs.

Oxnard's goals in joining CPA include providing customers with cleaner energy at competitive rates, creating local clean energy jobs, meeting the City's greenhouse gas emission reduction goals, and providing greater local control and public accountability in energy decisions.

CPA's Board of Directors is composed of elected officials from each of its 32 member agencies. All Board meetings are open to the public and subject to the Brown Act. Councilmember Carmen Ramirez served as Oxnard's primary CPA

Board member from 2018 to 2020. Councilmember Bert Perello now serves as the primary CPA Board member, with Council member Vianey Lopez and the City’s Planning & Sustainability Manager serving as alternate members.

CPA procures its renewable energy from a mix of eligible resources. These primarily come from solar and wind power, and include smaller amounts of geothermal, biomass, and small hydroelectric power. Since 2018, CPA has entered into long-term power purchase agreements for more than 1,700 megawatts of new renewable energy and over 1,000 megawatts of new battery energy storage. CPA prioritizes energy projects located in Southern California, that provide environmental stewardship and workforce development benefits, and that provide local community benefits, particularly to disadvantaged and under-served communities.

CPA actively seeks economically viable renewable energy and battery storage projects in Los Angeles and Ventura counties. It is currently soliciting community-sponsored solar projects in Disadvantaged Communities (DACs) within its service territory, including eligible census tracts in Oxnard and Ventura.

Clean Power Alliance Energy Tier Options and Rates

CPA currently offers three different rate products with differing renewable energy content. In October 2018, the City selected CPA’s 100% renewable energy product (“100% Green Power”) as the default rate product for its residents and businesses. In May 2019, due to the CPA rate structure/as a cost savings measure, the City opted its impacted accounts (street lighting, pumping and high-usage facilities) out of CPA and returned those accounts to SCE bundled service. At that time the City also converted its remaining municipal accounts to CPA’s Lean Power, for a savings of 1-2% on total electricity costs for these accounts.

A comparison of state renewable requirements for electricity providers compared to the renewable content of CPA offerings as of 2020* is shown below:

CPA Renewable Product (2020*)	State Utility Renewable Mandates/Year
	33% renewable by Dec. 31, 2020
Lean Power (40.7% renewable)	40% renewable by Dec. 31, 2024
Clean Power (50.1% renewable)	45% renewable by Dec. 31, 2027
100% Green Power (100% renewable)	50% renewable by Dec. 31, 2030
	100% renewable by Dec. 31, 2045

* CPA will not have an official renewable portfolio content for a given year until the following year. This means that 2021 renewable content will not be available until Fall of 2022.

ANALYSIS

From 2018 through 2020, CPA’s Board of Directors set CPA rates to maintain competitive bill comparison ranges with SCE for each of its energy products as outlined in the table below. In 2021, as a result of energy market volatility and SCE changes, CPA’s rate ranges increased relative to SCE’s. In early March and on a yearly basis, the CPA Board evaluates its rate-setting approach to take effect in July of each year. Due to SCE proposed rate changes which will take effect in July 2022, CPA expects that all of its energy products will be less expensive than SCE’s rates for nearly all customers and rate schedules.

A tabular summary of this information is as follows:

Energy Product	Total Electricity Cost Compared to SCE*		
	2018-2020	2021 (as of 10/1/21)	2022 (As of 3/1/22**)
Lean Power	1-2% savings	6-7% premium	9% savings

Clean Power	0-1% savings	7-8% premium	8% savings
100% Green Power***	7-9% premium	9-10% premium	6% savings

* This is based upon most residential and commercial rate schedules.

** This is based upon SCE proposed rate changes that will take effect 3/1/22.

*** Customers on CARE (California Alternate Rates for Energy), FERA (Family Electric Rate Assistance) or Medical Baseline rates receive 100% Green Power at no extra cost.

From January 1 - December 31, 2021, the City spent approximately \$4.8 million for electricity through CPA and SCE. The City paid approximately \$4.5 million to SCE in 2021 for streetlights, pumping, and high-usage accounts. The City paid approximately \$474,508 in electricity charges for municipal accounts supplied by CPA in 2021 at the Lean Power rate (approximately 456 accounts).

CPA Participation Rates

As of February 21, 2022, the City of Oxnard had a total customer participation rate of 95.77%, the highest participation rate of all Ventura County jurisdictions. Distribution of energy product is as follows (See Attachment A):

Active Customers by Account Type in the City of Oxnard

Account Type	100% Green Power	Clean Power	Lean Power	Total
Residential	46,142	238	1,416	47,796
Commercial	6,229	21	826	7,076
Total	52,371	259	2,242	54,872
% of Total	95.44%	.47%	4.09%	100.00%

Fewer than 5% of Oxnard's CPA customers have opted down from 100% Green Power to Clean or Lean Power. Approximately 42% (19,953) of Oxnard's residential customers were enrolled in CARE, FERA, or Medical Baseline financial assistance programs. Per CPA Board policy these customers receive 100% Green Power at no additional cost compared to SCE rates. The table below provides additional detail regarding Oxnard's participation rates compared to Ventura County and overall CPA participation products/ levels.

CPA Customer Enrollment and Participation Rates

as of February 21, 2022

Jurisdiction	Total		Residential		Non-Residential	
	Active Customers	Participation Rate	Active Customers	Participation Rate	Active Customers	Participation Rate
City of Oxnard	54,872	95.77%	47,796	96.25%	7,076	92.65%
Ventura County	261,058	92.46%	224,204	92.61%	36,854	91.54%
City of Ventura	43,552	94.28%	36,606	94.47%	6,922	93.33%
City of Thousand Oaks	44,114	89.27%	38,320	88.97%	5,794	91.27%
CPA Total	998,234	95.62%	873,105	95.82%	125,131	95.58%

Impact of CPA on the City's Climate Action and Adaptation Plan

The City is currently preparing its Climate Action and Adaptation Plan (CAAP). The CAAP will include emission reduction goals for various land uses, and establish reduction targets for 2030, 2040, and 2050. Participation in the CPA as a 100% Green Power City has significantly shifted the percentage of the City's electricity usage powered by clean

renewable energy, thereby reducing its overall greenhouse gas emissions and better positioning the City to achieve its 2013 Energy Action Plan and climate goals.

In 2021, Oxnard residents and businesses purchased 537,479,357 kilowatt-hours of electricity from CPA. The table below provides a breakdown of usage by customer class and CPA energy product.

2021 Electricity Usage by CPA Customers in the City of Oxnard
(kilowatt-hours)

Customer Class	100% Green Power	Clean Power	Lean Power	Total
Residential	193,919,201	1,683,458	8,460,268	204,062,927
Commercial	272,885,375	1,315,760	52,666,472	326,867,607
Municipal	-	•	6,548,823	6,548,823
Total	466,804,576	2,999,218	67,675,563	537,479,357
% of Total	86.90%	0.60%	12.50%	100.00%

By choosing CPA's carbon-free and pollution-free 100% Green Power, Oxnard reduced its greenhouse gas emissions in 2021 by more than 102,000 metric tons – the equivalent of taking more than 20,000 passenger vehicles off the road, eliminating electricity consumption from more than 58,000 homes, or planting and growing 1.5 million trees for 10 years.

From the launch of CPA service in 2019 through December 2021, Oxnard residents and businesses have avoided approximately 258,000 metric tons of greenhouse gas emissions, making Oxnard a leader in reducing emissions which contribute to climate degradation.

CPA Customer Programs

One of the significant benefits of CCAs is that net revenues are reinvested locally to support member community energy needs and priorities. CPA adopted its Local Programs Strategic Plan in 2020 which calls for \$200 million in local investments over the next 3-5 years. Customer program offerings launched in 2020 and 2021 include a demand response program known as Power Response; Power Share, a community solar program for low-income customers; an electric vehicle (EV) charger incentive program in partnership with the state CALeVIP program; and Power Ready, an initiative to provide clean backup power for critical facilities in each of CPA's member agency jurisdictions.

The Power Response program provides residential and business customers with financial incentives for customers' that utilize smart thermostat, battery storage, or electric vehicle charging equipment to reduce energy use during specified peak demand hours, resulting in bill savings and reduced strain on the electric grid. CPA recently launched its expansion of the program in early 2022. The program's expansion follows the launch of a successful pilot program which ran in 2020 and 2021, in which more than 600 customers participated. CPA now has a goal of enrolling more than 10,000 customers and 6MW of capacity into the program.

The Power Share program enables CARE/FERA eligible customers in state-designated disadvantaged communities to receive the benefits of solar power without having to install their own rooftop solar panels. Participating customers are receiving 100% renewable energy from CPA at a 20% bill discount in addition to the CARE/FERA discount as well as the 100% Green Power subsidy they already receive. The program is available on a first come, first served basis and has already enrolled 2,200 customers. The City continues to work with CPA to provide outreach to our eligible communities.

In June 2021, CPA launched its Power Ready program, a community benefit offered to its member agencies. The goal of the program is to make a public building, which serves a critical community purpose, energy-resilient by installing a solar and storage system as a backup source of energy when there is an outage. CPA is providing this benefit at no cost to member agencies and making participation easy by contracting with a developer/financier to build, own and operate the

systems for 20 years. There is no upfront cost and no increase in annual energy bills. The City is currently working to partner with CPA on this program. On July 6, 2021, City Council authorized staff to work with the CPA to evaluate the Development Services building (214 S. C Street) and Fire Dept. administrative building for participation in this program. This evaluation is underway with consideration to additional building alternatives in the future. Staff will provide the City Council with an update on this program and building eligibility in the next few months.

In July 2021, CPA also launched the largest electric vehicle (EV) charger installation effort in Ventura County in partnership with the California Energy Commissions, CALeVIP program, the Ventura County Air Pollution Control District (APCD), and Ventura County Regional Energy Alliance (VCREA). CPA contributed \$533,000 toward this nearly \$5 million program, which is expected to fund 650 new chargers, including 70 fast chargers here in Ventura County. The program offers rebates for the purchase and installation of both Level 2 and direct current (DC) fast chargers with increased funding for multi-unit dwellings, disadvantaged communities, and low-income communities. Approximately \$1 million remains to fund Level 2 chargers here in Ventura County and CPA is actively outreaching to the community to ensure a portion of these funds are designated within the City of Oxnard. The CAAP includes a recommendation to create a local EV Charging Plan. The City has been reviewing contract documents to determine if there are opportunities to utilize existing procurement contracts to select EV installers. Given the immediate nature of funding, staff has begun work to identify procurement options, secure free application services, and conduct initial work on a comprehensive EV infrastructure plan. The 2019 Ventura County EV Blueprint has been touted as an EV infrastructure plan for Oxnard and Countywide; the plan for Oxnard needs further refinement.

In 2022, CPA will also be launching an effort to support member agency development of building electrification reach codes and a \$1 million workforce development initiative to prepare diverse workers for successful careers in the rapidly growing fields of transportation and building electrification.

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 City has approximately 456 municipal accounts with CPA. Street lighting, pumping, and high-usage accounts were opted out and returned to SCE bundled service in June 2019. The City opted to enroll all municipal CPA accounts in Lean Power rate tier (currently 40.7% renewable energy), resulting in a 1-2% savings on total electric bills for these accounts. However, cost savings in July 2022 is anticipated to be 9% for the Lean, 8% for the Clean, and 6% for the Green energy tier levels. Thus potentially resulting in financial savings to the City. These rates do fluctuate in July each year and are subject to review and approval by the California Public Utility Commission (CPUC). The precise savings is difficult to calculate considering SCE transmission rates would still be assessed (SCE owns the lines for which the CPA would provide energy) and that the rates change periodically throughout the year if enrolled in the CPA or SCE.

Periodic evaluation of accounts and opportunities for cost savings and/or GHG emission reductions from other CPA or investor-owned utility rate offerings will be considered as part of the City's CAAP; converting City accounts to the 100% Green power level would result in reductions in the City's greenhouse gas emissions. The precise fiscal implication to the City and all accounts is dependent upon which rate tier is selected for municipal accounts and future rate-setting by SCE, CPA, and the CPUC. Neither CPA nor SCE rates are locked in for any fixed period of time, though CPA's aim is to change its rates only once a year. The CAAP will include an implementation plan/schedule to evaluate municipal accounts and determine impacts to the City.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Vyto Adomaitis, Community Development Director, Kathleen Mallory, Planning & Sustainability Manager

ATTACHMENTS

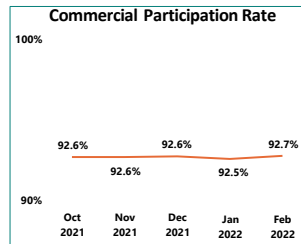
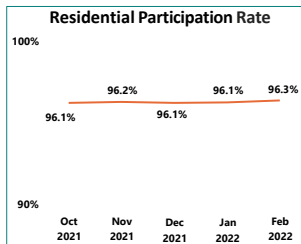
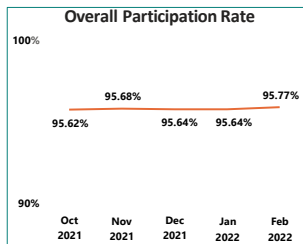
1. Attachment A_ Oxnard Member Status Report
2. Attachment B_Clean Power Alliance PowerPoint Presentation.pptx (1)

Member Status Report



OXNARD, CITY OF

2/21/2022



Active Customers by Account Type in Jurisdiction

Account Type	Lean	Clean	100% Green	Total
Commercial Accounts	826	21	6,229	7,076
Residential Accounts	1,416	238	46,142	47,796
Total	2,242	259	52,371	54,872

Active Customers by Default Option all CPA

Default Option	Active	Participation %
100% Green	337,532	94.93%
Clean	506,686	96.69%
Lean	154,016	95.86%
Total	998,234	95.80%

CARE:

California Alternate Rates for Energy (CARE) Program reduces electric bills for eligible customers by about 30%. Customers can qualify for CARE based on participation in public assistance programs, or on household income. During COVID-19, eligibility for CARE/FERA has been expanded. More information here:

www.sce.com/residential/assistance/care-fera.

FERA:

Family Electric Rate Assistance (FERA) Program reduces electric bills for qualified households by about 18%. Customers can qualify for FERA based on participation in public assistance programs, or on household income. During COVID-19, eligibility for CARE/FERA has been expanded. More information here:

www.sce.com/residential/assistance/care-fera.

Medical Baseline:

If someone in a household needs powered medical equipment, the Medical Baseline Program provides additional energy to the customer's normal baseline allocation. During COVID-19, the Medical Baseline application has been streamlined. More information here: www.sce.com/residential/assistance/medical-baseline.

Payment Plans:

SCE offers customers the option to go on a special payment plan if they are having trouble paying their bills. During COVID-19, eligibility for these payment arrangements have been expanded. More information here: www.sce.com/customer-service/billing-payment/financial-assistance.

CPA COVID-19 Relief Credits:

CPA provided \$2 million in electric bill assistance to more than 77,000 residential and small business customers during the COVID-19 pandemic. Residential customers who signed up for CARE/FERA/Medical Baseline received \$25 bill credits, residential customers already on those programs who signed up for SCE payment plans received \$25 bill credits, and small business customers who signed up for SCE payment plans received \$50 bill credits. More information here: www.cleanpoweralliance.org/covid19.

Update on the City of Oxnard's Participation in Clean Power Alliance

Kathleen Mallory, Planning & Sustainability Manager
Vyto Adomaitis, Community Development Director
Community Development Department

March 29, 2022
City Council Meeting

- This annual report provides an update regarding the City of Oxnard's participation in CPA.
- Clean Power Alliance (CPA) is a Community Choice Aggregation (CCA) program, which aggregates the purchasing power of individual electricity customers to secure energy supply contracts on a region wide basis.
- CPA is made up of 32 public agencies across Southern California and provides 100% renewable energy to more customers, than any other provider in the nation.



- February 27, 2018 City took action joining the Los Angeles Community Choice energy program (later renamed CPA) which authorized implementation of a CCA in the City.
- Clean Power Alliance is the electricity supply provider, offering clean renewable energy at competitive rates to our community. CPA purchases clean power and Southern California Edison (SCE) delivers it.
- Oxnard's residential customers were enrolled in CPA service in February 2019, and nonresidential accounts enrolled in May 2019.
- Due to the current CPA rate structure, in May 2019 the City:
 - Opted its impacted accounts (street lighting, pumping and high-usage facilities) out of CPA and returned those accounts to SCE bundled service; and
 - Converted its remaining municipal accounts to CPA's Lean Power

- City participates on the CPA Board of Directors (Councilmembers Perello/Lopez) and Energy Policy Committee.
- Provides for local authority to direct funds on the implementation of CPA's many local energy programs.

CPA's Three Energy Tiers

- The cities of Oxnard, Ojai, Ventura, Thousand Oaks and Ventura County joined Clean Power Alliance at the 100% Green Power default rate, helping to ensure the carbon footprint of west Ventura County remains as low as possible.
- City residents and businesses have the Power of Choice and can always opt-down to 40.7% Lean Power or 50.1% Clean Power at anytime.



40.7% Lean Power

40% carbon free content and access to local programs. Lean Power is the most affordable way to reliable, clean power.

50.1% Clean Power

Support building a cleaner future with 50% clean power (40% renewable content and 10% hydroelectricity) and receive competitively priced green energy.

100% Green Power

Lead the way to a greener future with 100% renewable content from wind, solar and geothermal sources. Emissions free electricity makes the world better.

- In 2021, CPA's rate ranges increased relative to SCE's.
- Yearly in March, the CPA Board evaluates its rate-setting approach to take effect in July of each year.
- Due to SCE proposed rate changes which will take effect in July 2022, CPA expects that all of its energy products will be less expensive than SCE's rates for nearly all customers and rate schedules.

Energy Product	Total Electricity Cost Compared to SCE*		
	2018-2020	2021 (as of 10/1/21)	2022 (As of 3/1/22**)
Lean Power	1-2% savings	6-7% premium	9% savings
Clean Power	0-1% savings	7-8% premium	8% savings
100% Green Power***	7-9% premium	9-10% premium	6% savings

* This is based upon most residential and commercial rate schedules.

** This is based upon SCE proposed rate changes that will take effect 3/1/22.

*** Customers on CARE (California Alternate Rates for Energy), FERA (Family Electric Rate Assistance) or Medical Baseline rates receive 100% Green Power at no extra cost.

Active CPA Customer Accounts by Type in the City of Oxnard

Account Type	100% Green Power	Clean Power	Lean Power	Total
Residential	46,142	238	1,416	47,796
Commercial	6,229	21	826	7,076
Total	52,371	259	2,242	54,872
% of Total	95.44%	.47%	4.09%	100.00%

- February 2022, City had 54,872 active CPA accounts and an overall participation rate of 95.77%
 - Residential participation rate in CPA was 96.25% (47,796 active accounts)
 - Non-residential participation rate in CPA was 92.65% (7,076 active accounts)
- Of the total active CPA customer accounts: 95.44% Green, .47% Clean, 4.09% Lean.
- Approximately 42% of CPA's residential customers in Oxnard receive financial assistance on their electricity bills through the California Alternate Rates for Energy (CARE), Family Electric Rate Assistance (FERA), or Medical Baseline programs.

- City's CAAP will include emission reduction goals and targets for various land uses and municipal operations; establish overall community wide reduction targets for 2030.
- Participation in CPA helps the City meet emission and local energy reduction targets sooner, versus procuring energy through SCE.
- CPA participation is the number one way the City can reduce climate impacting emissions.
- Long-term supply of new renewable energy sources and energy storage capacity; enhancement/support community and grid resilience. These are anticipated goals of the City's CAAP.



- CPA adopted its Local Programs Strategic Plan in 2020, which calls for \$200 million in investments over the next 3 – 5 years in local community energy needs and priorities.
- There are three programmatic areas identified in the plan:
 - Resiliency and Grid Management;
 - Electrification; and
 - Local Energy Procurement



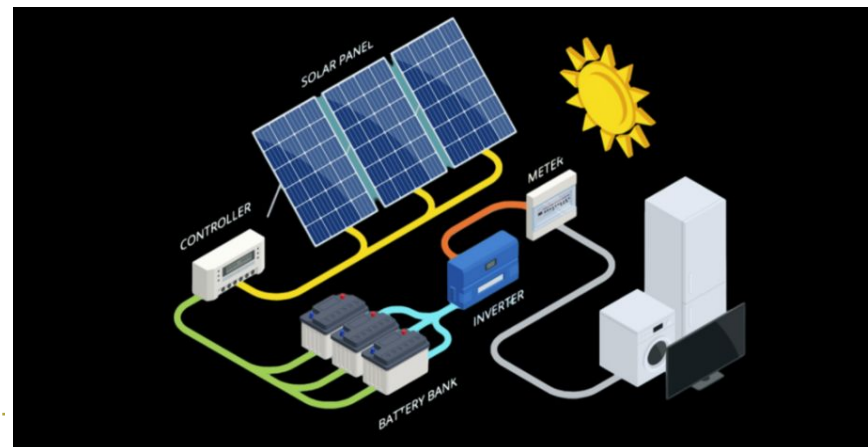
- CPA's Power Share program is a social equity program that enables eligible customers in underserved communities to receive the benefits of solar power without having to install their own rooftop solar panels. Customers receive 100% renewable energy at a 20% discount.
- CPA has already enrolled many customers across its service territory.
- City Actions - Working with CPA to provide outreach to eligible customers in and around Oxnard through social media outlets and pamphlets.



- CPA's Community Solar Program is a social equity program which will install small-scale solar projects in underserved communities, providing clean energy at a 20% discount.
- CPA is currently partnering with local community-based organizations to provide outreach for this program. The City is working to identify potential project sites and partners.
- City Actions - Staff have proactively sent letters to interested solar developers; developed mapping to aid in solar placement; hosted interest meeting; and offered to meet/facilitate community solar in disadvantaged areas/sites.



- In 2021, CPA launched its Power Ready Program, a community benefit program offered to all its many member agencies.
- Goal of program is to make critical community facilities energy-resilient by installing a solar and storage system as a backup source of energy in case of an outage.
- City Actions - Council support of placement of solar/battery storage at 214 S. C Street (July 6, 2021 Council action); Staff working with CPA to secure Power Ready site; potentially other/additional site - staff will report back to Council in early Summer 2022.



- July 2021, CPA partnered with the Ventura County Air Pollution Control District (APCD), and the Ventura County Regional Energy Alliance (VCREA) for Electric Vehicle program.
- CPA expected to fund 650 new chargers, including 70 fast chargers here in Ventura County.
- City Actions - CAAP will recommend development of a comprehensive EV master plan; drawing from County EV Master Plan, and free EV application programs apply for EV funds and site infrastructure in Summer 2022. Collaborate with Public Works Dept., VCREA and other EV resource agencies/facilities to take advantage of significant funding.



- City has approximately 456 municipal accounts with CPA.
- City opted to enroll all municipal CPA accounts in Lean Power rate tier (currently 40.7% renewable energy), resulting in a 1-2% savings on total electric bills for these accounts.
- However, cost savings in July 2022 is anticipated to be 9% for the Lean, 8% for the Clean, and 6% for the Green energy tier levels.
- Rates fluctuate annually, therefore it is difficult to pinpoint the precise savings.
- CAAP will recommend fiscal evaluation of energy measures; efforts to evaluate account usage and fiscal implications; opportunities for cost savings and/or GHG emission reductions from other CPA or investor-owned utilities will be considered.

That the City Council receive and file this update on the City's participation in Clean Power Alliance.





Discussion



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. K.4

DATE: March 29, 2022

TO: City Council

FROM: Vyto Adomaitis, Community Development Director, (805) 385-7882, vyto.adomaitis@oxnard.org

SUBJECT: City of Oxnard 2021 General Plan Annual Progress Report. (0/5/5)

RECOMMENDATION

That the Oxnard City Council receive and file the City of Oxnard 2021 General Plan and Housing Element Annual Progress Report.
(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/Ywm00iALgCg>

BACKGROUND

Government Code section 65400(a)(2) mandates the preparation and filing of an annual report on the status of a city's or county's General Plan with its legislative body. The General Plan Annual Progress Report and Housing Element Annual Progress Report (Attachment 1), must then be submitted to the Governor's Office of Planning and Research (OPR), and the State Department of Housing and Community Development (HCD) by April 1st of each year.

This City Council staff report consists of two separate reports, the General Plan Annual Progress Report (Attachment 1) and The Housing Element Annual Progress Report (Attachment 1, Exhibit 1):

1. The General Plan Annual Progress Report is a text based report without any standard form or format dictated by OPR or HCD.
2. The Housing Element Annual Progress Report (Attachment 1, Exhibit 1) is prepared using standardized spreadsheet-based forms provided by HCD. As the Housing Element is one of the required elements of the Oxnard General Plan, the General Plan Annual Progress Report includes a summary of the data included within the Housing Element Annual Progress Report.

The 2021 Annual Progress Report, which looks at the progress towards the goals, policies and programs of the 2013-2021 Mid-Cycle Housing Element, must be presented to the City Council for its review and acceptance, as a consent or discussion item on a regular meeting agenda. In accordance with these requirements, this report is being presented to the City Council and the public to provide information regarding the implementation of the General Plan within the City of Oxnard.

The attachment can also be found on the City's website at: <https://www.oxnard.org/wp-content/uploads/2022/03/Attachment-1-Exhibit-1-2021-City-of-Oxnard-Housing-Element-Annual-Progress-Report.pdf>

DISCUSSION

The preparation of a General Plan Annual Report and the Housing Element Annual Progress Report are mandated by the State and are intended to provide a summary of the projects, tasks, and other aspects where the City has implemented various goals, objectives, and principles of the General Plan over the past year.

The attached City of Oxnard 2021 General Plan Annual Progress Report and Housing Element Annual Progress Report provide an overview of the City's General Plan and zoning Ordinance Amendments that are currently in process or were completed in 2021, as well as an inventory of the 2030 General Plan Amendment history.

During 2021, there was only one adopted General Plan Amendment. Prior to that, the last revision to the General Plan was on February 4, 2020. Table 1 of Attachment 1 presents a summary of all adopted General Plan Amendments since the adoption of the 2030 General Plan. The General Plan as amended through 2020 complies with the General Plan Guidelines.

The General Plan Annual Progress Report also highlights some of the key long range and major development activity in 2021.

In addition, as required by State law, the General Plan Annual Progress Report includes a discussion regarding the City's progress in meeting its share of the regional housing needs and effort to promote housing development. A summary of housing development activity by affordability category is provided in the General Plan Annual Progress Report Table 4 of Attachment 1. A detailed compilation of housing development activity is included in the Housing Element Annual Progress Report (Attachment 1, Exhibit 1).

STRATEGIC PRIORITIES

This agenda item is State mandated and is a routine operational item and does not relate to the four strategic plans adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no fiscal impact associated with this staff report.

COMMITTEE OUTCOME

This item did not originate in Committee as it is a routine operational item. Pursuant to State law this item is to be presented to the public and City Council annually, as an informational item for discussion only. No deliberation or decisions are necessary, and therefore committee review is not warranted..

Prepared by: Joe Pearson II, Senior Planner

ATTACHMENTS

1. City of Oxnard 2021 General Plan Annual Progress Report
2. Staff Presentation

City of Oxnard 2021 General Plan Annual Progress Report



Prepared by:

Community Development Department – Planning Division

214 S. C Street

Oxnard, CA 93030

Submitted to the City of Oxnard - City Council, March 29, 2022

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Introduction

Government Code Section 65400 requires the City to annually prepare a report regarding the status of the City's 2030 General Plan (General Plan) and progress in its implementation (General Plan Progress Report) and provide the General Plan Progress Report to the Office of Planning and Research (OPR) and the Department of Housing and Community Development (HCD). The General Plan Progress Report provides for the annual review of the General Plan to assess the level of implementation and effectiveness of the General Plan as a guide for orderly growth and development, preservation and conservation of open space land and natural resources, and the efficient expenditure of public funds. This General Plan Progress Report summarizes the General Plan implementation progress for 2021. The General Plan Progress Report also provides information regarding the City's progress in meeting its share of regional housing needs.

Pursuant to State law, this report must be submitted to the City Council, the State Office of Planning and Research (OPR) and HCD by April 1st of each year. The Annual Progress Report includes the following elements:

1. Overview of General Plan background and status, including a summary of recently completed and active General Plan Amendments; and
2. A summary of recently completed and active Zoning Text Ordinance amendments, and Active Long Range Projects; and
3. A summary of 2021 Active Development Projects of Interest; and
4. A review of the City's progress in meeting the regional housing need allocation objectives

Overview of General Plan Background and Amendments

The General Plan is the City's official policy that sets out a vision to guide future development in the City. Local governments are required to keep their General Plans current and internally consistent, and City actions must be consistent with this plan. Although General Plans must be kept current, there is no specific requirement that a local government update its General Plan on a particular timeline, with the exception of the Housing Element, which is formerly required to be updated every eight years. As detailed below, the City adopted the most recent Housing Element and associated ordinance amendments on October 5, 2021. The Oxnard General Plan was adopted in October 2011. Specifically, Chapter 9 "Implementation" of the General Plan lays out the implementation goals and policies of the General Plan. As outlined in the table many of the goals and policies will remain ongoing until 2030. Additionally, specific to housing, Chapter G of the Housing Element outlines the goals, policies, and programs that will guide the City's efforts in meeting the RHNA and related current and future housing needs. While a new 2021-2029 Housing Element was adopted on October 5, 2021, the 2021 Annual Report looks at the progress towards the goals, policies and programs of the 2013-2021 Mid-Cycle Housing Element, which guided the City for the 2021 calendar year. The 2022 Annual Report will look at the progress consistent with the 2021-2029 Housing Element. Each Housing Element program and its implementation status are summarized in Exhibit 1 (HCD Table D).

General Plan Amendments in 2021

Rio Urbana Project (Planning and Zoning Permit No. 17-620-01), Located at 2714 East Vineyard Avenue:

In 2018, the Rio School District filed an Annexation request for an 11 acre surplus school site that included approximately 15,000 square feet of office space, 167 condominium housing units and 20 affordable units required by the City's inclusionary ordinance. The application included a General Plan Amendment change the land use designation of the subject parcel from School to Commercial General, amend the neighborhoods map to place the subject parcel in the El Rio West Neighborhood, and modify City Council district boundaries of the City of Oxnard 2018 districting map as codified in Oxnard City Code Chapter 2, Article 1, Division 1, Appendix A. The Planning Commission recommended approval on November 21, 2019. On February 4, 2020, the City Council approved the requested Amendment. The Annexation was approved by the Local Agency Formation Commission (LAFCO) on December 15, 2021.

General Plan Housing Element Update (Planning and Zoning Permit No. 20-620-03): The Housing Element is a statutory element of the General Plan that requires that the City adequately plan to meet existing and projected housing needs of all economic segments of the community. Unlike other elements of the General Plan, the City must update the Housing Element on a mandated schedule, or “cycle,” to ensure that the City is making incremental progress toward its housing goals and policies.

The City of Oxnard City Council adopted the 2021-2029 6th Cycle Housing Element on October 5, 2021. The Council also approved Zoning Map Amendments to change the zoning designation on 106 parcels to be consistent with Supplement 1 of the Housing Element and five (5) Zoning Text Ordinance Amendments to facilitate construction of housing units as stipulated in the Housing Element. The adopted Ordinance Amendments removed regulatory hurdles for projects, such as the Dansk II Apartments Project (Planning and Zoning Permit No. 20-620-01), located at 2300 Pleasant Valley Road mentioned in last year's Annual Progress Report, from processing their own project specific General Plan Amendments and Zone Changes.

Pending General Plan Amendments in 2021

Teal Club Specific Plan Project (Planning and Zoning Permit No. 15-620-03), Located in area bounded by Doris Avenue on the north, Patterson Road on the west, Teal Club Road on the south, and Ventura Road on the east: This proposed Specific Plan includes a request for 990 residential units of varying density, single-family, townhomes, condominium, and apartment units; 24 acres, community park; 8 acres public/semi public use; 4 acres of mixed use, retail, commercial; 10 acres of Business/Research Park. This project also includes the adoption of a Teal Club Specific Plan (TCSP) and Pre-Zoning that would allow for the annexation of a 174.6-acre collection of seven agricultural parcels (known locally as “Teal Club”) to the City. Additional parcels south of Teal Club Road would also be annexed into the City, and include a mix of vacant land and residential development with ancillary vehicle storage and shop uses. The City prepared and released a Draft Environmental Impact Report (EIR) for the TCSP. A 60-day public comment period was provided from December 17, 2021, to 5:00 p.m. on February 15, 2022. City staff is currently preparing responses to comments received and preparing the project for public hearings in 2022.

Portofino Place Project (Planning and Zoning Permit No. 20-620-02), Located on the Southeast and Southwest Corners of Fifth Street and Portofino Place: This residential project is a proposed new

residential project that includes a General Plan Amendment to change the land use designation from Business Research Park (BRP) to Residential Medium (RM). The proposed 90-unit residential project is located on the two vacant lots (7.61-acre site) located along the south side of Fifth Street at the intersection of Portofino Place (south of Airport). The project also requires a Zone Change, Special Use Permit, and a Subdivision. This project was reviewed by the Planning Commission on November 18, 2021, who recommended the City Council approve the General Plan Amendment, Zone Change and Subdivision. Additionally, the Oxnard Airport Authority found the project to be consistent with the adopted Airport Comprehensive Land Use Plan on February 10, 2022, and the project is scheduled to be reviewed by the Airport Land Use Commission on March 4, 2022. The project is tentatively scheduled for the City Council's review in April 2022.

Maulhardt/Stiles NECSP Sub-Neighborhood Plan (Planning and Zoning Permit No. 21-620-04), Located at the Northeastern Corner of Rose Ave and Camino Del Sol (APN: 214-0-020-615; & 625): The project proposes to create a Sub-Neighborhood Plan under the Northeast Community Specific Plan that would create the framework for a future development of approximately 500-950 residential units and approximately 40,000 square feet commercial development on the 56 acres project site. The proposed Tentative Tract Map proposes to create 14 master lots. The project will also provide for 11.05 acres of improved park areas, including a 5.4 acre expansion of East Village Park.

Summary

During 2021, there was only one adopted General Plan Amendment for the adoption of the new 2021-2029 Housing Element. Prior to that, the last revision to the General Plan was on February 4, 2020. Table 1 presents a summary of all adopted General Plan amendments since the adoption of the 2030 General Plan. The General Plan as amended through 2021 complies with the General Plan Guidelines. The foregoing information is provided consistent with the requirements of Government Code Section 65400(a)(2)(C).

Table 1
General Plan Amendments (As Of December 31, 2020)

Adoption Date	City Case No.	General Plan Amendment Project Name	GPA Adopting Reso. No.
10/11/2011	10-620-01	Adoption of 2030 General Plan	14,118
6/12/2012	10-620-02	GPA for 2006-2014 Housing Element	14,236
7/9/2013	13-620-01	GPA/Amend Housing Element AAHOP	14,424
9/9/2014	14-620-01	Change of Land Use Designation from Industrial Business and Research Park to Commercial General	14,684
12/9/2014	14-620-02	Repeal Las Cortas Specific Plan	14,708

1/26/2016	15-620-02	Change of Land Use Designation from Industrial Light to Industrial Limited	14,890
6/7/2016	16-620-01	Update Sustainability, Infrastructure, and Hazards Goals and Policies	14,925
12/13/2016	16-620-03	Creation of Urban Village Process	14,981
12/13/2016	16-620-02	Creation of new Community Development Goals to address the SB 244 provisions for the Nyeland Acres Community	14,983
12/13/2016	15-620-04	Adoption of 2013-2021 Housing Element	14,982
10/10/2017	17-620-02	Mid Cycle Housing Element Update	15,060
12/12/2017	17-620-03	Designation of Annexed School Property as SCH	15,074
1/30/2018	17-620-04	Costco Fuel Station	15,086
7/16/2019	18-620-01	Adoption of Downtown Code (replace the existing "Central Business District" land use designation with two new designations, "Downtown" and "Downtown Edge" and update references to these land use designations within the general plan.)	15,252
2/4/2020	17-620-01	Rio Urbana Housing Project (approved Subject to LAFCO)	15,299/15,315
10/5/2021	21-620-02 and 21-620-03	GPA for 2021-2029 Housing Element and text and map changes to the General Plan Land Use Element	15,490

A summary of recently completed and active Zoning Text Amendments, and Active Long Range Projects

Ordinance Amendments

Housing Element Ordinance Amendment (Planning and Zoning Permit No. 21-580-03): Along with the adoption of the new Housing Element, five Ordinances Amendments were passed to Chapter 16 of the Oxnard City Code to implement policy approaches in the Final 6th Cycle 2021-2029 Housing Element. The Ordinances were introduced on October 5, 2021, adopted on October 19, 2021, and became effective thirty (30) days after adoption, on November 18, 2021. The following is a summary of each of the ordinances:

1. [Ordinance No. 2999](#) – An Ordinance of the City Council of the City of Oxnard to Repeal the All-affordable Housing Opportunity Program (AAHOP) and replace these regulations with newly created Affordable Housing, Permitted (-AHP) and Affordable Housing, Discretionary (-AHD) Additive Zone Definitions, Designations and Regulations in OCC Chapter 16, Article VII, Section sections 16-420A through 16-420K. The ordinance provides zoning designations and objective standards for the development of affordable multifamily housing at 30 dwelling units with 20% lower income units per acre on parcels identified as AHP and AHD;
2. [Ordinance No. 3000](#) – An Ordinance of the City Council of the City of Oxnard amending the General Commercial zone permitted and related uses to allow up to 30 dwelling units per acre on parcels identified as AHP or AHD in OCC Chapter 16, Article III, Section 16-135 (Uses Permitted) and 16-136 (Related Uses); and
3. [Ordinance No. 3001](#) – An Ordinance of the City Council of the City of Oxnard amending the Business and Research Park (BRP) zone permitted and related uses to allow up to 30 dwelling units per acre on parcels identified as AHP or AHD in OCC Chapter 16, Article III, Section 16-162 (Non-Industrial Use) and 16-163 (Industrial Land Uses by Zone: Industrial Land Use Matrix); and
4. [Ordinance No. 3002](#) – An Ordinance of the City Council of the City of Oxnard amending the Density Bonus ordinance approval authority and appeal provision in OCC Chapter 16, Article IV, Section 16-410B (Definitions), 16-410F (Content of Application), and 16-410R (Determination on Density Bonus and Affordable Housing Incentive Program Requests). The amendment allows Density Bonus permit approval by the approval authority authorized to approve the associated discretionary or ministerial permit approval for the underlying development permit; and
5. [Ordinance No. 3003](#) – An Ordinance of the City Council of the City of Oxnard creating a ministerial Site Plan Review (SPR) process to implement the 2021-2029 Housing Element. To comply with State law, the proposed ordinance provides a process for conducting a ministerial (non-discretionary) review of by-right development in OCC Chapter 16, Article VII, Section sections 16-523 through 16-523.12.

As a result of approving the 2021-2029 Housing Element and the related Ordinance Amendments, the City reviewed and Planning Commission approved its first project under the newly created Affordable Housing, Discretionary (-AHD) Additive Zone on December 16, 2021. This project was the Lockwood Senior Apartments project, a 173-units, 100 percent affordable housing project. In addition to this

project, the City also received two additional housing applications, directly attributable to the Housing Element and Ordinance Amendments, totaling 310 units at the end of 2021.

Wireless Facilities Ordinance Amendment (Planning and Zoning Permit No. 19-580-06): In 2020, the city continued the process of updating the Oxnard Zoning Code and Coastal Zoning Code in regards to permitting, processing and approving wireless communications applications in the City. Publish aesthetic requirements for the installation of wireless facilities in the City. A Master license Agreement with the wireless carriers was approved by the City Council on July 20, 2021. The overall Wireless code update is expected to be completed in 2022-2023.

Long Range Projects of Interest

General Plan / Local Coastal Plan Update

With the adoption of the 2021-2029 Housing Element, and progress being made with the Climate Action and Adaptation Plan (CAAP) (see below), the City is moving forward with a comprehensive General Plan Update. The Oxnard 2050 General Plan update is anticipated to be processed between 2022-2025. The 2050 General Plan would build upon the 2030 General Plan and studies which have already been completed to update the community vision, direction and policy approaches. The City will comprehensively update the City's 2030 General Plan to address all State required General Plan topic areas. Council will also have the opportunity to expand areas of interest through adding optional General Plan topic areas in response to Council and community needs and interest. The City's General Plan will provide the blueprint for development and growth through the year 2050.

Simultaneously with the General Plan Update, the City intends to move forward with the City of Oxnard's Local Coastal Plan (LCP) Update project. The LCP update project is a collaborative planning and outreach process that will revise the City's existing LCP to bring it into conformance with current policy directives and approaches to address climate change adaptation strategies, such as those for sea level rise. The City staff has begun putting together a draft of the LCP document.

On December 8, 2020, staff presented a summary of the LCP SLR and Management adaptation strategies to the Housing and Economic Development Committee (HEDC). The presentation summarized the City's four Planning Areas and the draft long term adaptation strategies, that, if accepted, will inform the policy creation and ultimately be folded into the LCP update as SLR Management adaptation policy. Implementation timelines and funding sources to implement these strategies are yet to be identified. Additionally, the SLR Management adaptation policies included in the LCP update would also be coordinated with the Climate Action and Adaptation Plan (CAAP) to address SLR vulnerabilities. The California Coastal Commission (CCC) SLR Guidance requires local governments to identify SLR adaptation strategies to minimize impacts from SLR in new or updated LCPs. Adaptation strategies should be selected based upon the local conditions, the results of the scenario-based analysis, and Coastal Act requirements, taking into account the particular goals of the local community. The four adaptation strategies considered in the Adaptation Report are to address the coastal hazards are as follows:

1. Accommodation - involves methods to modify existing developments or design new developments. These can include elevating structures and other engineering retrofits.
2. Green Protect - involves "natural infrastructure" such as stable sand dunes and coastal wetlands. Wetlands and sand dunes absorb and deflect wave energy.

3. Hard Protect - involves the construction of seawalls, dikes, flood gates, groins, revetments, etc. Although a prevalent strategy can cause negative impacts to beaches, views, and public access.
4. Managed Retreat - assumes structures would be relocated or replaced and moved beyond the highest coastal hazard zone after development has been impacted by coastal hazards.

For all four Planning Areas, HEDC directed staff to explore a Hybrid adaptation approach to SLR to allow a flexible pathway for balancing economic, environmental, and safety goals over time. For purposes of implementing the California Coastal Act, no single category or even a specific strategy should be considered the “best” option as a rule. Different types of strategies will be appropriate in different locations and for different hazard management and resource protection goals. CCC policies are written in the long term (year 2100) communicating that they are seeking SLR adaptation policies which demonstrate a City’s long term assurance and commitment to Coastal Act policies; however, the effectiveness of different adaptation strategies will vary across both spatial and temporal scales. In many cases, a Hybrid adaptation approach that uses strategies from multiple categories will be necessary, and the suite of strategies chosen may need to change over time. Progress on the update to the LCP is expected to continue throughout the next few years.

City of Oxnard Climate Action and Adaptation (CAAP) Plan Update

In March 2020, the City entered into a contract with Environmental Science Associates (ESA), Inc. for the preparation of the City’s CAAP. The CAAP is a plan for reducing the GHGs that contribute to global climate change, and for adapting to the anticipated effects of climate change.

The CAAP will have two primary objectives:

1. To reduce GHG emissions through the implementation of reduction measures to meet or exceed reduction targets mandated by the State of California via Senate Bill 32 (SB 32), which calls for a statewide reduction of GHG emissions to 40 percent below 1990 levels by 2030; and
2. To enhance the community’s resilience to a changing climate by addressing the vulnerabilities and risks that are expected to occur as a result of those impacts.

The CAAP is being developed to align with California’s statewide target mandated by SB 32, which requires the State of California to reduce GHG emissions 40 percent below 1990 levels by 2030. Cities are expected to do their fair share to reach this target. In preparing the scope of work and contract budget for the CAAP, the City agreed to reduce the Oxnard GHG emissions to 40 percent below Oxnard 1990 levels by 2030. By adopting this target the City will develop a “qualified CAP/CAAP”, which is an important term, that is consistent with California Environmental Quality Act (CEQA) Guidelines (Section 15183.5(b)). When a City has a qualified CAP/CAAP it can be used to facilitate CEQA clearance of the City’s future development projects with respect to GHG emissions. Developing a qualified CAP is proving to be the most effective and legally defensible way to plan for growth that does not create a significant impact with respect to GHG emissions.

The starting point for addressing climate change mitigation, which is a key component of the CAAP, is an understanding of the sources of the current GHG inventories in the City. These sources include the GHG emissions that the City has direct control over (Municipal GHG Inventory) and those that result from community activities (Community GHG Inventory), which are directly and indirectly impacted by local

government programs, implementation of State mandates, planning, and development decisions. This information was summarized and presented to the City Council on January 25, 2022.

Another round of stakeholder group meetings occurred on January 26th and 27th of 2022, to present the findings of a community-wide climate change vulnerability assessment and solicit input on strategies for increasing resilience to identified hazards. The CAAP consultant will then finalize the Community Vulnerability Assessment and develop CAAP strategies and priority actions for increasing community resilience to climate change, particularly for anticipated impacts related to higher temperatures, drought, and smoke/air quality. On April 30, 2022 a virtual CAAP community engagement meeting will take place, in both English and Spanish to summarize input received in May 2021 and January 2022, and to secure additional input on Community Vulnerability Assessments and recommendations. The Draft CAAP with strategies and actions for reducing GHG emissions and adapting to climate change will be released for public comment in Spring 2022. The Final CAAP is anticipated to be adopted by the City Council in Summer/early Fall 2022.

Throughout the past two years, there has been community outreach and engagement through a community wide survey, meetings and workshops with targeted groups with interest and connection to the environment, social and community activism, education and health care, utility agencies, and business and agriculture ("Stakeholder Groups").

The CAAP survey which was promoted through social media, the CAAP website, and through targeted outreach resulted in over 140 respondents. The survey was available in both English and Spanish. Engagement has occurred with the goal of engaging all segments of the community. Spanish interpretation has been and will continue to be provided and community meetings which will also will be recorded and posted to the Climate Action Plan website - see: <https://www.oxnard.org/climate-action-plan/>. The CAAP monitoring plan will identify implementation milestones, which will among other things inform the preparation of the City's Capital Improvement Program (CIP) and identify performance metrics that can be used to track progress towards GHG reduction goals.

Summary of 2021 Active Developments of Interest

In addition to the continued progress of the larger developments in the City, such as the Wagon Wheel project, and many smaller developments, there was a significant increase in the amount of proposed and approved development in the Downtown and Sakioka Farms areas in 2021. Also, throughout the City there was a significant increase in the demand for Accessory Dwelling Units. As each of these are identified in the General Plan, a brief summary of the progress made in each area in 2021 has been provided below.

Downtown Projects

On July 30, 2019, the City Council adopted Ordinance No. 2963, which amended the Oxnard City Code Chapter 16, Division 10 and instituted a new "Downtown Code," and associated Zone Changes. The Downtown Code allows for a maximum development of 2,284 residential units and 3,025,370 square-feet of commercial space. The development allowed within the Downtown Code was evaluated in the 2030 General Plan Addendum No. 5, and it was determined to not result in any new significant

impacts to the environment. As a result of the implementation of this new code there has been a substantial increase of interest in development in the downtown area. In 2020, the City received or approved nine applications for primarily residential mixed use developments proposing a total of 497 units. Two additional applications were received in 2021, proposing 91 residential units and 3,681 square feet of non-residential space. Four applications were approved in 2021 that will allow for 338 residential units, and 7,422 square feet of commercial space. It is anticipated that development interest in downtown will continue to increase through 2022, with many of the currently pending projects to be approved in 2022, and several are expected to begin construction in 2022, including the Central Terrace (87 units) and Navigation Center (56 units plus shelter) projects.

Sakioka Farm Specific Plan

On June 16, 2020, City Council to approved a Development Agreement between the City of Oxnard, Sakioka Farms and AMS Craig, LLC; and a Tentative Tract Map, which subdivided the 430 acre area within the Sakioka Farms Business Park Specific Plan into 129 lots with new roads and sidewalks, stormwater management, landscape, and associated utilities. As a result of these approvals, two major developments were approved in the Sakioka development area in 2020. The first development was the approval of a 1,527,505 square foot, plus two storage mezzanines, multi-story e-commerce storage and distribution center. The second was a 576,000 square foot cold storage building and fruit processing facility. These projects are expected to complete construction and begin operation in 2022. As development continues, in 2021 the City received a development proposal to construct four industrial buildings totalling 778,720 square feet and related site improvements on four separate lots totalling 40.87 acre site. These projects totalling over 2.8 million square feet of development, further the goals of the General Plan that aim to promote economic development through job creation and cold storage projects.

RiverPark Specific Plan Amendment (RPSP)

In September 2002, the City Council approved the entitlement permits for the RPSP to guide future development on the 702-acre project site. The original RPSP allowed for the phased development of 2,805 dwelling units and 2,485,000 square feet of commercial development (including approximately 221,000 square feet of existing office development, prior to the adoption of the RPSP). The original RPSP was developed following the design principles of the New Urbanism and Smart Growth movements, which emphasized the importance of mixed land uses in close proximity, communities scaled for pedestrian walkability; limiting the need for automobile usage; higher density development, and the importance of physical design. Several subsequent approvals and amendments have taken place since the 2002 approval. In 2020, the applicant team submitted a request for a amendment to the RPSP, that would allow for the development of up to 1,025 additional residential units under the RPSP, in exchange for a reduction of up to approximately 562,457 square feet of non-residential development potential in accordance with specified development scenarios. The Project was presented to the Planning Commission on December 16, 2021, with a staff recommendation for approval as submitted. The Planning Commission ultimately recommended approval of a modified project to the City Council. The modified project would allow for the development of up to 613 additional residential units under the RPSP, in exchange for a reduction of up to approximately 336,377 square feet of non-residential development. The original project and the modified project were presented to the City Council on March 15, 2022.

Accessory Dwelling Units

Permitting activity for accessory dwelling units (ADU) has increased significantly. State law revisions in 2017 and 2019 led to revisions to the development standards for these units in 2019 and 2020. The Ordinance Amendments, in compliance with State law, made it easier to obtain permits for ADUs by reducing fees and parking requirements, allowing for multiple ADUs on each lot, and creating an expedited process for converting existing permitted space (e.g., in a garage or detached accessory structure) into an accessory dwelling unit. The number of ADUs permitted in 2020 was more than double the number of permits issued in 2019. In 2021, 157 ADUs received planning permit approvals, 106 were submitted for construction plan review, 63 were issued a building permit, and 14 units were constructed and occupied. While the number of ADUs constructed and occupied remains low, as the substantial number of ADU granted planning entitlements trickles down, it is anticipated that the number of ADUs coming online will increase significantly in the coming years.

Table 2
Annual ADU Statistics

Year	Planning Applications Received	Entitlements Granted	Building Permit Applications Received	Building Permits Issued	Final Inspection/CO
2013	0	0	0	0	0
2014	1	0	0	0	0
2015	0	1	0	0	0
2016	0	0	1	0	0
2017	17	2	3	0	0
2018	44	25	20	4	1
2019	50	55	30	13	3
2020	129	123	111	27	9
2021	176	157	106	63	14
Total	417	363	271	107	27

Short Term Rentals (STRs):

In 2016, staff began the process of soliciting public input on Zoning Ordinance Amendments to establish permitting requirements and regulatory standards for STRs in the coastal and non-coastal zones. The purpose of the ordinance enacted a comprehensive set of operating requirements and performance standards for STRs to mitigate their effects on neighborhoods, such as separation requirements and limits on the number that can operate in certain neighborhoods. After collecting input from the public, City Council, and Planning Commission, the formal approval process began in 2019. On October 6, 2020, the final ordinance was approved by the Oxnard City Council, then accepted by the Coastal Commission on December 10, 2020. The ordinance went into effect on December 17, 2020. In 2021, the City received forty-five applications for STRs in the coastal zone. Approximately, thirty-five were grandfathered STRs, which were legally operating prior to the implementation of the ordinance. STR permits were issued in 2021. An additional 14 STR applications were submitted in 2022 and are being processed by staff.

Retail Cannabis Applications:

On March 1, 2020, the City released its retail cannabis rankings. The top 13 ranked applicants and the top 3 local equity applicants were invited to apply for a Special Use Permit (SUP) for the specific location in their application. The applicants had until March 1, 2022 to secure an SUP. As a result, in 2021 the City received sixteen retail cannabis applications. In 2021, the City approved eight retail cannabis applications. As of the end of 2021, the remaining eight retail cannabis applications were currently in process. A total of fifteen retail cannabis applications were approved before the March 1, 2022 deadline.

A Review Of The City's Progress In Meeting The Regional Housing Need Allocation (RHNA) Objectives

State law requires all regional councils of government to determine the existing and projected housing need for its region. The City of Oxnard (City) is in the region covered by the Southern California Association of Governments (SCAG). For each Housing Element planning cycle, SCAG is required to determine the share of the regional housing need to be allocated to each city and unincorporated county areas within the SCAG region. This is called the Regional Housing Need Assessment (RHNA) allocation.

The City adopted the current Mid-cycle 2013-2021 Housing Element in 2017 to accommodate projected growth. This Housing Element was conditionally certified by HCD in January 2018, making the City compliant with State Housing Element requirements. The City is not required to build the dwelling units assigned through the RHNA process. Rather, each jurisdiction is required to plan for growth by zoning available land to accommodate RHNA and to adopt housing programs that promote and facilitate housing construction at all affordability levels. As such, the City's Housing Element articulates a variety of existing or planned programs that support the development of housing affordable to all income categories.

The City prepares an Annual Progress Report that documents achievements in meeting the objectives of the City's Housing Element. This Annual Progress Report provides HCD with an update on building activity during the Housing Element cycle and progress made to implement approved Housing Element programs. This year's Annual Progress Report includes housing data for the 2021 calendar year, up to October 15, 2021, the final year in the current eight-year Housing Element cycle. It also includes the status of adopted Housing Element programs. The Annual Progress Report is submitted using a template provided by HCD. These forms are provided in Exhibit 1 (HCD Tables A, A2, B, and D).

Planning and Building Permit Activity in 2021

As shown in Table 3 below, planning entitlements were granted for a total of 919 residential units in 2021. Accessory dwelling units made up 157 of these units, with the remaining units resulting from multifamily developments, a single family subdivision, area and a single family dwelling in the coastal area.

Building permits were issued for a total of 630 residential units in 2021. Of these units, 490 were units located within the Wagon Wheel development. The remainder were located throughout the City and included 65 multifamily units, 12 Single Family Dwellings, and 63 Accessory Dwelling Units. A Certificate of Occupancy was granted for a total of 360 dwelling units in 2021.

Table 3
Planning and Building Permit Activity in 2021

	Planning Entitlements	Building Permits	Certificates of Occupancy
Single Family Dwellings	28	12	13
Multi Family/Apartments	734	555	333
Accessory Dwelling Units	157	63	14
Total	919	630	360

Methodology and Reporting Requirement for Determining Affordability

To categorize the affordability of housing units that were issued building permits, both median household income and the cost of the new housing units are taken into account. According to the U.S. Department of Housing and Urban Development (HUD), the annual median family income for a family of four in Ventura County in 2021 was \$98,800. Affordable housing is generally defined as housing on which the occupant is paying no more than 30 percent of gross income for housing costs, including utilities. Based on this, the maximum monthly affordable housing payment for a family of four making median income would be \$2,470.

City of Oxnard's Progress in Meeting Housing Need

A summary of development activity by affordability category is provided in Table 4 below, as compared against the assigned RHNA targets for the 2013-2021 Housing Element cycle. A total of 7,301 dwelling units were allocated to the City of Oxnard for 2013 to 2021. In 2021, 630 units were issued building permits, however only 604 units count towards the last housing cycle (5th Cycle), which ended on October 15, 2021. The units permitted after October 15, 2021, will be included in the first year of the current housing cycle (6th Cycle). Approximately, sixteen (16) percent of the units issued building permits in 2021 met the criteria for placement in the lower-income and moderate income household categories while the remaining dwelling units (84%) were categorized as dwellings affordable to above moderate households.

Table 4
Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

Income Level	RHNA Allocation by Income Level	2013	2014	2015	2016	2017	2018	2019	2020	2021¹	Total Units to Date (all years)	Total Remaining RHNA by Income Level	Percent Completed
Very Low	1,688	0	48	0	50	30	51	0	5	4	188	1,500	11.14%
Low	1,160	0	67	0	207	234	230	0	4	18	756	404	65.17%
Moderate	1,351	0	2	0	2	371	0	0	44	80	499	852	36.94%
Above Moderate	3,102	0	39	5	80	138	146	137	310	506	1,361	1,741	43.87%
Total RHNA	7,301												
Total Units		0	156	5	339	773	427	137	363	604	2,804	4,497	38.41%

Conclusion

This General Plan Annual Progress Report has been prepared in compliance with Government Code Section 65400. The Report is to be provided to the Oxnard City Council at a public meeting on March 29, 2022, and it will be submitted to the Office of Planning and Research and the Department of Housing and Community Development by April 1, 2022.

Exhibits

1. 2021 City of Oxnard Housing Element Annual Report

¹ Only includes permits issues prior to October 15, 2021, which marked the end of the 5th housing cycle.

Please Start Here

General Information	
Jurisdiction Name	Oxnard
Reporting Calendar Year	2021
Contact Information	
First Name	Vyto
Last Name	Adomaitis
Title	Community Development Director
Email	Vyto.Adomaitis@Oxnard.org
Phone	8053857882
Mailing Address	
Street Address	214 S. C Street
City	Oxnard
Zipcode	93030

Optional: Click here to import last year's data. This is best used when the workbook is new and empty. You will be prompted to pick an old workbook to import from. Project and program data will be copied exactly how it was entered in last year's form and must be updated. If a project is no longer has any reportable activity, you may delete the project by selecting a cell in the row and typing ctrl + d.

v 2_15_2022

Optional: This runs a macro which checks to ensure all required fields are filled out. The macro will create two files saved in the same directory this APR file is saved in. One file will be a copy of the APR with highlighted cells which require information. The other file will be list of the problematic cells, along with a description of the nature of the error.

Optional: Save before running. This copies data on Table A2, and creates another workbook with the table split across 4 tabs, each of which can fit onto a single page for easier printing. Running this macro will remove the comments on the column headers, which contain the instructions. Do not save the APR file after running in order to preserve comments once it is reopened.

Optional: This macro identifies dates entered that occurred outside of the reporting year. RHNA credit is only given for building permits issued during the reporting year.

Link to the online system: <https://apr.hcd.ca.gov/APR/login.do>

Submittal Instructions

Please save your file as Jurisdictionname2021 (no spaces). Example: the city of San Luis Obispo would save their file as SanLuisObispo2021

Housing Element Annual Progress Reports (APRs) forms and tables must be submitted to HCD and the Governor's Office of Planning and Research (OPR) on or before April 1 of each year for the prior calendar year; submit separate reports directly to both HCD and OPR pursuant to Government Code section 65400. There are two options for submitting APRs:

1. Online Annual Progress Reporting System - Please see the link to the online system to the left. This allows you to upload the completed APR form into directly into HCD's database limiting the risk of errors. If you would like to use the online system, email APR@hcd.ca.gov and HCD will send you the login information for your jurisdiction. *Please note: Using the online system only provides the information to HCD. The APR must still be submitted to OPR. Their email address is opr.apr@opr.ca.gov.*

2. Email - If you prefer to submit via email, you can complete the excel Annual Progress Report forms and submit to HCD at APR@hcd.ca.gov and to OPR at opr.apr@opr.ca.gov. Please send the Excel workbook, not a scanned or PDF copy of the tables.

Jurisdiction	Oxnard	
Reporting Year	2021	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	10/15/2013 - 10/15/2021

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

(CCR Title 25 §6202)

Table A
Housing Development Applications Submitted

Project Identifier					Unit Types		Date Application Submitted	Proposed Units - Affordability by Household Incomes							Total Approved Units by Project	Total Disapproved Units by Project	Streamlining	Density Bonus Applications		Application Status		
1					2		3	4	5							6	7	8	9	10		11
Prior APN*	Current APN	Street Address	Project Name*	Local Jurisdiction Tracking ID*	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Date Application Submitted- (see instructions)	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Total PROPOSED Units by Project	Total APPROVED Units by project	Total DISAPPROVED Units by Project	Was APPLICATION SUBMITTED Pursuant to GC 65913.4(b)? (SB 35 Streamlining)	Was a Density Bonus requested for this housing development?	Was a Density Bonus approved for this housing development?	Please indicate the status of the application.	
Summary Row: Start Data Entry Below								40	18	198	48	0	10	154	468	468	0					
	225-0-014-020	2161 East Etting Road			5+	R	6/14/2021			57				1	58	58		No	Yes	Yes	Approved	
	202-0-054-090	136 South B Street			5+	R	2/3/2021	1		1				18	20	20		No	No	No	Approved	
	202-0-054-060	155 South A Street			5+	R	6/25/2021	3		3				50	56	56		No	No	No	Approved	
	213-0-090-285	2001 Outlet Center			5+	R	8/12/2021	36		136				1	173	173		No	Yes	Yes	Approved	
	191-0-051-355	941 Mandalay Beach Road			SFD	O	2/20/2021							1	1	1		No	No	No	Approved	
	196-0-031-065	1001 Catamaran Street		21-400-01	2 to 4	R	1/28/2021							2	2	2		No	No	No	Approved	
	139-0-080-335	1357 Althea Court			5+	R	2/10/2021			1					1	1		No	Yes	Yes	Approved	
	205-0-033-225	3022 LASSEN ST		21-131-175	ADU	R	12/29/2021		1						1	1		No	No	No	Approved	
	201-0-144-205	230 HARDING AVE		21-131-174	ADU	R	12/28/2021				1				1	1		No	No	No	Approved	
	201-0-064-270	411 N JUANITA AVE		21-131-173	ADU	R	12/28/2021				1				1	1		No	No	No	Approved	
	203-0-050-050	1258 SOUT G ST		21-131-169	ADU	R	12/22/2021				1				1	1		No	No	No	Approved	
	203-0133-050	1521 SAVIERS RD		21-131-168	ADU	R	12/29/2021							1	1	1		No	No	No	Approved	
	222-0-205-015	800 BERKSHIRE PL		21-131-167	ADU	R	12/29/2021						1		1	1		No	No	No	Approved	
	205-0-274-015	3900 S B ST		21-131-165	ADU	R	12/16/2021							1	1	1		No	No	No	Approved	
	205-0-313-125	2400 S L ST		21-131-162	ADU	R	1/18/2022		1						1	1		No	No	No	Approved	
	200-0-283-110	223 N I ST		21-131-160	ADU	R	12/16/2021				1				1	1		No	No	No	Approved	
	140-0-015-015	2422 LOBELIA DR		21-131-159	ADU	R	12/14/2021							1	1	1		No	No	No	Approved	
	203-0-292-240	178 W JUNIPER ST		21-131-157	ADU	R	12/29/2021				1				1	1		No	No	No	Approved	
	202-0165-270	926 KING ST		21-131-156	ADU	R	12/29/2021				1				1	1		No	No	No	Approved	
	200-0-311-430	543 PAPILM DR		21-131-155	ADU	R	12/16/2021				1				1	1		No	No	No	Approved	
	142-0-105-055	334 LAFAYETTE DR		21-131-154	ADU	R	1/13/2021								1	1		No	No	No	Approved	
	142-0-071-065	117 STANFORD AVE		21-131-153	ADU	R	1/13/2021								1	1		No	No	No	Approved	
	181-0-053-015	1820 GALLATIN PL		21-131-152	ADU	R	12/28/2021								1	1		No	No	No	Approved	
	216-0-143-015	IMPERIAL ST		21-131-151	ADU	R	12/1/2021								1	1		No	No	No	Approved	
	201-0-122-150	128 N GARFIELD AVE		21-131-150	ADU	R	10/1/2021				1				1	1		No	No	No	Approved	
	200-0-192-180	667 RODERICK AV		21-131-149	ADU	R	12/28/2021								1	1		No	No	No	Approved	
	185-0-105-175	1930 NINTH ST		21-131-148	ADU	R	12/28/2021								1	1		No	No	No	Approved	
	221-0-162-115	1220 MONET PL		21-131-147	ADU	R	12/28/2021								1	1		No	No	No	Approved	
	203-0-141-150	1333 S N ST		21-131-146	ADU	R	12/28/2021				1				1	1		No	No	No	Approved	
	203-0-223-080	171 W IRIS ST		21-131-145	ADU	R	12/20/2021								1	1		No	No	No	Approved	
	204-0-072-230	229 E BIRCH ST		21-131-144	ADU	R	12/2/2021				1				1	1		No	No	No	Approved	
	219-0-401-125	3500 SAN SIMEON AVE		21-131-143	ADU	R	12/9/2021								1	1		No	No	No	Approved	
	225-0-075-125	2144 ABBOTT ST		21-131-142	ADU	R	1/18/2021								1	1		No	No	No	Approved	
	200-0-363-165	410 IVYWOOD DR		21-131-141	ADU	R	1/18/2021				1				1	1		No	No	No	Approved	
	140-0-024-025	2430 LOBELIA DR		21-131-140	ADU	R	12/14/2021								1	1		No	No	No	Approved	
	205-0-031-155	3128 S. L STREET		21-131-138	ADU	R	10/25/2021				1				1	1		No	No	No	Approved	
	201-0-123-160	168 N GRANT AVE		21-131-137	ADU	R	1/19/2021								1	1		No	No	No	Approved	
	201-0-123-130	164 N GRANT AVE		21-131-136	ADU	R	1/19/2021								1	1		No	No	No	Approved	
	201-0-123-150	166 N GARFIELD AVE		21-131-135	ADU	R	1/19/2021								1	1		No	No	No	Approved	
	201-0-123-140	161 N GARFIELD AVE		21-131-134	ADU	R	1/19/2021								1	1		No	No	No	Approved	
	201-0-122-150	128 N GARFIELD		21-131-133	ADU	R	10/1/2021								1	1		No	No	No	Approved	
	225-0-052-205	4341 REEDER AVE		21-131-132	ADU	R	10/22/2021							1	1	1		No	No	No	Approved	
	215-0-040-595	1240 MARIA WAY		21-131-131	ADU	R	10/28/2021				1				1	1		No	No	No	Approved	
	203-0-012-190	1166 S VENTURA		21-131-130	ADU	R	10/22/2021								1	1		No	No	No	Approved	
	203-0-061-110	501 WOLFF ST		21-131-129	ADU	R	10/28/2021				1				1	1		No	No	No	Approved	
	203-0-092-420	1601 W BIRCH ST		21-131-128	ADU	R	10/18/2021		1						1	1		No	No	No	Approved	
	200-0-092-225	1040 CAMELOT WAY		21-131-127	ADU	R	10/28/2021								1	1		No	No	No	Approved	
	205-0-134-365	328 BRUCKER RD		21-131-126	ADU	R	10/28/2021								1	1		No	No	No	Approved	
	183-0-373-255	1810 CLAREMONT DR		21-131-123	ADU	R	10/1/2021				1				1	1		No	No	No	Approved	
	215-0-200-185	1303 EVITA PL		21-131-122	ADU	R	10/22/2021								1	1		No	No	No	Approved	
	183-0-332-245	1430 TEHAMA ST		21-131-121	ADU	R	10/14/2021				1				1	1		No	No	No	Approved	
	203-0-161-515	1536 S. J ST		21-131-120	ADU	R	10/28/2021								1	1		No	No	No	Approved	
	203-0-161-515	1536 S. J ST		21-131-119	ADU	R	10/28/2021								1	1		No	No	No	Approved	
	203-0-274-120	2007 S. D ST		21-131-118	ADU	R	10/12/2021				1				1	1		No	No	No	Approved	
	205-0-042-265	804 REDWOOD ST		21-131-117	ADU	R	9/27/2021				1				1	1		No	No	No	Approved	
	205-0-042-265	804 REDWOOD ST		21-131-116	ADU	R	9/27/2021		1						1	1		No	No	No	Approved	
	201-0-061-050	409 N MCKINLEY AVE		21-131-115	ADU	R	9/23/2021								1	1		No	No	No	Approved	
	202-0-041-070	112 N F ST		21-131-114	ADU	R	9/22/2021								1	1		No	No	No	Approved	
	205-0-235-075	3421 S. J STREET		21-131-113	ADU	R	9/21/2021				1				1	1		No	No	No	Approved	
	202-0-151-360	704 S F ST		21-131-112	ADU	R	10/13/2021								1	1		No	No	No	Approved	

	219-0-027-019	2101 CLOYNE ST		21-131-111	ADU	R	10/28/2021							1	1	1	No	No	No	Approved
	200-0-183-075	824 N H STREET		21-131-110	ADU	R	9/17/2021							1	1	1	No	No	No	Approved
	187-0-151-055	3424 KEEL AVE		21-131-109	ADU	R	9/17/2021							1	1	1	No	No	No	Approved
	201-0-064-330	911 COOPER RD		21-131-108	ADU	R	10/4/2021			1					1	1	No	No	No	Approved
	200-0-272-115	1112 DEODAR AVE		21-131-107	ADU	R	10/13/2021							1	1	1	No	No	No	Approved
	219-0-062-015	2904 FOURNIER ST		21-131-105	ADU	R	12/15/2021							1	1	1	No	No	No	Approved
	216-0-133-025	321 JULIAN ST		21-131-104	ADU	R	9/15/2021							1	1	1	No	No	No	Approved
	205-0-195-045	1326 W POPLAR ST		21-131-103	ADU	R	9/23/2021							1	1	1	No	No	No	Approved
	202-0-162-020	911 S. H ST		21-131-102	ADU	R	12/7/2021							1	1	1	No	No	No	Approved
	205-0-205-035	309 BRUCE CANYON		21-131-101	ADU	R	9/3/2021							1	1	1	No	No	No	Approved
	203-0-233-075	1356 W IRIS ST		21-131-100	ADU	R	9/3/2021							1	1	1	No	No	No	Approved
	203-0-233-075	1356 W IRIS ST		21-131-099	ADU	R	9/3/2021							1	1	1	No	No	No	Approved
	203-0-213-240	308 W FIR AVE		21-131-98	ADU	R	9/21/2021			1					1	1	No	No	No	Approved
	203-0-213-240	308 W. FIR AVE		21-131-95	ADU	R	9/21/2021			1					1	1	No	No	No	Approved
	203-0-222-030	121 W. GUAVA STREET		21-131-94	ADU	R	8/27/2021			1					1	1	No	No	No	Approved
	183-0-352-205	1431 WOODLAND ST		21-131-93	ADU	R	9/26/2021		1						1	1	No	No	No	Approved
	142-0-293-085	942 BANCAL WAY		21-131-92	ADU	R	8/19/2021			1					1	1	No	No	No	Approved
	203-0-143-075	1401 W ELM ST		21-131-91	ADU	R	9/17/2021			1					1	1	No	No	No	Approved
	204-0-192-325	625 MAPLE ST		21-131-90	ADU	R	9/10/2021			1					1	1	No	No	No	Approved
	205-0-274-015	3900 S. B ST		21-131-89	ADU	R	8/23/2021						1		1	1	No	No	No	Approved
	204-0-191-150	655 E LAUREL ST		21-131-88	ADU	R	8/26/2021							1	1	1	No	No	No	Approved
	200-0-283-140	204 N J ST		21-131-87	ADU	R	9/1/2021						1		1	1	No	No	No	Approved
	204-0-074-290	325 E CEDAR ST		21-131-86	ADU	R	8/28/2021							1	1	1	No	No	No	Approved
	203-0-131-070	304 W BIRCH ST		21-131-85	ADU	R	8/30/2021						1		1	1	No	No	No	Approved
	215-0-094-105	625 VALENTINA DR		21-131-84	ADU	R	7/28/2021							1	1	1	No	No	No	Approved
	221-0-071-145	4300 HIGHLAND AVE		21-131-83	ADU	R	8/3/2021						1		1	1	No	No	No	Approved
	202-0-022-020	177 N I ST		21-131-82	ADU	R	7/27/2021						1		1	1	No	No	No	Approved
	203-0-022010	1255 HILL ST		21-131-81	ADU	R	8/30/2021						1		1	1	No	No	No	Approved
	201-0-322-015	1532 MORRIS ST		21-131-80	ADU	R	8/26/2021						1		1	1	No	No	No	Approved
	203-0-307-105	624 W IRIS ST		21-131-78	ADU	R	8/24/2021						1		1	1	No	No	No	Approved
	205-0-181-075	1360 REDWOOD ST		21-131-77	ADU	R	8/30/2021		1						1	1	No	No	No	Approved
	200-0-172-185	443 EASTWOOD DR		21-131-76	ADU	R	8/30/2021			1					1	1	No	No	No	Approved
	200-0-192-180	667 RODERICK AVE		21-131-75	ADU	R	10/28/2021						1		1	1	No	No	No	Approved
	204-0-073-100	1400 CALIFORNIA ST		21-131-74	ADU	R	7/21/2021		1						1	1	No	No	No	Approved
	205-0-052-045	633 SPRUCE ST		21-131-72	ADU	R	10/13/2021							1	1	1	No	No	No	Approved
	202-0-030-490	130 S H ST		21-131-71	ADU	R	7/21/2021								1	1	No	No	No	Approved
	200-0-022-045	622 GLENWOOD DR		21-131-70	ADU	R	7/6/2021							1	1	1	No	No	No	Approved
	142-0-143-085	2141 MONO ST		21-131-69	ADU	R	7/15/2021						1		1	1	No	No	No	Approved
	203-0-161-165	906 WEST		21-131-68	ADU	R	7/15/2021							1	1	1	No	No	No	Approved
	185-0-012-155	3561 TAFFRAIL LN		21-131-67	ADU	R	7/1/2021								1	1	No	No	No	Approved
	200-0-163-105	1035 RODERICK AVE		21-131-66	ADU	R	9/21/2021							1	1	1	No	No	No	Approved
	200-0-232-050	650 DOUGLAS AVE		21-131-65	ADU	R	7/21/2021						1		1	1	No	No	No	Approved
	200-0-232-050	650 DOUGLAS AVE		21-131-64	ADU	R	7/21/2021						1		1	1	No	No	No	Approved
	200-0-231-070	612 RODERICK AVE		21-131-63	ADU	R	7/16/2021						1		1	1	No	No	No	Approved
	204-0-071-190	119 ASH ST		21-131-62	ADU	R	7/2/2021						1		1	1	No	No	No	Approved
	215-0-123-085	875 VIVIANA DR		21-131-61	ADU	R	6/17/2021							1	1	1	No	No	No	Approved
	187-0-028-115	1521 FATHOM DR		21-131-60	ADU	R	8/9/2021						1		1	1	No	No	No	Approved
	187-0-028-115	1521 FATHOM DR		21-131-59	ADU	R	8/9/2021						1		1	1	No	No	No	Approved
	215-0-231-025	1602 TIESA LN		21-131-58	ADU	R	7/2/2021						1		1	1	No	No	No	Approved
	204-0-074-250	357 CEDAR ST		21-131-57	ADU	R	7/7/2021						1		1	1	No	No	No	Approved
	204-0-074-250	357 E CEDAR ST		21-131-56	ADU	R	7/7/2021						1		1	1	No	No	No	Approved
	216-0-071-065	201 ALPINE ST		21-131-55	ADU	R	6/23/2021						1		1	1	No	No	No	Approved
	200-0-283-060	333 N I STREET		21-131-54	ADU	R	6/23/2021						1		1	1	No	No	No	Approved
	187-0-051-205	1740 CAPSTAN DR		21-131-53	ADU	R	6/23/2021						1		1	1	No	No	No	Approved
	200-0-191-140	637 W ROBERT AVE		21-131-52	ADU	R	6/23/2021						1		1	1	No	No	No	Approved
	200-0-172-290	1009 DORIS AVE		21-131-51	ADU	R	6/23/2021						1		1	1	No	No	No	Approved
	219-0-413-075	3800 SAN SIMEON AVE		21-131-50	ADU	R	6/23/2021						1		1	1	No	No	No	Approved
	203-0-021-060	1270 S. L ST		21-131-49	ADU	R	6/23/2021						1		1	1	No	No	No	Approved
	203-0-134-090	1602 VALLEY PARK DR		21-131-48	ADU	R	6/9/2021						1		1	1	No	No	No	Approved
	185-0-081-015	841 DEVILFISH DR		21-131-47	ADU	R	5/17/2021						1		1	1	No	No	No	Approved
	205-0-452-025	4801 S G ST		21-131-46	ADU	R	5/27/2021						1		1	1	No	No	No	Approved
	141-0-015-215	621 ERICA PL		21-131-44	ADU	R	6/23/2021							1	1	1	No	No	No	Approved
	215-0-114-025	1626 OFELIA WAY		21-131-43	ADU	R	6/9/2021							1	1	1	No	No	No	Approved
	204-0-084-160	274 E FIR AVE		21-131-42	ADU	R	8/25/2021							1	1	1	No	No	No	Approved
	142-0-161-025	1420 SABRINA PL		21-131-41	ADU	R	5/10/2021						1		1	1	No	No	No	Approved
	185-0-022-025	1021 GARFIELD LN		21-131-40	ADU	R	5/10/2021						1		1	1	No	No	No	Approved
	204-0121-085	575 FIR CT		21-131-39	ADU	R	5/28/2021							1	1	1	No	No	No	Approved
	142-0-142-045	2211 ISABELLA ST		21-131-38	ADU	R	5/28/2021						1		1	1	No	No	No	Approved
	205-0-161-015	3110 S VENTURA RD		21-131-35	ADU	R	5/28/2021						1		1	1	No	No	No	Approved
	200-0-233-020	506 W RODERICK AVE		21-131-34	ADU	R	6/22/2021						1		1	1	No	No	No	Approved
	219-0033-100	167 THOMAS AVE		21-131-33	ADU	R	5/1/2021						1		1	1	No	No	No	Approved
	201-0-122-110	525 E. FIRST ST		21-131-32	ADU	R	4/22/2021							1	1	1	No	No	No	Approved
	215-0-055-140	1215 LIADA WAY		21-131-31	ADU	R	6/9/2021						1		1	1	No	No	No	Approved
	201-0-112-230	154 N HARRISON AV		21-131-30	ADU	R	5/12/2021						1		1	1	No	No	No	Approved
	205-0-141-065	4805 S SAVIERS RD		21-131-29	ADU	R	7/22/2021						1		1	1	No	No	No	Approved
	201-0-122-150	128 N GARFIELD AV		21-131-28	ADU	R	4/23/2021						1		1	1	No	No	No	Approved
	205-0-315-225	1031 W CHANNEL ISLAND BLVD		21-131-27	ADU	R	5/28/2021							1	1	1	No	No	No	Approved
	200-0-242-075	305 RODERICK AV		21-131-26	ADU	R	4/27/2021							1	1	1	No	No	No	Approved
	200-0-142-125	414 FERNWOOD DR		21-131-25	ADU	R	3/13/2021								1	1	No	No	No	Approved
	205-0-042-175	930 REDWOOD ST		21-131-24	ADU	R	4/15/2021						1		1	1	No	No	No	Approved
	201-0-156-145	247 NAVARRO ST		21-131-23	ADU	R	4/27/2021							1	1	1	No	No	No	Approved
	201-0-156-145	247 NAVARRO ST		21-131-22	ADU	R	4/27/2021							1	1	1	No	No	No	Approved
	220-0-173-025	2004 FALKNER PL		21-131-21	ADU	R	5/28/2021							1	1	1	No	No	No	Approved
	205-0-042-095	821 SPRUCE ST		21-131-20	ADU	R	3/29/2021							1	1	1	No	No	No	Approved
	203-0-222-200	112 W FIR		21-131-19	ADU	R</														

	203-0-222-200	112 W FIR		21-131-16	ADU	R	4/6/2021				1				1	1		No	No	No	Approved
	220-0-064-155	2730 GERONIMO		21-131-17	ADU	R	3/26/2021						1		1	1		No	No	No	Approved
	202-0-041-090	128 N. F ST		21-131-16	ADU	R	7/2/2021						1		1	1		No	No	No	Approved
	185-0-013-115	3751 TILLER DR		21-131-15	ADU	R	3/15/2021						1		1	1		No	No	No	Approved
	185-0-013-115	3751 TILLER DR		21-131-14	ADU	R	3/15/2021						1		1	1		No	No	No	Approved
	203-0-113-030	442 W BIRCH ST		21-131-13	ADU	R	3/26/2021			1					1	1		No	No	No	Approved
	132-0-041-130	2635 COLONIA AVE		21-131-12	ADU	R	3/9/2021						1		1	1		No	No	No	Approved
	220-0-105-185	1861 NAPOLEON AV		21-131-11	ADU	R	9/10/2021								1	1		No	No	No	Approved
	205-0-225-075	3400 S. E ST		21-131-10	ADU	R	2/23/2021		1						1	1		No	No	No	Approved
	205-0-344-105	4221 FRANCISCO PL		21-131-9	ADU	R	4/26/2021						1		1	1		No	No	No	Approved
	205-0-064-075	460 TEAKWOOD ST		21-131-8	ADU	R	4/6/2021			1					1	1		No	No	No	Approved
	205-0-064-075	460 TEAKWOOD ST		21-131-7	ADU	R	4/6/2021			1					1	1		No	No	No	Approved
	224-0-081-365	4330 DRAKE DR		21-131-6	ADU	R	3/26/2021								1	1		No	No	No	Approved
	225-0-085-175	2164 SANFORD ST		21-131-5	ADU	R	3/23/2021				1				1	1		No	No	No	Approved
	221-0-021-055	4431 HAMILTON AVE		21-131-4	ADU	R	2/4/2021						1		1	1		No	No	No	Approved
	201-0-031-320	527 N MCKINLEY		21-131-3	ADU	R	1/14/2021						1		1	1		No	No	No	Approved
	200-0-231-180	687 DOUGLAS AVE		21-131-2	ADU	R	1/12/2021						1		1	1		No	No	No	Approved
	204-0-062-320	254 E DATE ST		21-131-1	ADU	R	2/4/2021						1		1	1		No	No	No	Approved
	203-0-101-100	1426 S. J ST		20131-113	ADU	R	1/26/2021						1		1	1		No	No	No	Approved
	204-0-131-040	245 Hemlock Street, Oxnard, CA		20-131-128	ADU	R	1/25/2021				1				1	1		No	No	No	Approved

Table A2															
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units															
Project Identifier					Unit Types		Affordability by Household Incomes - Completed Entitlement								
1					2	3	4							5	6
Prior APN*	Current APN	Street Address	Project Name*	Local Jurisdiction Tracking ID*	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Entitlement Date Approved	# of Units issued Entitlements
Summary Row: Start Data Entry Below							50	18	444	48	4	10	345		919
	223-0-090-015, 223-0-041-020	5482 Cypress Rd, 5536 Cypress Rd			20-200-14	5+	R		148				2	2/18/2021	150
	201-0-125-010	105 S. Roosevelt Avenue			20-200-10	2 to 4	R						1	4/21/2021	1
	201-0-213-110	217-235 East Sixth Street			20-200-06	5+	R		86				1	5/20/2021	87
	202-0-233-355	1101 and 1111 West Second Street	Encanto	21-550-03 (20-500-05)	SFD	O			3		4		20	12/2/2021	27
	225-0-014-020	2161 East Etting Road			5+	R			57				1	7/1/2021	58
	188-0-310-055	3851 Harbour Island Lane			5+	O	1						8	1/19/2021	9
	202-0-054-090	136 South B Street			5+	R	1		1				18	5/12/2021	20
	202-0-054-060	155 South A Street			5+	R	3		3				50	12/28/2021	56
	213-0-090-285	2001 Outlet Center Drive			5+	R	36		136				1	12/16/2021	173
	202-0-135-035	761 South C Street			5+	R	9		9				157	7/7/2021	175
	201-0-128-110	213 South Roosevelt Avenue		19-200-04	2 to 4	R							2	1/29/2021	2
	191-0-051-355	941 Mandalay Beach Road			SFD	O							1	6/23/2021	1
	196-0-031-065	1001 Caltaman Street		21-400-01	5+	R							2	6/3/2021	2
	139-0-080-335	1357 Althea Court			5+	R		1						5/20/2021	1
	205-0-033-225	3022 LASSEN ST		21-131-175	ADU	R		1						12/29/2021	1
	201-0-144-205	230 HARDING AVE		21-131-174	ADU	R			1					12/28/2021	1
	201-0-064-270	411 N JUANITA AVE		21-131-173	ADU	R			1					12/28/2021	1
	203-0-050-050	1258 SCOUT G ST		21-131-169	ADU	R			1					12/22/2021	1
	203-0133-050	1521 SAVIERS RD		21-131-168	ADU	R							1	12/29/2021	1
	222-0-205-015	800 BERKSHIRE PL		21-131-167	ADU	R						1		12/29/2021	1
	205-0-274-015	3900 S S ST		21-131-165	ADU	R							1	12/16/2021	1
	200-0-263-110	223 N I ST		21-131-160	ADU	R			1					12/16/2021	1
	140-0-015-015	2422 LOBELIA DR		21-131-159	ADU	R							1	12/14/2021	1
	203-0-292-240	178 W JUNIPER ST		21-131-157	ADU	R			1					12/29/2021	1
	202-0165-270	626 KING ST		21-131-156	ADU	R			1					12/29/2021	1
	200-0-311-430	543 PAPUM DR		21-131-155	ADU	R			1					12/19/2021	1
	142-0-105-055	334 LAFAYETTE DR		21-131-154	ADU	R							1	11/30/2021	1
	142-0-071-065	117 STANFORD AVE		21-131-153	ADU	R							1	11/30/2021	1
	161-0-053-015	1620 GALLATIN PL		21-131-152	ADU	R							1	12/28/2021	1
	216-0-143-015	IMPERIAL ST		21-131-151	ADU	R							1	12/1/2021	1
	201-0-122-150	128 N GARFIELD AVE		21-131-150	ADU	R				1				10/1/2021	1
	200-0-192-180	667 RODERICK AV		21-131-149	ADU	R							1	12/28/2021	1
	185-0-105-175	1930 NINTH ST		21-131-148	ADU	R							1	12/28/2021	1
	221-0-162-115	1220 MONET PL		21-131-147	ADU	R							1	12/28/2021	1
	203-0-141-150	1333 S N ST		21-131-146	ADU	R		1						12/28/2021	1
	203-0-223-080	171 W IRIS ST		21-131-145	ADU	R							1	12/20/2021	1
	204-0-072-230	229 E BIRCH ST		21-131-144	ADU	R			1					12/2/2021	1
	219-0-401-125	3500 SAN SIMEON AVE		21-131-143	ADU	R							1	12/9/2021	1
	225-0-075-125	2144 ABBOTT ST		21-131-142	ADU	R							1	11/8/2021	1
	200-0-363-165	410 IVYWOOD DR		21-131-141	ADU	R			1					11/9/2021	1
	140-0-024-025	2430 LOBELIA DR		21-131-140	ADU	R							1	12/14/2021	1
	205-0-031-155	3128 S I STREET		21-131-138	ADU	R			1					10/25/2021	1
	201-0-123-160	168 N GRANT AVE		21-131-137	ADU	R							1	11/9/2021	1
	201-0-123-130	164 N GRANT AVE		21-131-136	ADU	R							1	11/9/2021	1
	201-0-123-150	165 N GARFIELD AVE		21-131-135	ADU	R							1	11/9/2021	1
	201-0-123-140	161 N GARFIELD AVE		21-131-134	ADU	R							1	11/9/2021	1
	201-0-122-150	128 N GARFIELD		21-131-133	ADU	R							1	10/1/2021	1
	225-0-052-205	4341 REEDER AVE		21-131-132	ADU	R						1		10/22/2021	1
	215-0-040-595	1240 MARIA WAY		21-131-131	ADU	R				1				10/28/2021	1
	203-0-012-190	1166 S VENTURA		21-131-130	ADU	R						1		10/22/2021	1
	203-0-061-110	501 WOLFE ST		21-131-129	ADU	R				1				10/28/2021	1
	203-0-092-420	1601 W BIRCH ST		21-131-128	ADU	R		1						10/18/2021	1
	200-0-092-225	1040 CAMELOT WAY		21-131-127	ADU	R							1	10/28/2021	1
	205-0-134-365	328 BRUCKER RD		21-131-126	ADU	R						1		10/28/2021	1
	183-0-373-255	1810 CLAREMONT DR		21-131-123	ADU	R			1					10/11/2021	1
	215-0-200-185	1303 EVITA PL		21-131-122	ADU	R				1				10/22/2021	1
	183-0-332-245	1430 TEHAMA ST		21-131-121	ADU	R				1				10/14/2021	1
	203-0-161-515	1536 S J ST		21-131-120	ADU	R							1	10/28/2021	1

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Prior APN*	Current APN	Street Address	Project Name*	Local Jurisdiction Tracking ID*	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Very Low-Income Deed Restricted	Very Low-Income Non-Deed Restricted	Low-Income Deed Restricted	Low-Income Non-Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non-Deed Restricted	Above Moderate-Income	Entitlement Date Approved	# of Units issued Entitlements
	203-0-161-515	1536 S. J ST		21-131-119	ADU	R							1	10/28/2021	1
	203-0-274-120	2007 S. D ST		21-131-118	ADU	R		1						10/12/2021	1
	205-0-042-265	804 REDWOOD ST		21-131-117	ADU	R		1						9/27/2021	1
	205-0-042-265	804 REDWOOD ST		21-131-116	ADU	R		1						9/27/2021	1
	201-0-061-050	409 N MCKINLEY AVE		21-131-115	ADU	R							1	9/23/2021	1
	202-0-041-070	112 N F ST		21-131-114	ADU	R							1	9/22/2021	1
	205-0-235-075	3421 S. J STREET		21-131-113	ADU	R			1					9/21/2021	1
	202-0-151-380	704 S F ST		21-131-112	ADU	R							1	10/13/2021	1
	219-0-027-015	2101 CLOYNE ST		21-131-111	ADU	R							1	10/28/2021	1
	200-0-183-075	824 N H STREET		21-131-110	ADU	R							1	9/17/2021	1
	187-0-151-055	3424 KEEL AVE		21-131-109	ADU	R							1	9/17/2021	1
	201-0-064-330	911 COOPER RD		21-131-108	ADU	R			1					10/4/2021	1
	200-0-272-115	1112 DEODAR AVE		21-131-107	ADU	R							1	10/13/2021	1
	219-0-062-015	2904 FOURNIER ST		21-131-105	ADU	R							1	12/15/2021	1
	216-0-133-025	321 JULIAN ST		21-131-104	ADU	R							1	9/15/2021	1
	205-0-195-045	1326 W POPLAR ST		21-131-103	ADU	R							1	9/23/2021	1
	202-0-162-020	911 S. H ST		21-131-102	ADU	R							1	12/7/2021	1
	205-0-205-035	309 BRYCE CANYON		21-131-101	ADU	R							1	9/3/2021	1
	203-0-232-075	1356 W IRIS ST		21-131-100	ADU	R							1	9/3/2021	1
	203-0-232-075	1356 W IRIS ST		21-131-099	ADU	R							1	9/3/2021	1
	203-0-212-240	308 W FIR AVE		21-131-98	ADU	R			1					9/21/2021	1
	203-0-212-240	308 W. FIR AVE		21-131-95	ADU	R			1					9/21/2021	1
	203-0-222-030	121 W. GUAVA STREET		21-131-94	ADU	R			1					8/27/2021	1
	183-0-352-205	1431 WOODLAND ST		21-131-93	ADU	R		1						8/26/2021	1
	142-0-293-085	942 BANCAL WAY		21-131-92	ADU	R				1				8/19/2021	1
	203-0-143-075	1401 W ELM ST		21-131-91	ADU	R		1						9/17/2021	1
	204-0-192-325	625 MAPLE ST		21-131-90	ADU	R				1				9/10/2021	1
	205-0-274-015	3900 S. B ST		21-131-89	ADU	R							1	8/23/2021	1
	204-0-191-150	655 E LAUREL ST		21-131-88	ADU	R							1	8/26/2021	1
	200-0-283-140	204 N J ST		21-131-87	ADU	R				1				9/1/2021	1
	204-0-074-290	325 E CEDAR ST		21-131-86	ADU	R								8/26/2021	1
	203-0-131-070	304 W BIRCH ST		21-131-85	ADU	R				1				8/30/2021	1
	215-0-094-105	625 VALENTINA DR		21-131-84	ADU	R								7/28/2021	1
	221-0-071-145	4300 HIGHLAND AVE		21-131-83	ADU	R							1	8/3/2021	1
	202-0-022-020	177 N I ST		21-131-82	ADU	R				1				7/27/2021	1
	203-0-022010	1255 HILL ST		21-131-81	ADU	R							1	8/30/2021	1
	201-0-322-015	1532 MORRIS ST		21-131-80	ADU	R							1	8/26/2021	1
	203-0-307-105	624 W IRIS ST		21-131-78	ADU	R				1				8/24/2021	1
	205-0-181-075	1360 REDWOOD ST		21-131-77	ADU	R		1						8/30/2021	1
	200-0-172-185	443 EASTWOOD DR		21-131-76	ADU	R		1						8/30/2021	1
	200-0-192-180	667 RODERICK AVE		21-131-75	ADU	R							1	10/28/2021	1
	204-0-073-100	1400 CALIFORNIA ST		21-131-74	ADU	R		1						7/21/2021	1
	205-0-052-045	633 SPRUCE ST		21-131-72	ADU	R							1	10/13/2021	1
	202-0-030-490	130 S H ST		21-131-71	ADU	R							1	7/21/2021	1
	200-0-022-045	622 GLENWOOD DR		21-131-70	ADU	R							1	7/6/2021	1
	142-0-143-085	2141 MONO ST		21-131-69	ADU	R				1				7/15/2021	1
	203-0-161-165	906 WEST		21-131-68	ADU	R							1	7/15/2021	1
	185-0-012-155	3561 TAFFRAIL LN		21-131-67	ADU	R							1	7/1/2021	1
	200-0-163-105	1035 RODERICK AVE		21-131-66	ADU	R							1	9/21/2021	1
	200-0-232-050	650 DOUGLAS AVE		21-131-65	ADU	R						1		7/21/2021	1
	200-0-232-050	650 DOUGLAS AVE		21-131-64	ADU	R				1				7/21/2021	1
	200-0-231-070	612 RODERICK AVE		21-131-63	ADU	R							1	7/16/2021	1
	204-0-071-190	119 ASH ST		21-131-62	ADU	R				1				7/2/2021	1
	215-0-123-085	875 VIVIANA DR		21-131-61	ADU	R							1	6/17/2021	1
	187-0-026-115	1521 FATHOM DR		21-131-60	ADU	R						1		8/9/2021	1
	187-0-026-115	1521 FATHOM DR		21-131-59	ADU	R				1				8/9/2021	1
	215-0-231-025	1602 TIESA LN		21-131-58	ADU	R							1	7/2/2021	1
	204-0-074-250	357 CEDAR ST		21-131-57	ADU	R		1						7/7/2021	1
	204-0-074-250	357 E CEDAR ST		21-131-56	ADU	R				1				7/7/2021	1
	216-0-071-065	201 ALPINE ST		21-131-55	ADU	R				1				6/23/2021	1
	200-0-283-060	333 N. I STRET		21-131-54	ADU	R				1				6/23/2021	1

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	187-0-051-205	1740 CAPSTAN DR		21-131-53	ADU	R							1	6/23/2021	1
	200-0-191-140	637 W ROBERT AVE		21-131-52	ADU	R							1	6/23/2021	1
	200-0-172-290	1009 DORIS AVE		21-131-51	ADU	R			1					6/23/2021	1
	219-0-413-075	3900 SAN SIMEON AVE		21-131-50	ADU	R							1	6/23/2021	1
	203-0-021-060	1270 S. L ST		21-131-49	ADU	R			1					6/23/2021	1
	203-0-134-090	1602 VALLEY PARK DR		21-131-48	ADU	R							1	6/9/2021	1
	185-0-081-015	841 DEVILFISH DR		21-131-47	ADU	R						1		5/17/2021	1
	205-0-452-025	4801 S G ST		21-131-46	ADU	R			1					5/27/2021	1
	141-0-015-215	621 ERICA PL		21-131-44	ADU	R								6/23/2021	1
	215-0-114-025	1626 OFELIA WAY		21-131-43	ADU	R							1	6/9/2021	1
	204-0-084-160	274 E FIR AVE		21-131-42	ADU	R							1	8/25/2021	1
	142-0-161-025	1420 SABRINA ST		21-131-41	ADU	R		1						5/10/2021	1
	185-0-022-025	1021 OARFISH LN		21-131-40	ADU	R							1	5/10/2021	1
	204-0121-085	575 FIR CT		21-131-39	ADU	R							1	5/28/2021	1
	142-0-142-045	2211 ISABELLA ST		21-131-36	ADU	R			1					5/28/2021	1
	205-0-161-015	3110 S VENTURA RD		21-131-35	ADU	R						1		5/28/2021	1
	200-0-233-020	506 W RODERICK AV		21-131-34	ADU	R		1						6/22/2021	1
	219-0033-100	167 THOMAS AVE		21-131-33	ADU	R		1						5/1/2021	1
	201-0-122-110	525 E. FIRST ST		21-131-32	ADU	R							1	4/22/2021	1
	215-0-055-140	1215 LIADA WAY		21-131-31	ADU	R		1						6/9/2021	1
	201-0-112-230	154 N HARRISON AV		21-131-30	ADU	R							1	5/12/2021	1
	205-0-141-065	4805 S SAVIERS RD		21-131-29	ADU	R				1				7/22/2021	1
	201-0-122-150	128 N GARFIELD AV		21-131-28	ADU	R			1					4/23/2021	1
	205-0-315-225	1031 W CHANNEL ISLAND BLVD		21-131-27	ADU	R							1	5/28/2021	1
	200-0-242-075	305 RODERICK AV		21-131-26	ADU	R							1	4/27/2021	1
	200-0-142-125	414 FERNWOOD DR		21-131-25	ADU	R							1	3/13/2021	1
	205-0-042-175	930 REDWOOD ST		21-131-24	ADU	R						1		4/15/2021	1
	201-0-156-145	247 NAVARRO ST		21-131-23	ADU	R							1	4/27/2021	1
	201-0-156-145	247 NAVARRO ST		21-131-22	ADU	R							1	4/27/2021	1
	220-0-173-025	2004 PALKNER PL		21-131-21	ADU	R							1	5/28/2021	1
	205-0-042-095	921 SPRUCE ST		21-131-20	ADU	R							1	3/29/2021	1
	203-0-222-200	112 W FIR		21-131-19	ADU	R			1					4/6/2021	1
	203-0-222-200	112 W FIR		21-131-18	ADU	R			1					4/6/2021	1
	220-0-084-155	2730 GERONIMO		21-131-17	ADU	R						1		3/26/2021	1
	202-0-041-090	128 N. F. ST		21-131-16	ADU	R							1	7/2/2021	1
	185-0-013-115	3751 TILLER DR		21-131-15	ADU	R							1	3/15/2021	1
	185-0-013-115	3751 TILLER DR		21-131-14	ADU	R							1	3/15/2021	1
	203-0-113-030	442 W BIRCH ST		21-131-13	ADU	R			1					3/26/2021	1
	132-0-041-130	2635 COLONIA AVE		21-131-12	ADU	R							1	3/9/2021	1
	220-0-105-185	1861 NAPOLEON AV		21-131-11	ADU	R		1						9/10/2021	1
	205-0-225-075	3400 S. E. ST		21-131-10	ADU	R		1						2/23/2021	1
	205-0-344-105	4221 FRANCISCO PL		21-131-9	ADU	R							1	4/26/2021	1
	205-0-064-075	460 TEAKWOOD ST		21-131-8	ADU	R				1				4/6/2021	1
	205-0-064-075	460 TEAKWOOD ST		21-131-7	ADU	R				1				4/6/2021	1
	224-0-081-365	4330 DRAKE DR		21-131-6	ADU	R				1				3/26/2021	1
	225-0-085-175	2164 SANFORD ST		21-131-5	ADU	R			1					3/22/2021	1
	221-0-021-055	4431 HAMILTON AVE		21-131-4	ADU	R							1	2/4/2021	1
	201-0-031-320	527 N MCKINLEY		21-131-3	ADU	R							1	1/14/2021	1
	200-0-231-180	687 DOUGLAS AVE		21-131-2	ADU	R							1	1/12/2021	1
	204-0-082-320	254 E DATE ST		21-131-1	ADU	R							1	2/4/2021	1
	203-0-101-100	1426 S. J ST		20131-113	ADU	R							1	1/26/2021	1
	204-0-131-040	245 Hemlock Street, Ormand, CA		20-131-128	ADU	R				1				1/25/2021	1
	1910091285	1215 CAPRI WAY			SFD	O									0
	1910033285	5353 REEF WAY			SFD	O									0
	1910091205	1121 CAPRI WAY			SFD	O									0
	1910041355	847 MANDALAY BEACH RD			SFD	O									0

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	1910094155	5239 SEALANE WAY			SFD	O									0
	2000291325	760 DORIS AVE			SFD	O									0
	1960130045	1051 CANAL ST			SFA	O									0
	1960130045	1055 CANAL ST			SFA	O									0
	1960130045	1049 CANAL ST			SFA	O									0
	1960130045	1053 CANAL ST			SFA	O									0
	1960130045	1047 CANAL ST			SFA	O									0
	1960130045	1057 CANAL ST			SFA	O									0
	1960130025	1058 CANAL ST			SFA	O									0
	1960130025	1066 CANAL ST			SFA	O									0
	1960130025	1056 CANAL ST			SFA	O									0
	1960130025	1060 CANAL ST			SFA	O									0
	1960130025	1064 CANAL ST			SFA	O									0
	1960130025	1068 CANAL ST			SFA	O									0
	1960130025	1050 CANAL ST			SFA	O									0
	1960130025	1052 CANAL ST			SFA	O									0
	1960130025	1054 CANAL ST			SFA	O									0
	1960130025	1062 CANAL ST			SFA	O									0
	1960130025	1070 CANAL ST			SFA	O									0
	1960130035	1022 S HARBOR BLVD			SFA	O									0
	1960130035	1032 S HARBOR BLVD			SFA	O									0
	1960130035	1020 S HARBOR BLVD			SFA	O									0
	1960130035	1030 S HARBOR BLVD			SFA	O									0
	1960130035	1034 S HARBOR BLVD			SFA	O									0
	1960021045	861 DUNES ST			2 to 4	O									0
	1960031065	1001 CATAMARAN ST			2 to 4	R									0
	1390610055	2870 WAGON WHEEL RD			5+	O									0
	1390610055	2840 WAGON WHEEL RD			5+	O									0
	1390610015	625 WINCHESTER DR			2 to 4	O									0
	1390610015	619 WINCHESTER DR			2 to 4	O									0
	1390610015	613 WINCHESTER DR			2 to 4	O									0
	1390610015	607 WINCHESTER DR			2 to 4	O									0
	1390610015	601 WINCHESTER DR			2 to 4	O									0
	1390610015	649 WINCHESTER DR			2 to 4	O									0
	2000291345	303 N F ST 101-202			2 to 4	O									0
	2000291345	309 N F ST 101-202			2 to 4	O									0
	2000291345	315 N F ST 101-202			2 to 4	O									0
	1390610015	637 WINCHESTER DR			2 to 4	R									0
	1390610015	631 WINCHESTER DR			2 to 4	R									0
	1390610015	643 WINCHESTER DR			2 to 4	R									0
	1390610015	655 WINCHESTER DR			2 to 4	R									0
	1390610015	661 WINCHESTER DR			2 to 4	R									0
	1420061105	180 PRINCETON AVE			ADU	R									0
	2200074055	2024 NAPOLEON AVE			ADU	R									0
	2000163355	1030 W ROBERT AVE			ADU	R									0
	2190431035	4011 SAN JUAN AVE			ADU	R									0
	2030181010	1501 S D ST			ADU	R									0
	2000172225	900 DOUGLAS AVE #2			ADU	R									0
	1320041150	2665 COLONIA AVE			ADU	R									0
	2030201345	1161 W GUAVA ST			ADU	R									0
	2040134060	2233 SAN MARINO ST			ADU	R									0
	2190025210	2117 HUGHES DR			ADU	R									0
	1810093055	1630 DIEGO WAY			ADU	R									0

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	2030274020	1813 S D ST			ADU	R									0
	2030202135	1132 W GUAYA ST			ADU	R									0
	2030112200	473 W BIRCH ST			ADU	R									0
	2040081290	222 E CEDAR ST			ADU	R									0
	2040091070	348 E CEDAR ST #2			ADU	R									0
	2200041055	2621 TRINITY PL			ADU	R									0
	2050092065	3550 S B ST			ADU	R									0
	2030291010	336 W IRIS ST #2			ADU	R									0
	2030042010	1135 S H ST			ADU	R									0
	2200085115	1960 PERICLES PL #2			ADU	R									0
	2030133130	1436 VALLEY PARK DR			ADU	R									0
	1320041130	2635 COLONIA AVE			ADU	R									0
	2210071105	4200 HIGHLAND AVE			ADU	R									0
	2000312160	456 PALM DR			ADU	R									0
	2050225075	3400 S E ST			ADU	R									0
	1830172095	894 SARATOGA ST #2			ADU	R									0
	2030272010	405 W IRIS ST			ADU	R									0
	2030150345	1263 W FIR AVE			ADU	R									0
	2000242075	305 RODERICK AVE			ADU	R									0
	2050045045	3033 S K ST			ADU	R									0
	2000321170	302 DORIS AVE			ADU	R									0
	1870133235	3131 VIA MARINA AVE			ADU	R									0
	2050235135	3400 JACKSON ST			ADU	R									0
	2190373045	3530 LAS TUNAS PL			ADU	R									0
	1890041055	1930 W HEMLOCK ST			ADU	R									0
	2010115240	212 E FIRST ST #101			ADU	R									0
	2000302190	655 BEVERLY DR			ADU	R									0
	2010154045	231 S MARQUITA ST			ADU	R									0
	2040082030	247 E ELM ST #2			ADU	R									0
	1390104025	1350 ELDER ST			ADU	R									0
	2240083065	4451 BROWNING DR #2			ADU	R									0
	2030101205	890 CEDAR CT			ADU	R									0
	2160121085	2040 CAMINO DEL SOL			ADU	R									0
	2050043065	3051 JACKSON ST			ADU	R									0
	2050383115	4710 S J ST			ADU	R									0
	1420165075	2111 ALMANOR ST			ADU	R									0
	2020042110	110 S F ST			ADU	R									0
	1390094205	1341 AZALEA ST			ADU	R									0
	2240093025	1991 JEFFREYS PL			ADU	R									0
	2150132035	1113 PINATA DR #2			ADU	R									0
	2250052245	4340 DAPPER CT			ADU	R									0
	2240043085	1950 SANFORD ST			ADU	R									0
	1830363175	1640 ALTURAS ST			ADU	R									0
	1390610175	2640 WAGON WHEEL RD			5+	R									0
	1390610265	2720 WAGON WHEEL RD			5+	R									0
	2000291325	710 DORIS AVE			SFD	O									0
	2000291325	720 DORIS AVE			SFD	O									0
	2000291325	730 DORIS AVE			SFD	O									0
	2000291325	740 DORIS AVE			SFD	O									0
	2000291325	750 DORIS AVE			SFD	O									0
	2000291325	760 DORIS AVE			SFD	O									0
	2000291325	770 DORIS AVE			SFD	O									0
	2000291325	780 DORIS AVE			SFD	O									0
	2000291325	790 DORIS AVE			SFD	O									0
	2000291325	800 DORIS AVE			SFD	O									0
	2000291325	810 DORIS AVE			SFD	O									0
	2000291325	820 DORIS AVE			SFD	O									0
	2000291325	830 DORIS AVE			SFD	O									0
	2000291325	840 DORIS AVE			SFD	O									0
	2000291325	850 DORIS AVE			SFD	O									0
	2000291325	860 DORIS AVE			SFD	O									0
	2000291325	870 DORIS AVE			SFD	O									0
	2000291325	880 DORIS AVE			SFD	O									0
	2000291325	890 DORIS AVE			SFD	O									0
	2000291325	900 DORIS AVE			SFD	O									0
	2000291325	910 DORIS AVE			SFD	O									0
	2000291325	920 DORIS AVE			SFD	O									0
	2000291325	930 DORIS AVE			SFD	O									0
	2000291325	940 DORIS AVE			SFD	O									0
	2000291325	950 DORIS AVE			SFD	O									0
	2000291325	960 DORIS AVE			SFD	O									0
	2000291325	970 DORIS AVE			SFD	O									0
	2000291325	980 DORIS AVE			SFD	O									0
	2000291325	990 DORIS AVE			SFD	O									0
	1390610075	580 WINCHESTER DR			5+	R									0

Table A2															
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units															
Project Identifier					Unit Types		Affordability by Household Incomes - Completed Entitlement								
1					2	3	4								6
Prior APN*	Current APN	Street Address	Project Name*	Local Jurisdiction Tracking ID*	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Entitlement Date Approved	# of Units issued Entitlements
	1960023035	5000 CATAMARAN ST			2 to 4	R									0
	1790321315	1610 THORPE TRL			SFD	O									0
	1790321305	1608 THORPE TRL			SFD	O									0
	1790321285	1604 THORPE TRL			2 to 4	O									0
	1790321275	1602 THORPE TRL			SFD	O									0
	1790321265	1600 THORPE TRL			SFD	O									0
	1390470455	579 WINCHESTER DR			2 to 4	O									0
	1390470455	579 WINCHESTER DR			2 to 4	O									0
	1390470455	579 WINCHESTER DR			2 to 4	O									0
	1300610065	567 WINCHESTER DR			2 to 4	O									0
	1300610065	567 WINCHESTER DR			2 to 4	O									0
	1300610065	567 WINCHESTER DR			2 to 4	O									0
	1390470405	585 WINCHESTER DR			2 to 4	O									0
	1390470405	585 WINCHESTER DR			2 to 4	O									0
	1390470405	585 WINCHESTER DR			2 to 4	O									0
	2020023015	832 PALM DR			SFD	O									0
	2020023015	838 PALM DR			SFD	O									0
	2020023045	186 N H ST			SFD	O									0
	2020023035	186 N H ST			SFD	O									0
	2020023055	180 N H ST			SFD	O									0
	2020023065	170 N H ST			SFD	O									0
	2020023075	166 N H ST			SFD	O									0
	2020023085	162 N H ST			SFD	O									0
	2020023095	154 N H ST			SFD	O									0
	2020023105	148 N H ST			SFD	O									0
	2020023115	146 N H ST			SFD	O									0
	2020023125	138 N H ST			SFD	O									0
	2020023135	132 N H ST			SFD	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1390460155	2830 WAGON WHEEL RD			5+	O									0
	1960130095	1101 CANAL ST			SFA	O									0
	1960130055	1103 CANAL ST			SFA	O									0
	1960130075	1107 CANAL ST			SFA	O									0
	1960130115	1097 CANAL ST			SFA	O									0
	1960130065	1105 CANAL ST			SFA	O									0
	1960130085	1109 CANAL ST			SFA	O									0
	1960130105	1099 CANAL ST			SFA	O									0
	1960130045	1087 CANAL ST			SFA	O									0
	1960130045	1083 CANAL ST			SFA	O									0
	1960130045	1093 CANAL ST			SFA	O									0
	1960130045	1085 CANAL ST			SFA	O									0
	1960130045	1091 CANAL ST			SFA	O									0
	1960130045	1095 CANAL ST			SFA	O									0
	1960130045	1071 CANAL ST			SFA	O									0

Table A2															
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units															
Project Identifier					Unit Types		Affordability by Household Incomes - Completed Entitlement								
1					2	3	4								5
Prior APN*	Current APN	Street Address	Project Name*	Local Jurisdiction Tracking ID*	Unit Category (SFA,SFD,2 to 4,5+,ADU,MH)	Tenure R=Renter O=Owner	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Entitlement Date Approved	# of Units issued Entitlements
	1960130045	1075 CANAL ST			SFA	O									0
	1960130045	1079 CANAL ST			SFA	O									0
	1960130045	1073 CANAL ST			SFA	O									0
	1960130045	1077 CANAL ST			SFA	O									0
	1960130045	1081 CANAL ST			SFA	O									0
	1960130045	1059 CANAL ST			SFA	O									0
	1960130045	1067 CANAL ST			SFA	O									0
	1960130045	1063 CANAL ST			SFA	O									0
	1960130045	1065 CANAL ST			SFA	O									0
	1960130045	1069 CANAL ST			SFA	O									0
	1960130045	1061 CANAL ST			SFA	O									0
	2250014250	2250 E PLEASANT VALLEY RD			5+	R									0
	2200091075	1850 ONEILL PL			ADU	R									0
	2050092065	3550 S B ST			ADU	R									0
	1830172095	894 SARATOGA ST			ADU	R									0
	2030150345	1263 W FIR AVE			ADU	R									0
	2030133130	1436 VALLEY PARK DR			ADU	R									0
	2030211020	1711 Valley Park Dr			ADU	R									0
	2030043140	1242 South H Street			ADU	R									0
	1870176095	2960 Ketch Place			ADU	R									0
	2190025210	2117 Hughes Drive			ADU	R									0
	2010115240	212 East First Street			ADU	R									0
	2240083065	4451 Browning Drive			ADU	R									0
	2050043065	3051 Jackson Street			ADU	R									0
	1850081195	2610 Stern Lane			ADU	R									0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
			0	6	0	17	80	0	527		630
223-0-090-015, 223-0-041-020	5482 Cypress Rd, 5536 Cypress Rd										0
201-0-125-010	105 S. Roosevelt Avenue										0
201-0-213-110	217-235 East Sixth Street										0
202-0-233-355	1101 and 1111 West Second Street	Encanto									0
225-0-014-020	2161 East Etting Road										0
188-0-310--055	3851 Harbour Island Lane										0
202-0-054-090	136 South B Street										0
202-0-054-060	155 South A Street										0
213-0-090-285	2001 Outlet Center Drive										0
202-0-135-035	761 South C Street										0
201-0-128-110	213 South Roosevelt Avenue										0
191-0-051-355	941 Mandalay Beach Road										0
196-0-031-065	1001 Catamaran Street										0
139-0-080-335	1357 Althea Court										0
205-0-033-225	3022 LASSEN ST										0
201-0-144-205	230 HARDING AVE										0
201-0-064-270	411 N JUANITA AVE										0
203-0-050-050	1258 SOUT G ST										0
203-0133-050	1521 SAVIERS RD										0
222-0-205-015	800 BERKSHIRE PL										0
205-0-274-015	3900 S B ST										0
200-0-283-110	223 N I ST										0
140-0-015-015	2422 LOBELIA DR										0
203-0-292-240	178 W JUNIPER ST										0
202-0165-270	926 KING ST										0
200-0-311-430	543 PAPLM DR										0
142-0-105-055	334 LAFAYETTE DR										0
142-0-071-065	117 STANFORD AVE										0
181-0-053-015	1820 GALLATIN PL										0
216-0-143-015	IMPERIAL ST										0
201-0-122-150	128 N GARFIELD AVE										0
200-0-192-180	667 RODERICK AV										0
185-0-105-175	1930 NINTH ST										0
221-0-162-115	1220 MONET PL										0
203-0-141-150	1333 S N ST										0
203-0-223-080	171 W IRIS ST										0
204-0-072-230	229 E BIRCH ST										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
219-0-401-125	3500 SAN SIMEON AVE										0
225-0-075-125	2144 ABBOTT ST										0
200-0-363-165	410 IVYWOOD DR										0
140-0-024-025	2430 LOBELIA DR										0
205-0-031-155	3128 S. L STREET										0
201-0-123-160	168 N GRANT AVE										0
201-0-123-130	164 N GRANT AVE										0
201-0-123-150	165 N GARFIELD AVE										0
201-0-123-140	161 N GARFIELD AVE										0
201-0-122-150	128 N GARFIELD										0
225-0-052-205	4341 REEDER AVE										0
215-0-040-595	1240 MARIA WAY										0
203-0-012-190	1166 S VENTURA										0
203-0-061-110	501 WOLFF ST										0
203-0-092-420	1601 W BIRCH ST										0
200-0-092-225	1040 CAMELOT WAY										0
205-0-134-365	328 BRUCKER RD										0
183-0-373-255	1810 CLAREMONT DR										0
215-0-200-185	1303 EVITA PL										0
183-0-332-245	1430 TEHAMA ST										0
203-0-161-515	1536 S. J ST										0
203-0-161-515	1536 S. J ST										0
203-0-274-120	2007 S. D ST										0
205-0-042-265	804 REDWOOD ST										0
205-0-042-265	804 REDWOOD ST										0
201-0-061-050	409 N MCKINLEY AVE										0
202-0-041-070	112 N F ST										0
205-0-235-075	3421 S. J STREET										0
202-0-151-360	704 S F ST										0
219-0-027-015	2101 CLOYNE ST										0
200-0-183-075	824 N H STREET										0
187-0-151-055	3424 KEEL AVE										0
201-0-064-330	911 COOPER RD										0
200-0-272-115	1112 DEODAR AVE										0
219-0-062-015	2904 FOURNIER ST										0
216-0-133-025	321 JULIAN ST										0
205-0-195-045	1326 W POPLAR ST										0
202-0-162-020	911 S. H ST										0
205-0-205-035	309 BRYCE CANYON										0
203-0-232-075	1356 W IRIS ST										0
203-0-232-075	1356 W IRIS ST										0
203-0-212-240	308 W FIR AVE										0
203-0-212-240	308 W. FIR AVE										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
203-0-222-030	121 W. GUAVA STREET										0
183-0-352-205	1431 WOODLAND ST										0
142-0-293-085	942 BANCAL WAY										0
203-0-143-075	1401 W ELM ST										0
204-0-192-325	625 MAPLE ST										0
205-0-274-015	3900 S. B ST										0
204-0-191-150	655 E LAUREL ST										0
200-0-283-140	204 N J ST										0
204-0-074-290	325 E CEDAR ST										0
203-0-131-070	304 W BIRCH ST										0
215-0-094-105	625 VALENTINA DR										0
221-0-071-145	4300 HIGHLAND AVE										0
202-0-022-020	177 N I ST										0
203-0-022-010	1255 HILL ST										0
201-0-322-015	1532 MORRIS ST										0
203-0-307-105	624 W IRIS ST										0
205-0-181-075	1360 REDWOOD ST										0
200-0-172-185	443 EASTWOOD DR										0
200-0-192-180	667 RODERICK AVE										0
204-0-073-100	1400 CALIFORNIA ST										0
205-0-052-045	633 SPRUCE ST										0
202-0-030-490	130 S H ST										0
200-0-022-045	622 GLENWOOD DR										0
142-0-143-085	2141 MONO ST										0
203-0-161-165	906 WEST										0
185-0-012-155	3561 TAFFRAIL LN										0
200-0-163-105	1035 RODERICK AVE										0
200-0-232-050	650 DOUGLAS AVE										0
200-0-232-050	650 DOUGLAS AVE										0
200-0-231-070	612 RODERICK AVE										0
204-0-071-190	119 ASH ST										0
215-0-123-085	875 VIVIANA DR										0
187-0-026-115	1521 FATHOM DR										0
187-0-026-115	1521 FATHOM DR										0
215-0-231-025	1602 TIESA LN										0
204-0-074-250	357 CEDAR ST										0
204-0-074-250	357 E CEDAR ST										0
216-0-071-065	201 ALPINE ST										0
200-0-283-060	333 N. I STRET										0
187-0-051-205	1740 CAPSTAN DR										0
200-0-191-140	637 W ROBERT AVE										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
200-0-172-290	1009 DORIS AVE										0
219-0-413-075	3800 SAN SIMEON AVE										0
203-0-021-060	1270 S. L ST										0
203-0-134-090	1602 VALLEY PARK DR										0
185-0-081-015	841 DEVILFISH DR										0
205-0-452-025	4801 S G ST										0
141-0-015-215	621 ERICA PL										0
215-0-114-025	1626 OFELIA WAY										0
204-0-084-160	274 E FIR AVE										0
142-0-161-025	1420 SABRINA ST										0
185-0-022-025	1021 OARFISH LN										0
204-0121-085	575 FIR CT										0
142-0-142-045	2211 ISABELLA ST										0
205-0-161-015	3110 S VENTURA RD										0
200-0-233-020	506 W RODERICK AV										0
219-0033-100	167 THOMAS AVE										0
201-0-122-110	525 E. FIRST ST										0
215-0-055-140	1215 LIADA WAY										0
201-0-112-230	154 N HARRISON AV										0
205-0-141-065	4805 S SAVIERS RD										0
201-0-122-150	128 N GARFIELD AV										0
205-0-315-225	1031 W CHANNEL ISLAND BLVD										0
200-0-242-075	305 RODERICK AV										0
200-0-142-125	414 FERNWOOD DR										0
205-0-042-175	930 REDWOOD ST										0
201-0-156-145	247 NAVARRO ST										0
201-0-156-145	247 NAVARRO ST										0
220-0-173-025	2004 FALKNER PL										0
205-0-042-095	921 SPRUCE ST										0
203-0-222-200	112 W FIR										0
203-0-222-200	112 W FIR										0
220-0-084-155	2730 GERONIMO										0
202-0-041-090	128 N. F ST										0
185-0-013-115	3751 TILLER DR										0
185-0-013-115	3751 TILLER DR										0
203-0-113-030	442 W BIRCH ST										0
132-0-041-130	2635 COLONIA AVE										0
220-0-105-185	1861 NAPOLEON AV										0
205-0-225-075	3400 S. E ST										0
205-0-344-105	4221 FRANCISCO PL										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
205-0-064-075	460 TEAKWOOD ST										0
205-0-064-075	460 TEAKWOOD ST										0
224-0-081-365	4330 DRAKE DR										0
225-0-085-175	2164 SANFORD ST										0
221-0-021-055	4431 HAMILTON AVE										0
201-0-031-320	527 N MCKINLEY										0
200-0-231-180	687 DOUGLAS AVE										0
204-0-082-320	254 E DATE ST										0
203-0-101-100	1426 S. J ST										0
204-0-131-040	245 Hemlock Street, Oxnard, CA										0
1910091285	1215 CAPRI WAY								1	1/13/2021	1
1910033285	5353 REEF WAY								1	9/14/2021	1
1910091205	1121 CAPRI WAY								1	1/19/2021	1
1910041355	847 MANDALAY BEACH RD								1	1/19/2021	1
1910094155	5239 SEALANE WAY								1	11/5/2021	1
2000291325	760 DORIS AVE								1	5/17/2021	1
1960130045	1051 CANAL ST								1	5/11/2021	1
1960130045	1055 CANAL ST								1	5/11/2021	1
1960130045	1049 CANAL ST								1	5/11/2021	1
1960130045	1053 CANAL ST								1	5/11/2021	1
1960130045	1047 CANAL ST								1	5/11/2021	1
1960130045	1057 CANAL ST								1	5/11/2021	1
1960130025	1058 CANAL ST								1	8/25/2021	1
1960130025	1066 CANAL ST								1	8/25/2021	1
1960130025	1056 CANAL ST								1	8/25/2021	1
1960130025	1060 CANAL ST								1	8/25/2021	1
1960130025	1064 CANAL ST								1	8/25/2021	1
1960130025	1068 CANAL ST								1	8/25/2021	1
1960130025	1050 CANAL ST								1	8/25/2021	1
1960130025	1052 CANAL ST								1	8/25/2021	1
1960130025	1054 CANAL ST								1	8/25/2021	1
1960130025	1062 CANAL ST								1	8/25/2021	1
1960130025	1070 CANAL ST								1	8/25/2021	1
1960130035	1022 S HARBOR BLVD								1	11/18/2021	1
1960130035	1032 S HARBOR BLVD								1	11/18/2021	1
1960130035	1020 S HARBOR BLVD								1	11/18/2021	1
1960130035	1030 S HARBOR BLVD								1	11/18/2021	1
1960130035	1034 S HARBOR BLVD								1	11/18/2021	1
1960021045	861 DUNES ST								2	7/2/2021	2
1960031065	1001 CATAMARAN ST								2	8/19/2021	2
1390610055	2870 WAGON WHEEL RD								12	5/5/2021	12

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
			7								
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Building Permits Date Issued	# of Units Issued Building Permits
1390610055	2840 WAGON WHEEL RD								12	5/5/2021	12
1390610015	625 WINCHESTER DR								3	9/29/2021	3
1390610015	619 WINCHESTER DR								3	9/29/2021	3
1390610015	613 WINCHESTER DR								3	5/20/2021	3
1390610015	607 WINCHESTER DR								3	5/20/2021	3
1390610015	601 WINCHESTER DR								3	5/20/2021	3
1390610015	649 WINCHESTER DR								3	9/29/2021	3
2000291345	303 N F ST 101- 202								4	9/20/2021	4
2000291345	309 N F ST 101- 202								4	9/20/2021	4
2000291345	315 N F ST 101- 202								4	9/20/2021	4
1390610015	637 WINCHESTER DR								3	9/29/2021	3
1390610015	631 WINCHESTER DR								3	9/29/2021	3
1390610015	643 WINCHESTER DR								3	11/10/2021	3
1390610015	655 WINCHESTER DR								3	11/10/2021	3
1390610015	661 WINCHESTER DR								3	11/10/2021	3
1420061105	180 PRINCETON AVE					1				3/10/2021	1
2200074055	2024 NAPOLEON AVE								1	5/5/2021	1
2000163355	1030 W ROBERT AVE								1	12/13/2021	1
2190431035	4011 SAN JUAN AVE			1						4/8/2021	1
2030181010	1501 S D ST					1				3/18/2021	1
2000172225	900 DOUGLAS AVE #2					1				5/3/2021	1
1320041150	2665 COLONIA AVE					1				5/19/2021	1
2030201345	1161 W GUAVA ST			1						9/13/2021	1
2040134060	2233 SAN MARINO ST								1	12/13/2021	1
2190025210	2117 HUGHES DR								1	6/9/2021	1
1810093055	1630 DIEGO WAY					1				12/15/2021	1
2030274020	1813 S D ST			1						6/2/2021	1
2030202135	1132 W GUAVA ST					1				6/10/2021	1
2030112200	473 W BIRCH ST								1	3/9/2021	1
2040081290	222 E CEDAR ST								1	1/29/2021	1
2040091070	348 E CEDAR ST #2								1	5/20/2021	1
2200041055	2621 TRINITY PL								1	5/24/2021	1
2050092065	3550 S B ST								1	4/15/2021	1
2030291010	336 W IRIS ST #2								1	1/12/2021	1

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
2030042010	1135 S H ST					1				7/6/2021	1
2200085115	1960 PERICLES PL #2								1	5/11/2021	1
2030133130	1436 VALLEY PARK DR								1	6/23/2021	1
1320041130	2635 COLONIA AVE								2	8/5/2021	2
2210071105	4200 HIGHLAND AVE								1	7/8/2021	1
2000312160	456 PALM DR					1				6/30/2021	1
2050225075	3400 S E ST								1	10/11/2021	1
1830172095	894 SARATOGA ST #2								1	7/29/2021	1
2030272010	405 W IRIS ST					1				12/15/2021	1
2030150345	1263 W FIR AVE					1				2/25/2021	1
2000242075	305 RODERICK AVE								1	11/16/2021	1
2050045045	3033 S K ST			1						11/30/2021	1
2000321170	302 DORIS AVE					1				8/27/2021	1
1870133235	3131 VIA MARINA AVE								1	12/29/2021	1
2050235135	3400 JACKSON ST								1	4/26/2021	1
2190373045	3530 LAS TUNAS PL					1				1/19/2021	1
1890041055	1930 W HEMLOCK ST								1	2/10/2021	1
2010115240	212 E FIRST ST #101								2	2/18/2021	2
2000302190	655 BEVERLY DR								1	3/17/2021	1
2010154045	231 S MARQUITA ST								1	10/13/2021	1
2040082030	247 E ELM ST #2								1	5/17/2021	1
1390104025	1350 ELDER ST					1				6/23/2021	1
2240083065	4451 BROWNING DR #2								1	6/22/2021	1
2030101205	930 CEDAR CT								1	11/1/2021	1
2160121085	2040 CAMINO DEL SOL								1	9/16/2021	1
2050043065	3051 JACKSON ST								1	4/7/2021	1
2050383115	4710 S J ST			1						10/20/2021	1
1420165075	2111 ALMANOR ST								1	9/20/2021	1
2020042110	110 S F ST					1				8/26/2021	1
1390094205	1341 AZALEA ST								1	7/30/2021	1
2240093025	1991 JEFFREYS PL					1				11/9/2021	1
2150132035	1113 PINATA DR #2								1	6/10/2021	1
2250052245	4340 DAPPER CT					2				6/21/2021	2
2240043085	1950 SANFORD ST			1						7/12/2021	1
1830363175	1640 ALTURAS ST								1	12/16/2021	1
1390610175	2640 WAGON WHEEL RD						43		195	6/23/2021	238
1390610265	2720 WAGON WHEEL RD						37		173	6/16/2021	210

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Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
2000291325	710 DORIS AVE								1	5/17/2021	1
2000291325	720 DORIS AVE								1	5/17/2021	1
2000291325	730 DORIS AVE								1	5/17/2021	1
2000291325	740 DORIS AVE								1	5/17/2021	1
2000291325	750 DORIS AVE								1	5/17/2021	1
2000291325	700 DORIS AVE								1	5/17/2021	1
2000291325	710 DORIS AVE								1	5/17/2021	1
2000291325	720 DORIS AVE								1	5/17/2021	1
2000291325	730 DORIS AVE								1	5/17/2021	1
2000291325	740 DORIS AVE								1	5/17/2021	1
2000291325	750 DORIS AVE								1	5/17/2021	1
2000291325	700 DORIS AVE								1	5/17/2021	1
1390610075	580 WINCHESTER DR								16	1/23/2020	16
1960023035	5000 CATAMARAN ST								2	1/31/2019	2
1790321315	1610 THORPE TRL								1	9/18/2019	1
1790321305	1608 THORPE TRL								1	9/18/2019	1
1790321285	1604 THORPE TRL								2	9/18/2019	2
1790321275	1602 THORPE TRL								1	9/18/2019	1
1790321265	1600 THORPE TRL								1	9/18/2019	1
1390470455	579 WINCHESTER DR								3	3/26/2020	3
1390470455	579 WINCHESTER DR								3	3/26/2020	3
1390470455	579 WINCHESTER DR								3	3/26/2020	3
1300610065	567 WINCHESTER DR								3	3/26/2020	3
1300610065	567 WINCHESTER DR								3	3/26/2020	3
1300610065	567 WINCHESTER DR								3	3/26/2020	3
1390470405	585 WINCHESTER DR								3	3/26/2020	3
1390470405	585 WINCHESTER DR								3	3/26/2020	3
1390470405	585 WINCHESTER DR								3	3/26/2020	3
2020023015	832 PALM DR								1	6/17/2020	1
2020023015	838 PALM DR								1	6/17/2020	1
2020023045	186 N H ST								1	3/18/2020	1
2020023035	188 N H ST								1	3/18/2020	1
2020023055	180 N H ST								1	3/18/2020	1
2020023065	170 N H ST								1	3/18/2020	1
2020023075	166 N H ST								1	4/23/2020	1
2020023085	162 N H ST								1	4/23/2020	1
2020023095	154 N H ST				1					4/23/2020	1
2020023105	148 N H ST				1					4/23/2020	1
2020023115	146 N H ST				1					6/17/2020	1
2020023125	138 N H ST								1	6/17/2020	1
2020023135	132 N H ST								1	6/17/2020	1

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Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Building Permits							8	9
			7								
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Building Permits Date Issued	# of Units Issued Building Permits
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1390460155	2830 WAGON WHEEL RD								12	12/23/2020	12
1960130095	1101 CANAL ST								1	8/3/2020	1
1960130055	1103 CANAL ST								1	8/3/2020	1
1960130075	1107 CANAL ST								1	8/3/2020	1
1960130115	1097 CANAL ST								1	8/3/2020	1
1960130065	1105 CANAL ST								1	8/3/2020	1
1960130085	1109 CANAL ST								1	8/3/2020	1
1960130105	1099 CANAL ST								1	8/3/2020	1
1960130045	1087 CANAL ST								1	12/14/2020	1
1960130045	1083 CANAL ST								1	12/14/2020	1
1960130045	1093 CANAL ST								1	12/14/2020	1
1960130045	1085 CANAL ST								1	12/14/2020	1
1960130045	1091 CANAL ST								1	12/14/2020	1
1960130045	1095 CANAL ST								1	12/14/2020	1
1960130045	1071 CANAL ST								1	1/21/2021	1
1960130045	1075 CANAL ST								1	1/21/2021	1
1960130045	1079 CANAL ST								1	1/21/2021	1
1960130045	1073 CANAL ST								1	1/21/2021	1
1960130045	1077 CANAL ST								1	1/21/2021	1
1960130045	1081 CANAL ST								1	1/21/2021	1
1960130045	1059 CANAL ST								1	3/2/2021	1
1960130045	1067 CANAL ST								1	3/2/2021	1
1960130045	1063 CANAL ST								1	3/2/2021	1
1960130045	1065 CANAL ST								1	3/2/2021	1
1960130045	1069 CANAL ST								1	3/2/2021	1
1960130045	1061 CANAL ST								1	3/2/2021	1
2250014250	2250 E PLEASANT VALLEY RD				15				86	3/27/2017	101
2200091075	1850 ONEILL PL								1	8/10/2020	1
2050092065	3550 S B ST										0
1830172095	894 SARATOGA ST										0

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Project Identifier			Affordability by Household Incomes - Building Permits							8	9
Current APN	Street Address	Project Name*	7							Building Permits Date Issued	# of Units Issued Building Permits
			Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income		
2030150345	1263 W FIR AVE										0
2030133130	1436 VALLEY PARK DR										0
2030211020	1711 Valley Park Dr										0
2030043140	1242 South H Street										0
1870176095	2960 Ketch Place										0
2190025210	2117 Hughes Drive										0
2010115240	212 East First Street										0
2240083065	4451 Browning Drive										0
2050043065	3051 Jackson Street										0
1850081195	2610 Stern Lane										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
			0	2	18	1	0	0	339		360
223-0-090-015, 223-0-041-020	5482 Cypress Rd, 5536 Cypress Rd										0
201-0-125-010	105 S. Roosevelt Avenue										0
201-0-213-110	217-235 East Sixth Street										0
202-0-233-355	1101 and 1111 West Second Street	Encanto									0
225-0-014-020	2161 East Etting Road										0
188-0-310-055	3851 Harbour Island Lane										0
202-0-054-090	136 South B Street										0
202-0-054-060	155 South A Street										0
213-0-090-285	2001 Outlet Center Drive										0
202-0-135-035	761 South C Street										0
201-0-128-110	213 South Roosevelt Avenue										0
191-0-051-355	941 Mandalay Beach Road										0
196-0-031-065	1001 Catamaran Street										0
139-0-080-335	1357 Althea Court										0
205-0-033-225	3022 LASSEN ST										0
201-0-144-205	230 HARDING AVE										0
201-0-064-270	411 N JUANITA AVE										0
203-0-050-050	1258 SOUT G ST										0
203-0133-050	1521 SAVIERS RD										0
222-0-205-015	800 BERKSHIRE PL										0
205-0-274-015	3900 S B ST										0
200-0-283-110	223 N. I ST										0
140-0-015-015	2422 LOBELIA DR										0
203-0-292-240	178 W JUNIPER ST										0
202-0165-270	926 KING ST										0
200-0-311-430	543 PAPLM DR										0
142-0-105-055	334 LAFAYETTE DR										0
142-0-071-065	117 STANFORD AVE										0
181-0-053-015	1820 GALLATIN PL										0
216-0-143-015	IMPERIAL ST										0
201-0-122-150	128 N GARFIELD AVE										0
200-0-192-180	667 RODERICK AV										0
185-0-105-175	1930 NINTH ST										0
221-0-162-115	1220 MONET PL										0
203-0-141-150	1333 S N ST										0
203-0-223-080	171 W IRIS ST										0
204-0-072-230	229 E BIRCH ST										0

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Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
219-0-401-125	3500 SAN SIMEON AVE										0
225-0-075-125	2144 ABBOTT ST										0
200-0-363-165	410 IVYWOOD DR										0
140-0-024-025	2430 LOBELIA DR										0
205-0-031-155	3128 S. L STREET										0
201-0-123-160	168 N GRANT AVE										0
201-0-123-130	164 N GRANT AVE										0
201-0-123-150	165 N GARFIELD AVE										0
201-0-123-140	161 N GARFIELD AVE										0
201-0-122-150	128 N GARFIELD										0
225-0-052-205	4341 REEDER AVE										0
215-0-040-595	1240 MARIA WAY										0
203-0-012-190	1166 S VENTURA										0
203-0-061-110	501 WOLFF ST										0
203-0-092-420	1601 W BIRCH ST										0
200-0-092-225	1040 CAMELOT WAY										0
205-0-134-365	328 BRUCKER RD										0
183-0-373-255	1810 CLAREMONT DR										0
215-0-200-185	1303 EVITA PL										0
183-0-332-245	1430 TEHAMA ST										0
203-0-161-515	1536 S. J ST										0
203-0-161-515	1536 S. J ST										0
203-0-274-120	2007 S. D ST										0
205-0-042-265	804 REDWOOD ST										0
205-0-042-265	804 REDWOOD ST										0
201-0-061-050	409 N MCKINLEY AVE										0
202-0-041-070	112 N F ST										0
205-0-235-075	3421 S. J STREET										0
202-0-151-360	704 S F ST										0
219-0-027-015	2101 CLOYNE ST										0
200-0-183-075	824 N H STREET										0
187-0-151-055	3424 KEEL AVE										0
201-0-064-330	911 COOPER RD										0
200-0-272-115	1112 DEODAR AVE										0
219-0-062-015	2904 FOURNIER ST										0
216-0-133-025	321 JULIAN ST										0
205-0-195-045	1326 W POPLAR ST										0
202-0-162-020	911 S. H ST										0
205-0-205-035	309 BRYCE CANYON										0
203-0-232-075	1356 W IRIS ST										0
203-0-232-075	1356 W IRIS ST										0
203-0-212-240	308 W FIR AVE										0
203-0-212-240	308 W. FIR AVE										0

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Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
203-0-222-030	121 W. GUAVA STREET										0
183-0-352-205	1431 WOODLAND ST										0
142-0-293-085	942 BANCAL WAY										0
203-0-143-075	1401 W ELM ST										0
204-0-192-325	625 MAPLE ST										0
205-0-274-015	3900 S. B ST										0
204-0-191-150	655 E LAUREL ST										0
200-0-283-140	204 N J ST										0
204-0-074-290	325 E CEDAR ST										0
203-0-131-070	304 W BIRCH ST										0
215-0-094-105	625 VALENTINA DR										0
221-0-071-145	4300 HIGHLAND AVE										0
202-0-022-020	177 N I ST										0
203-0-022010	1255 HILL ST										0
201-0-322-015	1532 MORRIS ST										0
203-0-307-105	624 W IRIS ST										0
205-0-181-075	1360 REDWOOD ST										0
200-0-172-185	443 EASTWOOD DR										0
200-0-192-180	667 RODERICK AVE										0
204-0-073-100	1400 CALIFORNIA ST										0
205-0-052-045	633 SPRUCE ST										0
202-0-030-490	130 S H ST										0
200-0-022-045	622 GLENWOOD DR										0
142-0-143-085	2141 MONO ST										0
203-0-161-165	906 WEST										0
185-0-012-155	3561 TAFFRAIL LN										0
200-0-163-105	1035 RODERICK AVE										0
200-0-232-050	650 DOUGLAS AVE										0
200-0-232-050	650 DOUGLAS AVE										0
200-0-231-070	612 RODERICK AVE										0
204-0-071-190	119 ASH ST										0
215-0-123-085	875 VIVIANA DR										0
187-0-026-115	1521 FATHOM DR										0
187-0-026-115	1521 FATHOM DR										0
215-0-231-025	1602 TIESA LN										0
204-0-074-250	357 CEDAR ST										0
204-0-074-250	357 E CEDAR ST										0
216-0-071-065	201 ALPINE ST										0
200-0-283-060	333 N. I STRET										0
187-0-051-205	1740 CAPSTAN DR										0

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Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
200-0-191-140	637 W ROBERT AVE										0
200-0-172-290	1009 DORIS AVE										0
219-0-413-075	3800 SAN SIMEON AVE										0
203-0-021-060	1270 S. L ST										0
203-0-134-090	1602 VALLEY PARK DR										0
185-0-081-015	841 DEVILFISH DR										0
205-0-452-025	4801 S G ST										0
141-0-015-215	621 ERICA PL										0
215-0-114-025	1626 OFELIA WAY										0
204-0-084-160	274 E FIR AVE										0
142-0-161-025	1420 SABRINA ST										0
185-0-022-025	1021 OARFISH LN										0
204-0121-085	575 FIR CT										0
142-0-142-045	2211 ISABELLA ST										0
205-0-161-015	3110 S VENTURA RD										0
200-0-233-020	506 W RODERICK AV										0
219-0033-100	167 THOMAS AVE										0
201-0-122-110	525 E. FIRST ST										0
215-0-055-140	1215 LIADA WAY										0
201-0-112-230	154 N HARRISON AV										0
205-0-141-065	4805 S SAVIERS RD										0
201-0-122-150	128 N GARFIELD AV										0
205-0-315-225	1031 W CHANNEL ISLAND BLVD										0
200-0-242-075	305 RODERICK AV										0
200-0-142-125	414 FERNWOOD DR										0
205-0-042-175	930 REDWOOD ST										0
201-0-156-145	247 NAVARRO ST										0
201-0-156-145	247 NAVARRO ST										0
220-0-173-025	2004 FALKNER PL										0
205-0-042-095	921 SPRUCE ST										0
203-0-222-200	112 W FIR										0
203-0-222-200	112 W FIR										0
220-0-084-155	2730 GERONIMO										0
202-0-041-090	128 N. F ST										0
185-0-013-115	3751 TILLER DR										0
185-0-013-115	3751 TILLER DR										0
203-0-113-030	442 W BIRCH ST										0
132-0-041-130	2635 COLONIA AVE										0
220-0-105-185	1861 NAPOLEON AV										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low-Income Deed Restricted	Very Low-Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate-Income Deed Restricted	Moderate-Income Non Deed Restricted	Above Moderate-Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
205-0-225-075	3400 S. E ST										0
205-0-344-105	4221 FRANCISCO PL										0
205-0-064-075	460 TEAKWOOD ST										0
205-0-064-075	460 TEAKWOOD ST										0
224-0-081-365	4330 DRAKE DR										0
225-0-085-175	2164 SANFORD ST										0
221-0-021-055	4431 HAMILTON AVE										0
201-0-031-320	527 N MCKINLEY										0
200-0-231-180	687 DOUGLAS AVE										0
204-0-082-320	254 E DATE ST										0
203-0-101-100	1426 S. J ST										0
204-0-131-040	245 Hemlock Street, Oxnard, CA										0
1910091285	1215 CAPRI WAY										0
1910033285	5353 REEF WAY										0
1910091205	1121 CAPRI WAY										0
1910041355	847 MANDALAY BEACH RD										0
1910094155	5239 SEALANE WAY										0
2000291325	760 DORIS AVE										0
1960130045	1051 CANAL ST										0
1960130045	1055 CANAL ST										0
1960130045	1049 CANAL ST										0
1960130045	1053 CANAL ST										0
1960130045	1047 CANAL ST										0
1960130045	1057 CANAL ST										0
1960130025	1058 CANAL ST										0
1960130025	1066 CANAL ST										0
1960130025	1056 CANAL ST										0
1960130025	1060 CANAL ST										0
1960130025	1064 CANAL ST										0
1960130025	1068 CANAL ST										0
1960130025	1050 CANAL ST										0
1960130025	1052 CANAL ST										0
1960130025	1054 CANAL ST										0
1960130025	1062 CANAL ST										0
1960130025	1070 CANAL ST										0
1960130035	1022 S HARBOR BLVD										0
1960130035	1032 S HARBOR BLVD										0
1960130035	1020 S HARBOR BLVD										0
1960130035	1030 S HARBOR BLVD										0
1960130035	1034 S HARBOR BLVD										0
1960021045	861 DUNES ST										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low- Income Deed Restricted	Low- Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
1960031065	1001 CATAMARAN ST										0
1390610055	2870 WAGON WHEEL RD										0
1390610055	2840 WAGON WHEEL RD										0
1390610015	625 WINCHESTER DR										0
1390610015	619 WINCHESTER DR										0
1390610015	613 WINCHESTER DR										0
1390610015	607 WINCHESTER DR										0
1390610015	601 WINCHESTER DR										0
1390610015	649 WINCHESTER DR										0
2000291345	303 N F ST 101-202										0
2000291345	309 N F ST 101-202										0
2000291345	315 N F ST 101-202										0
1390610015	637 WINCHESTER DR										0
1390610015	631 WINCHESTER DR										0
1390610015	643 WINCHESTER DR										0
1390610015	655 WINCHESTER DR										0
1390610015	661 WINCHESTER DR										0
1420061105	180 PRINCETON AVE										0
2200074055	2024 NAPOLEON AVE										0
2000163355	1030 W ROBERT AVE										0
2190431035	4011 SAN JUAN AVE										0
2030181010	1501 S D ST										0
2000172225	900 DOUGLAS AVE #2										0
1320041150	2665 COLONIA AVE										0
2030201345	1161 W GUAVA ST										0
2040134060	2233 SAN MARINO ST										0
2190025210	2117 HUGHES DR										0
1810093055	1630 DIEGO WAY										0
2030274020	1813 S D ST										0
2030202135	1132 W GUAVA ST										0
2030112200	473 W BIRCH ST										0
2040081290	222 E CEDAR ST										0

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
2040091070	348 E CEDAR ST #2										0
2200041055	2621 TRINITY PL										0
2050092065	3550 S B ST										0
2030291010	336 W IRIS ST #2										0
2030042010	1135 S H ST										0
2200085115	1960 PERICLES PL #2										0
2030133130	1436 VALLEY PARK DR										0
1320041130	2635 COLONIA AVE										0
2210071105	4200 HIGHLAND AVE										0
2000312160	456 PALM DR										0
2050225075	3400 S E ST										0
1830172095	894 SARATOGA ST #2										0
2030272010	405 W IRIS ST										0
2030150345	1263 W FIR AVE										0
2000242075	305 RODERICK AVE										0
2050045045	3033 S K ST										0
2000321170	302 DORIS AVE										0
1870133235	3131 VIA MARINA AVE										0
2050235135	3400 JACKSON ST										0
2190373045	3530 LAS TUNAS PL										0
1890041055	1930 W HEMLOCK ST										0
2010115240	212 E FIRST ST #101										0
2000302190	655 BEVERLY DR										0
2010154045	231 S MARQUITA ST										0
2040082030	247 E ELM ST #2										0
1390104025	1350 ELDER ST										0
2240083065	4451 BROWNING DR #2										0
2030101205	930 CEDAR CT										0
2160121085	2040 CAMINO DEL SOL										0
2050043065	3051 JACKSON ST										0
2050383115	4710 S J ST										0
1420165075	2111 ALMANOR ST										0
2020042110	110 S F ST										0
1390094205	1341 AZALEA ST										0
2240093025	1991 JEFFREYS PL										0
2150132035	1113 PINATA DR #2										0
2250052245	4340 DAPPER CT										0

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Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
2240043085	1950 SANFORD ST										0
1830363175	1640 ALTURAS ST										0
1390610175	2640 WAGON WHEEL RD										0
1390610265	2720 WAGON WHEEL RD										0
2000291325	710 DORIS AVE										0
2000291325	720 DORIS AVE										0
2000291325	730 DORIS AVE										0
2000291325	740 DORIS AVE										0
2000291325	750 DORIS AVE										0
2000291325	700 DORIS AVE										0
2000291325	710 DORIS AVE										0
2000291325	720 DORIS AVE										0
2000291325	730 DORIS AVE										0
2000291325	740 DORIS AVE										0
2000291325	750 DORIS AVE										0
2000291325	700 DORIS AVE										0
1390610075	580 WINCHESTER DR								16	1/21/2021	16
1960023035	5000 CATAMARAN ST								2	3/8/2021	2
1790321315	1610 THORPE TRL								1	1/5/2021	1
1790321305	1608 THORPE TRL								1	1/5/2021	1
1790321285	1604 THORPE TRL								2	1/5/2021	2
1790321275	1602 THORPE TRL								1	1/5/2021	1
1790321265	1600 THORPE TRL								1	1/5/2021	1
1390470455	579 WINCHESTER DR								3	1/15/2021	3
1390470455	579 WINCHESTER DR								3	1/15/2021	3
1390470455	579 WINCHESTER DR								3	1/15/2021	3
1300610065	567 WINCHESTER DR								3	1/15/2021	3
1300610065	567 WINCHESTER DR								3	1/15/2021	3
1300610065	567 WINCHESTER DR								3	1/15/2021	3
1390470405	585 WINCHESTER DR								3	1/15/2021	3
1390470405	585 WINCHESTER DR								3	1/15/2021	3
1390470405	585 WINCHESTER DR								3	1/15/2021	3
2020023015	832 PALM DR								1	5/26/2021	1
2020023015	838 PALM DR								1	5/4/2021	1
2020023045	186 N H ST								1	4/29/2021	1
2020023035	188 N H ST								1	4/29/2021	1
2020023055	180 N H ST								1	4/28/2021	1

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date</u> <u>Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
2020023065	170 N H ST								1	4/29/2021	1
2020023075	166 N H ST								1	4/29/2021	1
2020023085	162 N H ST								1	4/29/2021	1
2020023095	154 N H ST				1					4/29/2021	1
2020023105	148 N H ST				1					4/28/2021	1
2020023115	146 N H ST				1					4/29/2021	1
2020023125	138 N H ST								1	4/28/2021	1
2020023135	132 N H ST								1	4/29/2021	1
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1390460155	2830 WAGON WHEEL RD								12	10/12/2021	12
1960130095	1101 CANAL ST								1	6/21/2021	1
1960130055	1103 CANAL ST								1	6/21/2021	1
1960130075	1107 CANAL ST								1	6/21/2021	1
1960130115	1097 CANAL ST								1	6/21/2021	1
1960130065	1105 CANAL ST								1	6/21/2021	1
1960130085	1109 CANAL ST								1	6/21/2021	1
1960130105	1099 CANAL ST								1	6/21/2021	1
1960130045	1087 CANAL ST								1	9/24/2021	1
1960130045	1083 CANAL ST								1	9/24/2021	1
1960130045	1093 CANAL ST								1	9/27/2021	1
1960130045	1085 CANAL ST								1	9/24/2021	1
1960130045	1091 CANAL ST								1	9/27/2021	1
1960130045	1095 CANAL ST								1	9/27/2021	1
1960130045	1071 CANAL ST								1	11/30/2021	1
1960130045	1075 CANAL ST								1	11/29/2021	1
1960130045	1079 CANAL ST								1	11/30/2021	1
1960130045	1073 CANAL ST								1	11/30/2021	1
1960130045	1077 CANAL ST								1	11/30/2021	1
1960130045	1081 CANAL ST								1	11/29/2021	1
1960130045	1059 CANAL ST								1	12/27/2021	1
1960130045	1067 CANAL ST								1	12/27/2021	1

Table A2											
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units											
Project Identifier			Affordability by Household Incomes - Certificates of Occupancy								
			10							11	12
Current APN	Street Address	Project Name*	Very Low- Income Deed Restricted	Very Low- Income Non Deed Restricted	Low-Income Deed Restricted	Low-Income Non Deed Restricted	Moderate- Income Deed Restricted	Moderate- Income Non Deed Restricted	Above Moderate- Income	Certificates of Occupancy or other forms of readiness (see instructions) <u>Date Issued</u>	# of Units issued Certificates of Occupancy or other forms of readiness
1960130045	1063 CANAL ST								1	12/27/2021	1
1960130045	1065 CANAL ST								1	12/27/2021	1
1960130045	1069 CANAL ST								1	12/29/2021	1
1960130045	1061 CANAL ST								1	12/27/2021	1
2250014250	2250 E PLEASANT VALLEY RD				15				86	6/14/2021	101
2200091075	1850 ONEILL PL								1	6/7/2021	1
2050092065	3550 S B ST								1	9/22/2021	1
1830172095	894 SARATOGA ST								1	10/22/2021	1
2030150345	1263 W FIR AVE					1				8/2/2021	1
2030133130	1436 VALLEY PARK DR								1	11/22/2021	1
2030211020	1711 Valley Park Dr			1						5/27/2021	1
2030043140	1242 South H Street								1	2/26/2021	1
1870176095	2960 Ketch Place			1						12/23/2021	1
2190025210	2117 Hughes Drive								1	1/27/2021	1
2010115240	212 East First Street								2	8/20/2021	2
2240083065	4451 Browning Drive								1	11/5/2021	1
2050043065	3051 Jackson Street								1	11/3/2021	1
1850081195	2610 Stern Lane								1	12/3/2021	1

Table A2																
Annual Building Activity Report Summary - New Construction, Entitled, Permits and Completed Units																
Project Identifier			Streamlining	Infill	Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions	Term of Affordability or Deed Restriction	Demolished/Destroyed Units			Density Bonus				
			13	14	15	16	17	18	19	20			21	22	23	24
Current APN	Street Address	Project Name*	How many of the units were Extremely Low Income?	Was Project APPROVED using GG 65913.4(b)? (SB 35 Streamlining) Y/N	Infill Units? Y/N	Assistance Programs for Each Development (may select multiple - see instructions)	Deed Restriction Type (may select multiple - see instructions)	For units affordable without financial assistance or deed restrictions, explain how the locality determined the units were affordable (see instructions)	Term of Affordability or Deed Restriction (years) (if affordable in perpetuity enter 1000)*	Number of Demolished/Destroyed Units	Demolished or Destroyed Units	Demolished/Destroyed Units Owner or Renter	Total Density Bonus Applied to the Project (Percentage Increase in Total Allowable Units or Total Maximum Allowable Residential Gross Floor Area)	Number of Other Incentives, Concessions, Waivers, or Other Modifications Given to the Project (Excluding Parking Waivers or Parking Reductions)	List the incentives, concessions, waivers, and modifications (Excluding Parking Waivers or Parking Modifications)	Did the project receive a reduction or waiver of parking standards? (Y/N)
			0	1						0		0				
223-0-090-015, 223-0-041-020	5482 Cypress Rd, 5536 Cypress Rd			Y	Y		DB		55				20.0%	1	Development Standards Modification	Yes
201-0-125-010	105 S. Roosevelt Avenue			N												
201-0-213-110	217-235 East Sixth Street			N	Y		DB		55				0.0%	3	Development Standards Modification	Yes
202-0-233-355	1101 and 1111 West Second Street	Encanto		N	Y		DB		55				23.0%	3	Development Standards Modification	No
225-0-014-020	2161 East Etting Road			N	Y		Other		55						Development Standards Modification	Yes
189-0-310--055	3851 Harbour Island Lane			N			INC		20							No
202-0-054-090	136 South B Street			N	Y		INC		20							
202-0-054-060	155 South A Street			N	Y		INC		20							
213-0-090-285	2001 Outlet Center Drive			N	Y		DB		55				65.0%	3	Development Standards Modification	Yes
202-0-135-035	761 South C Street			N	Y		INC		20							
201-0-128-110	213 South Roosevelt Avenue			N												
191-0-051-355	941 Mandalay Beach Road			N												
196-0-031-065	1001 Catamaran Street			N												
139-0-080-335	1357 Althea Court			N	Y		DB		55				0.0%	1	Development Standards Modification	Yes
205-0-033-225	3022 LASSEN ST			N				Applicant provided estimated rental price								
201-0-144-205	230 HARDING AVE			N				Applicant provided estimated rental price								
201-0-064-270	411 N JUANITA AVE			N				Applicant provided estimated rental price								
203-0-050-050	1258 SOUT G ST			N				Applicant provided estimated rental price								
203-0133-050	1521 SAVERS RD			N				Applicant provided estimated rental price								
222-0-205-015	800 BERNSHIRE PL			N				Applicant provided estimated rental price								
205-0-274-015	3900 S B ST			N				Applicant provided estimated rental price								
200-0-283-110	223 N I ST			N				Applicant provided estimated rental price								
140-0-015-015	2422 LOBELIA DR			N				Applicant provided estimated rental price								
203-0-292-240	178 W JUNIPER ST			N				Applicant provided estimated rental price								
202-0165-270	926 KING ST			N				Applicant provided estimated rental price								
200-0-311-430	543 PARLM DR			N				Applicant provided estimated rental price								
142-0-105-055	334 LAFAYETTE DR			N												
142-0-071-065	117 STAMFORD AVE			N												
181-0-053-015	1820 GALLATIN PL			N												
218-0-143-015	IMPERIAL ST			N												
201-0-122-150	128 N GARFIELD AVE			N				Applicant provided estimated rental price								
200-0-192-180	667 RODERICK AV			N												
185-0-105-175	1930 NINTH ST			N												
221-0-162-115	1220 MONET PL			N												
203-0-141-150	1333 S N ST			N				Applicant provided estimated rental price								
203-0-223-080	171 W IRIS ST			N				Applicant provided estimated rental price								
204-0-072-230	229 E BIRCH ST			N				Applicant provided estimated rental price								
219-0-401-125	3500 SAN SIMEON AVE			N												
225-0-075-125	2144 ABBOTT ST			N												
200-0-363-165	410 IVYWOOD DR			N				Applicant provided estimated rental price								
140-0-024-025	2430 LOBELIA DR			N												
205-0-031-155	3128 S. L STREET			N				Applicant provided estimated rental price								
201-0-123-160	168 N GRANT AVE			N												
201-0-123-130	164 N GRANT AVE			N												
201-0-123-150	165 N GARFIELD AVE			N												
201-0-123-140	161 N GARFIELD AVE			N												
201-0-122-150	128 N GARFIELD AVE			N												
225-0-052-205	4341 REEDER AVE			N				Applicant provided estimated rental price								
215-0-040-595	1240 MARIA WAY			N				Applicant provided estimated rental price								
203-0-012-190	1166 S VENTURA			N				Applicant provided estimated rental price								
203-0-061-110	501 WOLFF ST			N				Applicant provided estimated rental price								
203-0-092-420	1601 W BIRCH ST			N				Applicant provided estimated rental price								
200-0-092-225	1040 CAMELOT WAY			N												
205-0-134-365	328 BRUCKER RD			N				Applicant provided estimated rental price								
183-0-373-255	1810 CLAREMONT DR			N				Applicant provided estimated rental price								

Jurisdiction	Oxnard
Reporting Year	2021 (Jan. 1 - Dec. 31)
Planning Period	5th Cycle 10/15/2013 - 10/15/2021

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
Please contact HCD if your data is different than the material supplied here

Table B													
Regional Housing Needs Allocation Progress													
Permitted Units Issued by Affordability													
		1	2									3	4
Income Level		RHNA Allocation by Income Level	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	1,688	-	48	-	50	30	51	-	-	-	188	1,500
	Non-Deed Restricted		-	-	-	-	-	-	-	5	4		
Low	Deed Restricted	1,160	-	67	-	118	234	229	-	3	-	756	404
	Non-Deed Restricted		-	-	-	89	-	1	-	1	14		
Moderate	Deed Restricted	1,351	-	-	-	-	-	-	-	43	80	499	852
	Non-Deed Restricted		-	2	-	2	371	-	-	1	-		
Above Moderate		3,102	-	39	5	80	138	146	137	310	506	1,361	1,741
Total RHNA		7,301											
Total Units			-	156	5	339	773	427	137	363	604	2,804	4,497

Note: units serving extremely low-income households are included in the very low-income permitted units totals and must be reported as very low-income units.

Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will include units that were permitted since the start of the planning period.

Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at apr@hcd.ca.gov.

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction	Oxnard
Reporting Year	2021 (Jan. 1 - Dec. 31)

Table D

Program Implementation Status pursuant to GC Section 65583

Housing Programs Progress Report			
Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.			
1	2	3	4
Name of Program	Objective	Timeframe in H.E	Status of Program Implementation
Program 1: Code Compliance Program	Ensure compliance with City codes, with a focus on garage conversions and unpermitted additions. 600 cases per month.	Ongoing	Program 1 is an ongoing program with no specific objective for calendar year 2021. In 2021, the Code Compliance Division had a staff of eight field officers and one manager who carried an average of over 300 cases per month. The types of cases related to residential properties are, from most to least, as follows: substandard housing, property maintenance, zoning violations, weed abatement, inoperable vehicles, and encroachments. Community Development also implements this program through the permit review process for additions and/or new development. On every discretionary permit, standard a condition of approval require maintenance of property and removal of graffiti within a minimum of five calendar days. Code Compliance inspectors meet regularly with Community Development building inspector field staff and the City Attorney's Office to coordinate and prioritize the Code Compliance workload. The majority of cases referred involve home improvements completed without permits (replacement windows, water heaters, etc.), substandard housing including conversion of garages or internal subdivisions to create illegal living quarters that violate Building, Housing, Health and Safety, and Zoning Codes.

Program 2: Citywide Homeowner Repair Program	Provide loans to rehabilitate 25 very low- and 25 low- income homes annually as funding allows.	Seek funding annually	Program 2 is an ongoing program with an annual objective of 50 rehabilitation loans to lower income households, as funding allows. In program year 2021, the Citywide Homeowner Repair Program was not implemented due to insufficient funding sources to pay for City staff to implement the program. However, the City is reviewing available funding sources to pay for staff to implement the residential rehabilitation program in program year 2022.
Program 3: All-Affordable Housing Opportunity Program (AAHOP) and “-AH” additive zone designation	Rezone AAHOP sites with the -AH additive zone designation and continue to maintain a running AAHOP inventory that meets or exceeds the remaining RHNA allocation need.	Place -AH additive zone designation on new sites within 180 days of HCD certification of the 2013-2021 Housing Element	Program 3 is a one-time program that was completed in 2018. On October 10, 2017, the City adopted its 2013-2021 Mid-Cycle Housing Element (Resolution 15,060) which was subsequently conditionally certified by the Department of Housing and Community Development (HCD) on January 11, 2018. The certification was conditioned on “...timely and effective implementation of remaining commitments in Programs 3, 6, 25, 26, and 29.” At that time, staff anticipated an increase in Program 3 AAHOP sites to accommodate 264 lower income units to meet the remaining unmet Regional Housing Needs Allocation (RHNA). As of 2018, through the AAHOP program there is remaining land to meet the remaining capacity needs for 1,773 extremely low to low income units. The city continues, to review Accessory Dwelling Units (ADU) permitting activity as an alternative source of lower income units to satisfy the remaining capacity need for 2 extremely low to low income units. A total of 176 ADU applications were filed in 2021, with 157 receiving planning entitlements. Additionally 63 ADUs received building permits, in 2021. Based on the ADU permits filed and continued strong public interest, the Planning Manager expects to be able to ministerially approve at least 100 affordable ADUs per year in the years to come. Based on surveys and information provided by a sample of ADU applicants, most of the ADU are being offered for rents that qualify as very low to moderate income units. As a result, these units are able to be counted towards the remaining RHNA lower income unit need. With the Program 3 lower income need being met by the AAHOP sites and ADUs the program goal has been completed.

Program 4: Urban Village Program	Implement the 2030 General Plan Urban Village Program	End of 2021	Program 4 is an ongoing program with no specific objective for calendar year 2021. During 2021, Planning staff continued to evaluate the Teal Club Specific Plan and the Northeast Community Specific Plan Specific Plan amendment (Maulhardt 107 acres) to ensure consistency with General Plan Urban Village policies. The policies are intended to provide and promote a pedestrian orientation to reduce vehicle trips and vehicle miles traveled and, therefore, reduce greenhouse gas emissions. Community Development will continue to consider renaming this program “Transit-Oriented Development Neighborhood, District, or Corridor.”
Program 5: Parcel Assemblage	Support State legislation that enables site assembly through creation of a tax-increment supported program or district.	Implement as feasible during planning period if State legislation and/or programs enable a tax-increment or similar program that leads to funding for site assembly.	Program 5 is an ongoing program with a 2019 objective to review the program effectiveness. During 2021, no progress in this program was achieved as no state-level program was initiated and there are inadequate City funds to finance a parcel assembly program. Community Development will continue to monitor enabling legislation and seek funding.
Program 6: Zoning Code Amendments	Revise Zoning Code to comply with recently adopted state law.	2017 for Chapter 16 amendments 2018 for Chapter 17 (Coastal Zoning) amendments 2019	Program 6 is a program with implementation during 2017, 2018, and 2019. Most of the Program 6 objectives were accomplished with the adoption of a zone text amendment in conjunction with the 2013-2021 Mid-Cycle Housing Element on October 10, 2017. In July of 2020, the City updated ADU regulations to be consistent with additional state ADU legislation that was adopted in 2019 and became effective January 1, 2020. Through 2021, Planning successfully used the newly adopted state Accessory Dwelling Unit (ADU) regulations and later the locally adopted City ADU regulations to ministerially process all ADU applications.
Program 7: Housing Permitting Process Review	Review and streamline permitting process, especially for AAHOP projects, second units, and manufactured housing.	Annually and as project applications are submitted.	Program 7 is a partially completed program for ADU and AAHOP projects. The program remains ongoing in terms of continuous review of the permitting process. In 2021, two AAHOP projects were entitled for a total of 208 units (Etting Road and Cypress Projects). Accessory Dwelling Units have continued to be processed ministerially. There were no projects involving manufactured housing in 2021 and no changes are anticipated to City permitting regulations or procedures involving manufactured housing.

Program 8: SOAR Affordable Housing Exemption Study	Develop guidelines for the possible use of the affordable housing exemption in the SOAR ordinance.	During the planning period, if needed.	Program 8 is ongoing in terms of the continuous evaluation of the need for a SOAR affordable housing exemption throughout the housing cycle. As documented in the 2013-2021 Mid-Cycle Housing Element, SOAR has not been an impediment to development of affordable housing. Affordable housing is being developed and AAHOP sites are available without need to use the 20-acre per year Oxnard SOAR affordable housing exemption. This program will likely not be needed through the end of this RHNA planning period.
Program 9: Farmworker Housing Program	Review and pursue farmworker housing opportunities. Amend the Zoning Code to comply with state law regarding Employee (farmworker) Housing. At least three projects to be at least in pre-development planning with a qualified nonprofit developer.	Initiate historic evaluation of the Camp Vanessa camp and prepare brochure by 2016; Amend Zoning Code to comply with Employee Housing Act by 2018; continue to participate with House Farmworkers stakeholders and their projects and meet with the group at least twice a year.	Program 9 had an intermediate completion target year of 2019 and then remains ongoing. As documented in the 2013-2021 Mid-Cycle Housing Element, several farmworker developments have been completed in the City utilizing a variety of local, federal, and state funding sources. The zone text amendments adopted in tandem with the 2013-2021 Mid-Cycle Housing Element brought the code into compliance with State Employee Housing law. The 42-unit Etting Road farmworker housing project was submitted for plan check in 2019. The remodel building permits for the Garden City Labor Camp were issued in 2019 and construction has started. The City did not conduct a historic evaluation of the Camp Vanessa “Bracero” farm labor facility but did work closely with its new owners to approve the ministerial building permits that extends the life of the facility with a capacity of up to 500 H2A visa workers. The City did not develop an informational brochure. Planning staff attended the HouseFarmWorkers monthly meeting on two occasions. Therefore, the initial portion of this objective was completed. Planning Division staff continue to work with farmworker stakeholders and the nonprofit community to discuss possible options for locating suitable and available sites for farmworker housing. The Housing Department will continue to seek development partners and funding that can be used to develop affordable farmworker housing. In 2021 the Etting Road Farmworker project updated their proposed project to include an additional 15 units for a total of 57 units. Due to the updated design, the Housing Department must review the developer's updated HOME applicaiton to consider funding for the project based its updated design.

Program 10: Inclusionary Housing Program	Produce 50 units per year on average on-site, in-lieu fees lead to average of 30 units per year. No units are counted toward RHNA, as they are not considered certain by HCD.	Monitor annually and ongoing. 2017, 2018	In 2021, City staff began discussions for updating the Inclusionary Ordinance and will begin community outreach in 2022 to get community feedback on proposed changes to the City's existing inclusionary Housing Ordinance. In 2020, one very-low income inclusionary rental unit was made available to the public.
Program 11: Homeownership Assistance Citywide	Assist a total of 40 households annually.	Ongoing	Program 11 is an ongoing program with an annual objective of assisting 40 households to purchase their housing. During 2021, the Housing Department provided homeownership assistance funded by HOME, CALHOME and BEGIN. A total of eight households were assisted with \$352,136 consisting of 7 low and 1 moderate income households. A total of \$489,127 has been committed for ten households who have been pre-approved but have not found a property yet.
Program 12: Mortgage Credit Certificate (MCC)	Continue working with the Ventura County Consortium to distribute funding and work toward Oxnard residents using at least 6 mortgage Credit Certificates per year.	Ongoing and as far as first-time homebuyers' applications are pursued.	Program 12 is an ongoing program with an annual objective of assisting six households to purchase their housing. The City continued to work with the Ventura County Consortium. During 2021, 10 Oxnard residents received MCC, as reported by the Ventura County Consortium, exceeding the City's goal of 6 MCCs issued to Oxnard residents. In 2022, Oxnard residents are expected to continue to receive MCC credits.
Program 13: Financial and Regulatory Assistance	Continuing to provide financial and regulatory assistance.	Pursue AHSC funding annually beginning in 2015.	Program 13 is an ongoing program with no specific objective for 2021. In 2021 the Central Terrace Apartments, an 87 unit affordable rental development, applied for AHSC funding and was awarded AHSC funding in 2022 as part of their 2021 application as well as all other funding necessary to develop the project. As part of that funding the City will also receive additional pass-through grant funding for the development of the City's Fourth Street Mobility Improvement Project, one of the City's CIP projects, and build other Downtown Oxnard transportation amenities as part of the City's Downtown Oxnard Transit Amenities project. Construction on this project is estimated to begin in June 2022. The City of Oxnard applied for its 2020 PLHA allocation in 2021 and is expected to receive \$1,800,557 in 2022 as part of that application.

Program 14: Shelter Development Program	Continue to work toward development of a year- round emergency shelter.	Amend Zoning Code to fully address SB 2 requirements for transitional and supportive housing by 2019.	In 2021, the City executed a Disposition and Development Agreement with Community Development Partners (CDP) and the Housing Trust Fund Ventura County (HTF) for development of the Homeless Solutions Center, also known as the 2nd and B Project, to be located on a City owned property at 241 W. 2nd Street in Downtown Oxnard. The City-owned proerty will be donated to the HTF upon CDP's closing on their construction financing. The 2nd and B project will include a 110 emergency homeless shelter, office space for leasing and supprotive servicves providers on the ground floor as well as 56 very-low income supprotive housing units (inclusive of 1 unrestricted manager's unit) in the upper four levels. In 2021, the 2nd and B project also received all necessary funding for develoment of the project. The project has been submitted for plan check and is estimated to begin construction in June 2022.
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Program 15: Homeless Assistance	Continue to implement program with shelter for women and children and winter warming service that averages 700 person- nights.	Ongoing through planning period.	(ONC) continued operating out of two locations in order to provide safer conditions for preventing the spread of COVID-19. The total number of beds was reduced from 110 to 80 following recommendations from Ventura County Public Health following a COVID outbreak. The ONC is operated by Mercy House which includes running the emergency shelter and providing wrap around services with a focus on housing navigation. Street outreach services continued throughout the calendar year through the Salvation Army Street Outreach team. The Street Outreach team engages with people who are literally homeless to provide practical assistance, housing navigation, employment assistance, health navigation and crisis intervention. In September, the City expanded encampment response efforts by implementing an Encampment Response Program operated by Ventura County Health Care Agency. This program consists of Street Outreach and non congregate shelter for people who are living unsheltered in encampments across the City. In 2021, this project focused on the a large encampment often referred to as “halaco” and were able to engage 66 people into non congregate shelter. The ‘One Stop’ is a drop in service run by the Ventura County Health Care Agency. This service provides health care, behavioral health services, case management, and practical assistance to homeless people. In 2021, the One Stop mostly operated outside of the Rescue Mission, but moved to the Salvation Army offices in November. Gabriel’s House/The Kingdom Center operates a transitional living shelter for homeless women and children in a city-owned facility on South Rose Ave. This location will be modernized to incorporate needed accessibility requirements and to increase restroom capacity. The City also has a rapid re-housing program that is operated by Mercy House to assist people to quickly transition from homelessness to housing through practical assistance that may include housing identification, landlord negotiation, and assistance with short term costs.
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Program 16: At-Risk Household Assistance	Continue to monitor assisted units, and if any become at risk, work with property owners to develop a strategy to maintain any at-risk through 2023.	As needed through 2023.	Program 16 is an ongoing program with no specific objective for 2021 Per AB 1521, the City continues to monitor the list of all dwellings in Oxnard that are subsidized by government funding or low-income housing developed through local regulations or incentives. Should the property owners indicate the desire to convert properties City will provide technical assistance to aid properties owners in extending the property's term of affordability, and if possible, based on available funding, consider providing financial assistance to ensure long-term affordability. Pursuant to state law, owners of deed-restricted affordable projects, including those through local inclusionary zoning requirements, granted a density bonus or other incentives, are required to provide notice to all prospective tenants, existing tenants, and the City within three years of the scheduled expiration of rental restrictions for any projects losing the restrictions after January 1, 2021. Owners shall also refer tenants of at-risk units to educational resources regarding tenant rights and conversion procedures and information regarding Section 8 rent subsidies and any other affordable housing opportunities in the City.
Program 17: Fostering Self-Sufficiency	Support community-based organizations to assist a minimum of 90 households annually, with Oxnard residents comprising a minimum of 80 percent of those assisted, with a program goal of 100 percent.	Annually and ongoing. 2017, 2018, 2019, 2020-2021	Program 17 is an ongoing program with an annual objective of assisting 90 households. During 2021, 32 Public Housing and 39 Section 8 low-income families participated in the Family Self-Sufficiency program. The FSS program focuses on assisting families in reaching milestones such as: improving their credit, enrolling in higher education, improving budgeting skills, and remaining off welfare assistance. As a result of the COVID-19 pandemic, our focus remained on connecting families with resources such as assistance with unemployment filings, rental assistance, food share, and health and safety education. A majority of community partners are only offering limited services virtually. We expect to begin offering self sufficiency programs through the Resident Services program towards the end of calendar year 2022.

Program 18: Section 8 Assistance Program	Continue to participate, encourage property owners to register units, and seek to raise the payment standard as needed.	Seek new vouchers and/or to raise the payment standard as needed annually.	Program 18 is an ongoing program with no specific objective for 2021. The Housing Authority launched the “Rethink and Renew” effort in 2020 to restructure operations. The goal is to improve landlord and tenant relations and customer service, which in turn will impact the participation rate of property owners in the Section 8 program. An average of 1,649 vouchers were in use in 2021. As a result of the COVID-19 pandemic, all efforts remained postponed until the City of Oxnard authorizes for the department to proceed with community outreach events. In 2021, the Department of Housing and Urban Development approved the Housing Authority's grant request for technical assistance with asset portfolio repositioning, organizational and staff assessment, and analysis of workforce productivity. The consultant assigned to the project completed its review and issued a final report of recommendations on December 30, 2021. The Housing Authority will begin the implementation process in 2022.
Program 19: Fair Housing Services	Continue to implement and advertise the program in cooperation with the Housing Rights Center. Average 320 per year.	Ongoing.	Program 19 is an on-going program to provide fair housing counseling, case investigation and processing, and fair housing training to Oxnard residents, housing providers, and home seekers. The City continued contracting with the Housing Rights Center to provide individual case management and investigation services to Oxnard Residents, housing providers, and home seekers. This contract is entirely funded with CDBG funds. In calendar year 2021, a total of 168 client households were provided with direct services. There were over 400 contacts (168 client households, about 200 paper distributions, 20 attendees at training sessions, and an unknown number of website contacts for Oxnard residents). Fair housing information was also disseminated through various social media platforms, as well as through distribution of flyers and leaflets. In addition, the City's Fair Housing Officer, based in the Housing Department, provided services related to reasonable accommodation requests for public housing assistance recipients. The current regional Analysis of Impediments to Fair Housing was prepared and adopted by City Council in May of 2020.

Program 20: Energy Conservation	Increase public awareness and information on energy conservation opportunities and assistance programs for new and existing residential units, and comply with state energy conservation requirements.	Advertise programs and implement project-related standards as feasible when development applications are received.	Program 20 is an ongoing program with no specific objective for 2021. The City continued to post and distribute information on currently available weatherization and energy conservation programs to residents and property owners through annual mailings in City utility billings and distributed program information to community organizations and at municipal offices; Community Development continued to enforce state requirements, including Title 24 of the California Code of Regulations, for energy conservation in new residential projects and encouraged residential developers to employ additional energy conservation measures for the siting of buildings, landscaping, and solar access; and Community Development continued to encourage development of affordable housing units that utilize passive or active energy saving features (e.g. solar panels, efficient appliances, and efficient building materials).
Program 21: Report Housing Element Implementation	Report annually on accomplishing the goals, policies, and programs that fulfill state law requirements.	Report Annually. 2017, 2018, 2019, 2020-2021	Program 21 is an ongoing program with an annual objective of filing the Annual Progress Report (APR) by April 1 for the preceding calendar year. The 2021 APR was filed by the April 1, 2022 deadline. All previous APR were filed by their respective due dates.
Program 22: Reasonable Accommodation	Continue to implement reasonable accommodation ordinance for disabled persons.	Amend Section 15-501.5 of Division 17 Reasonable Accommodation by 2017. Review requests for reasonable accommodation as they are received.	Program 22 has an intermediate completion target year of 2017, and then remains ongoing. During 2021, there were no changes to this program. Community Development continued to process requests for reasonable accommodation which are reviewed on a staff level, and approved two Reasonable Accommodation permits.
Program 23: Special Needs Group	Work to identify funding and assist in addressing the housing needs of special needs groups.	Identify funding opportunities annually and/or as funding becomes available. 2017, 2018, 2019, 2020-2021	Program 23 is an ongoing program with an annual objective of assisting 90 households. The Housing Authority adopted a preference which allows a total of 15 housing choice vouchers (very-low income) to be set aside each PHA fiscal year for applicants who meet the definition of homelessness. Following a revamping of efforts to increase utilization, a total of 49 applicants have secured housing and 2 have been issued a Housing Choice Voucher and are currently searching for a unit.

Program 24: Mobile Home Park Conservation Ordinance	Clarify the mobile home park condominium conversion process based on recent case law.	Annually.	Program 24 is an ongoing program with no specific objective for 2021. In 2021, the actions identified below have not occurred. A review of recent case law pertaining to conversions of mobile home parks to condominium ownership to determine if there is a need to modify the mobile home conversion code and/or administrative procedures for mobile home park conversions has not been completed by the City Attorney's office.
Program 25: Annexation	Allow additional capacity to meet the City's RHNA.	Annexation within 18 months of Housing Element adoption; Consider alternative approaches if annexation doesn't occur by 2018. 2017, 2018, 2019	Program 25 has an intermediate completion target years of 2017, 2018, and 2019. The Teal Club Specific Plan (TSCP) annexation application has begun moving forward with the Oxnard School District acquiring a portion of the site for a Middle School. The TSCP Draft EIR was circulated in early 2016 and the entitlement began again starting with a update of the Draft EIR. If the project and annexation are approved, some number of affordable units would likely be counted in the next housing element planning period, 2021 to 2029. As stated in Programs 3 and 26, Community Development has determined that the City has met the RHNA target with completed projects, proposed projects, and anticipated ADU approvals by 2021. Therefore, there is no need to consider alternatives to the TCSP annexation as stated in the program. In 2018, the Rio School District filed an annexation request for an 11 acre surplus school site that included 167 condominium housing units and 20 affordable units required by the City's inclusionary ordinance. The Planning Commission recommended approval on November 21, 2019 and approved by the City Council on February 4, 2020. The annexation was approved by LAFCO in December 2021.
Program 26: AAHOP Monitoring Program	Ensure the AAHOP does not constrain the development of affordable housing.	Update AAHOP site list and map annually; continue to refine the AAHOP program annually and as needed. 2017, 2018, 2019, 2020-2021	Program 26 requires an annual review from 2017 through 2021. During 2020, there were no changes to this program. Community Development continued to post and distribute information on currently available AAHOP sites and continued to provide information to owners and developers about the AAHOP incentives. One new AAHOP project and a revision to a previously approved AAHOP project were approved in 2021. These included the new 150 unit Cypress Place at Garden City Project and the Revised Etting Road which increase the number of units from 42-units to 58 units.

Program 27: Large Households	As project applications are submitted.	Assist in the development of larger units to accommodate larger households.	Program 27 is an ongoing program with no specific objective for 2021. During 2021, there were no changes to this program. The City continued to encourage developments to add additional bedrooms. However, developers have reported that there is a strong demand for smaller units for newly formed households of roommates, young couples with no children, and 'empty-nesters.'
Program 28: Extremely Low-Income Households	Comply with AB 2634.	Look for opportunities to develop or facilitate extremely low-income units at least annually.	Program 28 is an ongoing program with no specific objective for 2021. In 2021, the City executed a Disposition and Development Agreement with Community Development Partners (CDP) and the Housing Trust Fund Ventura County (HTF) for development of the Homeless Solutions Center, also known as the 2nd and B Project, to be located on a City owned property at 241 W. 2nd Street in Downtown Oxnard. The City-owned property will be donated to the HTF upon CDP's closing on their construction financing. The 2nd and B project will include a 110 emergency homeless shelter, office space for leasing and supportive services providers on the ground floor as well as 56 very-low income supportive housing units (inclusive of 1 unrestricted manager's unit) in the upper four levels. In 2021, the 2nd and B project also received all necessary funding for development of the project. The project is estimated to begin construction in June 2022. In 2021 the Central Terrace Apartments, an 87 unit affordable rental development, applied for AHSC funding and was awarded AHSC funding in 2022 as part of their 2021 application as well as all other funding necessary to develop the project. The Central Terrace Apartments will target tenants at 30%, 50% and 60% AMI. The project is expected to begin construction in June 2022.

Program 29: Review of Parking Standards	Continue to review alternative parking requirements in all zoning districts.	Amend parking requirements by 2017 and monitor and report every 2 years. 2017, 2019	Program 29 is an ongoing program with a reporting requirement every two years. During 2019 and 2020, the Planning Division prepared the ADU zone text amendment that included clarification of parking requirements consistent with State law (see Program 6). Multifamily projects are generally reducing guest parking, utilizing tandem parking, and using more surface parking as the projects qualify for Density Bonus parking standards by complying with the City's 10% inclusionary ordinance. The City will continue to allow reduced parking requirements for senior and affordable housing projects with approval of a parking study as well as shared parking when uses with different parking characteristics (such as offices and apartments) are combined in a single structure. The City will also monitor the impacts of these parking studies and report every two years on any constraints identified in their annual Housing Element report to HCD (beginning in the 2019 APR). Planning developed the new Downtown Code approved in 2019 with reduced parking requirements for residential uses in the downtown and reductions for studio and one-bedroom apartments, as a result of a review city parking requirements. The City did not establish a fixed parking requirements for congregate living facilities, community care facilities and small residential care facilities for disabled person, nor explore the feasibility of an ordinance that would prohibit the long-term storage of cars in designated parking spaces in multifamily complexes, thereby ensuring that the spaces may remain available for tenant use.
Program 30: Large Site Program	Assist with large site development	As project applications are submitted.	Program 30 is an ongoing program with no specific objective for 2021. During 2019, 2020, and 2021, Community Development staff worked closely with the Oxnard Union High School District and owners of a 107-acre vacant parcel to identify requirements and opportunities for affordable housing. In 2021, an application was submitted requesting a Specific Plan Amendment, General Plan Amendment, and Tract Map to allow for the development of high density housing. Community Development staff continues to work with the applicant to take this project through the process. Community Development staff also worked closely with the Rio School District, owner of an 11-acre parcel contiguous to City limits for possible annexation and inclusion of affordable housing. This project received Planning Commission, City Council and LAFCo approvals.

[illegible]

Jurisdiction	Oxnard	
Reporting Period	2021	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	10/15/2013 - 10/15/2021

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Note: "+" indicates an optional field

Cells in grey contain auto-calculation formulas

Table F									
Units Rehabilitated, Preserved and Acquired for Alternative Adequate Sites pursuant to Government Code section 65583.1(c)									
Please note this table is optional: The jurisdiction can use this table to report units that have been substantially rehabilitated, converted from non-affordable to affordable by acquisition, and preserved, including mobilehome park preservation, consistent with the standards set forth in Government Code section 65583.1, subdivision (c). Please note, motel, hotel, hostel rooms or other structures that are converted from non-residential to residential units pursuant to Government Code section 65583.1(c)(1)(D) are considered net-new housing units and must be reported in Table A2 and not reported in Table F.									
Activity Type	Units that Do Not Count Towards RHNA ⁺ Listed for Informational Purposes Only				Units that Count Towards RHNA ⁺ Note - Because the statutory requirements severely limit what can be counted, please contact HCD to receive the password that will enable you to populate these fields.				The description should adequately document how each unit complies with subsection (c) of Government Code Section 65583.1 ⁺
	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	Extremely Low-Income ⁺	Very Low-Income ⁺	Low-Income ⁺	TOTAL UNITS ⁺	
Rehabilitation Activity									
Preservation of Units At-Risk									
Acquisition of Units									
Mobilehome Park Preservation									
Total Units by Income									

Jurisdiction	Oxnard	
Reporting Period	2021	(Jan. 1 - Dec. 31)

Note: "+" indicates an optional field
Cells in grey contain auto-calculation formulas

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

For Ventura County jurisdictions, please format the APN's as follows:999-9-999-999

Table H						
Locally Owned Surplus Sites						
Parcel Identifier				Designation	Size	Notes
1	2	3	4	5	6	7
APN	Street Address/Intersection	Existing Use	Number of Units	Surplus Designation	Parcel Size (in acres)	Notes
Summary Row: Start Data Entry Below						
201-0-211-380	East Fourth Street/South Oxnard Boulevard	Other		Surplus Land	0.413	Parking Lot
201-0-160-120	400 South Oxnard Boulevard	Other		Surplus Land	0.14	Parking Lot
201-0-160-130	East Fourth Street/South Oxnard Boulevard	Other		Surplus Land	0.169	Parking Lot
201-0-160-110	127 Enterprise Street	Other		Surplus Land	0.18	Parking Lot
201-0-160-100	135 Enterprise Street	Other		Surplus Land	0.126	Parking Lot
201-0-160-090	147 Enterprise Street	Other		Surplus Land	0.101	Parking Lot
201-0-160-080	151 Enterprise Street	Other		Surplus Land	0.094	Parking Lot
201-0-160-070	157 Enterprise Street	Other		Surplus Land	0.018	Parking Lot
201-0-211-300	136 Enterprise Street	Other		Surplus Land	0.22	Parking Lot
201-0-211-040	East Fifth Street/Meta Street	Other		Surplus Land	0.07	Parking Lot
201-0-211-360	East Fifth Street/Meta Street	Other		Surplus Land	0.092	Parking Lot
201-0-211-220	East Fifth Street/Meta Street	Other		Surplus Land	0.05	Parking Lot
201-0-211-235	East Fifth Street/Meta Street	Other		Surplus Land	0.05	Parking Lot
201-0-211-155	135 East Fifth Street	Other		Surplus Land	0.05	Parking Lot
201-0-211-140	East Fifth Street/Meta Street	Other		Surplus Land	0.05	Parking Lot
201-0-211-130	East Fifth Street/Meta Street	Other		Surplus Land	0.05	Parking Lot
201-0-211-120	159 East Fifth Street	Other		Surplus Land	0.1	Parking Lot
201-0-211-110	East Fifth Street/Meta Street	Other		Surplus Land	0.04	Parking Lot
202-0-101-215	West 4th Street/South C Street	Other		Surplus Land	0.32	Parking Lot
202-0-101-235	West 4th Street/South C Street	Other		Surplus Land	0.05	Parking Lot
202-0-101-205	West 4th Street/South C Street	Other		Surplus Land	0.05	Parking Lot
202-0-101-225	West 4th Street/South C Street	Other		Surplus Land	0.009	Parking Lot
202-0-101-435	West 4th Street/South C Street	Other		Surplus Land	0.01	Parking Lot
202-0-101-370	West 4th Street/South C Street	Other		Surplus Land	0.01	Parking Lot
202-0-101-355	West 4th Street/South C Street	Other		Surplus Land	0.01	Parking Lot
202-0-101-330	West 4th Street/South C Street	Other		Surplus Land	0.01	Parking Lot
202-0-101-310	West 4th Street/South C Street	Other		Surplus Land	0.01	Parking Lot
202-0-101-290	West 4th Street/South C Street	Other		Surplus Land	0.04	Parking Lot
202-0-101-270	West 4th Street/South C Street	Other		Surplus Land	0.01	Parking Lot
202-0-101-255	West 4th Street/South C Street	Other		Surplus Land	0.01	Parking Lot
202-0-101-360	West 4th Street/South C Street	Other		Surplus Land	0.007	Parking Lot
202-0-101-405	West 4th Street/South C Street	Other		Surplus Land	0.02	Parking Lot
202-0-101-415	425 South B Street	Commercial		Surplus Land	0.33	

202-0-105-245	West Sixth Street/South B Street	Other		Surplus Land	0.22	Parking Lot
202-0-105-220	West Sixth Street/South B Street	Other		Surplus Land	0.07	Parking Lot
202-0-105-205	West Sixth Street/South B Street	Other		Surplus Land	0.07	Parking Lot
202-0-105-120	538 South B Street	Other		Surplus Land	0.08	Parking Lot
202-0-105-180	West Sixth Street/South B Street	Other		Surplus Land	0.44	Parking Lot
202-0-105-235	West Sixth Street/South B Street	Other		Surplus Land	0.02	Parking Lot
202-0-105-210	West Sixth Street/South B Street	Other		Surplus Land	0.0068	Parking Lot
202-0-105-195	West Sixth Street/South B Street	Other		Surplus Land	0.0068	Parking Lot
202-0-105-170	West Sixth Street/South B Street	Other		Surplus Land	0.04	Parking Lot
202-0-103-115	West Sixth Street/South B Street	Other		Surplus Land	0.02	Parking Lot
202-0-103-025	West Sixth Street/South B Street	Other		Surplus Land	0.12	Parking Lot
202-0-103-185	West Sixth Street/South B Street	Other		Surplus Land	0.06	Parking Lot
202-0-103-225	West Sixth Street/South B Street	Other		Surplus Land	0.01	Parking Lot
202-0-103-210	318 West Fifth Street	Commercial		Surplus Land	0.1	
202-0-103-205	West Sixth Street/South B Street	Other		Surplus Land	0.08	Parking Lot
202-0-103-145	West Sixth Street/South B Street	Other		Surplus Land	0.11	Parking Lot
202-0-103-130	321 West Sixth Street	Commercial		Surplus Land	0.06	
202-0-104-405	West 4th Street/South A Street	Vacant		Surplus Land	0.18	
202-0-085-190	418 West Fourth Street	Public Facilities		Surplus Land	0.18	
132-0-033-010	Riverpark Boulevard/Colonia Ave	Vacant		Surplus Land	1.4	

Jurisdiction	Oxnard	
Reporting Year	2021	(Jan. 1 - Dec. 31)
Planning Period	5th Cycle	10/15/2013 - 10/15/2021

Building Permits Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	6
Low	Deed Restricted	0
	Non-Deed Restricted	17
Moderate	Deed Restricted	80
	Non-Deed Restricted	0
Above Moderate		527
Total Units		630

Note: Units serving extremely low-income households are included in the very low-income permitted units totals

Units by Structure Type	Entitled	Permitted	Completed
SFA	0	34	25
SFD	28	12	17
2 to 4	3	49	31
5+	731	472	273
ADU	157	63	14
MH	0	0	0
Total	919	630	360

Housing Applications Summary	
Total Housing Applications Submitted:	164
Number of Proposed Units in All Applications Received:	468
Total Housing Units Approved:	468
Total Housing Units Disapproved:	0

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

Jurisdiction	Oxnard	
Reporting Year	2021	(Jan. 1 - Dec. 31)

ANNUAL ELEMENT PROGRESS REPORT					
Local Early Action Planning (LEAP) Reporting					
(CCR Title 25 §6202)					
Please update the status of the proposed uses listed in the entity’s application for funding and the corresponding impact on housing within the region or jurisdiction, as applicable, categorized based on the eligible uses specified in Section 50515.02 or 50515.03, as applicable.					
Total Award Amount	\$ 500,000.00		Total award amount is auto-populated based on amounts entered in rows 15-26.		
Task	\$ Amount Awarded	\$ Cumulative Reimbursement Requested	Task Status	Other Funding	Notes
High Quality Transit Corridor site Selection and Analysis	\$300,000.00	\$0.00	In Progress	None	
Environmental Review and Documentation for the 2021-2029 Housing Element and Related Actions	\$200,000.00	\$166,555.35	Completed	None	

Summary of entitlements, building permits, and certificates of occupancy (auto-populated from Table A2)

Completed Entitlement Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	50
	Non-Deed Restricted	18
Low	Deed Restricted	444
	Non-Deed Restricted	48
Moderate	Deed Restricted	4
	Non-Deed Restricted	10
Above Moderate		345
Total Units		919

Building Permits Issued by Affordability Summary	
Income Level	Current Year

Very Low	Deed Restricted	0
	Non-Deed Restricted	6
Low	Deed Restricted	0
	Non-Deed Restricted	17
Moderate	Deed Restricted	80
	Non-Deed Restricted	0
Above Moderate		527
Total Units		630

Certificate of Occupancy Issued by Affordability Summary		
Income Level		Current Year
Very Low	Deed Restricted	0
	Non-Deed Restricted	2
Low	Deed Restricted	18
	Non-Deed Restricted	1
Moderate	Deed Restricted	0
	Non-Deed Restricted	0
Above Moderate		339
Total Units		360

City of Oxnard 2021 General Plan and Housing Element Annual Progress Report

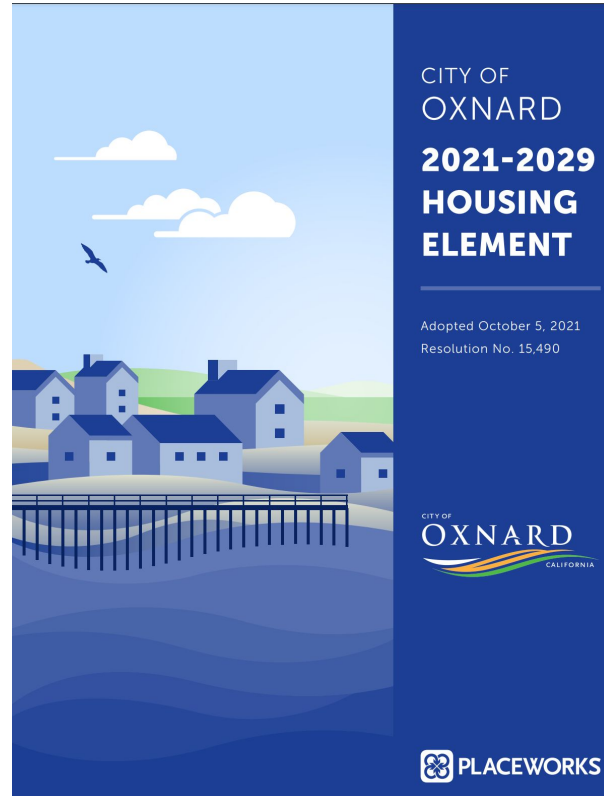
Joe Pearson II, Senior Planner

City Council
March 29, 2022

General Plan And Housing Element Annual Progress Report

- Annual Progress reports are required each year pursuant to state law
- Submitted to Governor's Office of Planning and Research, and the State Department of Housing and Community Development
- Must be submitted by April 1st of each year.
- Purpose of Annual Reports
 1. Provide Status update for General Plan
 2. Describe implementation progress
 3. Document progress on Regional Housing Needs Allocation (RHNA)

- Since the Adoption of the 2030 General Plan in 2011 there have been 15 General Plan Amendments.
- The most recent amendment was approved in 2021 for the adoption of the 2021-2029 Housing Element.



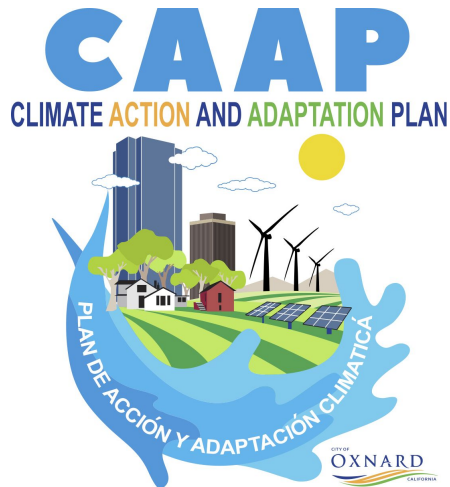
- As of December 31, 2021 there were three General Plan Amendments in process.
 - Teal Club Project
 - Portofino Place Project
 - Maulhardt/Stiles NECSP Sub-Neighborhood Plan

- In 2021 five Ordinance Amendments were passed, with the adoption of the 2021-2029 Housing Element.
 - a. Replace AAHOP with the new -AHP and -AHD additive zones.
 - b. Allow up to 30 units per acre on commercial parcels with the new -AHP or -AHD additive zones.
 - c. Allow up to 30 units per acre on Business Park parcels with the new -AHP or -AHD additive zones.
 - d. Update approval authority for Density Bonus applications.
 - e. Creation of a ministerial Site Plan Review (SPR) permit process

General Plan/Local Coastal Plan Update



Climate Action & Adaptation Plan Update





Central Terrace Project

- 217-235 East Sixth Street
- 5-story building
- 87 units
- 100% Affordable
- 2,375 SF of common/commercial space

C Street Apartments Project

- 761 South C Street
- 5-story podium building
- Proposed 175 units; 18 affordable
- 1,145 sf retail space



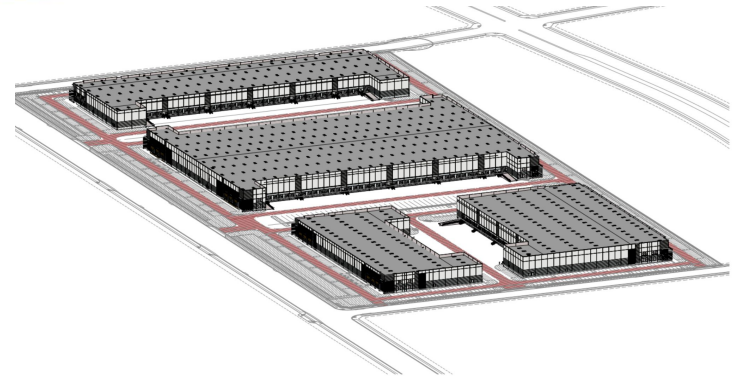


- # Sandpiper Project

-
- WEST ELEVATION**
18" = 1'-0"
- 01**

101 Logistics Center Area (Pending)

Four industrial buildings totalling 778,720 square feet and related site improvements on four separate lots.



Arctic Cold Storage (Under Construction)

- 576,000 square feet
- Cold storage building and fruit processing facility



Amazon (Operational)

- 1,527,505 square feet
- Multi-story e-commerce storage and distribution center



Annual ADU Statistics

Year	Planning Applications Received	Entitlements Granted	Building Permit Applications Received	Building Permits Issued	Final Inspection/CO
2013	0	0	0	0	0
2014	1	0	0	0	0
2015	0	1	0	0	0
2016	0	0	1	0	0
2017	17	2	3	0	0
2018	44	25	20	4	1
2019	50	55	30	13	3
2020	129	123	111	27	9
2021	176	157	106	63	14
Total	417	363	271	107	27

Planning and Building Permit Activity in 2021

	Planning Entitlements	Building Permits	Certificates of Occupancy
Single Family Dwellings	28	12	13
Multi Family/Apartments	734	555	333
Accessory Dwelling Units	157	63	14
Total	919	630	360

Regional Housing Needs Allocation Progress

13

<u>Income Level</u>	<u>RHNA Allocation by Income Level</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>Total Units to Date (all years)</u>	<u>Total Remaining RHNA by Income Level</u>	<u>Percent Completed</u>
Very Low	1,688	0	48	0	50	30	51	0	5	4	188	1,500	11.14%
Low	1,160	0	67	0	207	234	230	0	4	18	756	404	65.17%
Moderate	1,351	0	2	0	2	371	0	0	44	80	499	852	36.94%
Above Moderate	3,102	0	39	5	80	138	146	137	310	506	1,361	1,741	43.87%
Total RHNA	7,301												
Total Units		0	156	5	339	773	427	137	363	604	2,804	4,497	38.41%

That the City Council receive and file the City of Oxnard 2021 General Plan and Housing Element Annual Progress Report.





CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. K.5

DATE: March 29, 2022

TO: City Council

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

SUBJECT: Participation in the Middle-Income Housing Program for The Vines at Riverpark, 3040 Oxnard Blvd. (0/10/10)

RECOMMENDATION

That City Council adopts a resolution that:

1. Authorizes the Mayor to execute a joint exercise of powers agreement relating to the California Municipal Finance Authority ("CMFA") Special Finance Agency issuing bonds for the preservation and protection of middle-income rental housing ("Middle-Income Housing Program");
2. Authorizes CMFA Special Finance Agency's issuance of bonds in a not to exceed the amount of \$136,000,000 for the preservation and protection of middle-income housing in the City of Oxnard pursuant to the Middle-Income Housing Program, provided that such bond funding is used solely for the Vines at RiverPark project; and
3. Authorizes the Mayor to execute a Public Benefit Agreement relating to The Vines at Riverpark, located at 3040 Oxnard Blvd, that includes annual host fee revenue that would likely offset the loss of City property tax revenues during the term of the agreement.

Please click the following link to view the required Measure M pre-recorded presentation video:

<https://youtu.be/lixOmnggh578>

BACKGROUND

THE CALIFORNIA MUNICIPAL FINANCE AUTHORITY (CMFA) MIDDLE-INCOME HOUSING PROGRAM

CMFA's Middle-Income Housing Program is a financing model that intends on closing the "missing middle" income gap where a household may not qualify on the open market but whose income may be too high to qualify for low-income restricted housing. The Middle-Income Housing Program posits that middle-income households who cannot afford the former and do not qualify for the latter are excluded from the potential of housing.

Through the Middle Income Program, the CMFA issues government bonds to acquire market-rate apartment buildings. These properties are then converted to income and rent-restricted units for middle-income households, which are generally households earning between 60% and 120% of area median income. No existing tenants would be displaced in connection with the acquisition of these properties. However, as tenants move out their units would become income-restricted.

When a property is acquired with financing from the Middle Income Housing Program, the City in which the project is located is required to be part of the Joint Powers Authority and execute a Public Benefit Agreement (PBA). The basic required terms of the PBA include that all units become affordable at levels of 120% of area median income and that the

City, at its sole discretion, may force a sale of the property between the fifteenth and thirtieth year of the term of the issued government bonds, whereby the City, along with certain other taxing agencies (including the County and School District), would receive a portion of the net sale proceeds.

THE PROJECT SITE

HomeFed and Many Mansions, co-developers and owners, propose to acquire the Vines at Riverpark, 3040 North Oxnard Boulevard within the Riverpark Specific Plan and within Riverpark CFD-5, under the CMFA's Middle Income Housing Program. The existing development includes 164 units with a mix of two- and three-bedroom townhome-style apartment homes with attached two-car garages. The apartment amenities include playgrounds, barbecue and picnic areas, basketball and tennis courts and a water fountain. The Vines at Riverpark are subject to the local inclusionary housing order thus ten percent of the units are currently required to be affordable to low-income households. The current one-bedroom market rent is estimated to be \$2,400.

Under the basic program requirements, the unrestricted 145 units must become affordable to persons earning less than 120% of the area median income adjusted for family size where the four-person household median income is \$98,800.

The proposal will offer a mixture of units at varying income levels from very-low to moderate-income levels or from fifty percent to 120%.

PUBLIC BENEFIT AGREEMENT

The City of Oxnard, along with most of California, has experienced an exponential increase in housing rental costs, which has substantially outpaced the growth in income. Thus, the need for affordable housing continues to grow. However, that growth is not only in the number of units needed but the level of affordability. While a need for very-low and low-income affordable housing is substantial and expanding, the need for affordable housing at higher income levels is also starting to be needed.

The Middle Income Housing Program provides for housing at higher income levels, but also, in this case, staff and the project sponsors developed a Public Benefit Agreement, to include the following elements:

1. A Host City Charge of \$108,000 annually, with a 2% escalator for the term of the bonds to offset the loss in property tax for the project site since it will be owned by a non-profit
2. The City of Oxnard, at its sole discretion, may force a sale of the property between Year 15 and Year 30 of the bonds, and the City of Oxnard, along with certain other taxing agencies (including the County and School District) would receive a portion of the net sale proceeds.

Conditions of the project also include:

1. 4% rent cap
2. 5% of the units affordable to households below 50% of the area median income with a one-bedroom rent of \$1,308
3. 30% of the units affordable to households below 100% of the area median income with a one-bedroom rent of \$2,300
4. 65% of the units affordable to households below 120% of the area median income with a one-bedroom rent of \$2,350

THE PROPOSED PROJECT SPONSORS

The CMFA Middle Income Housing Program, a bond financing agency, is working with HomeFed, a developer, and Many Mansions, a developer, to finance the acquisition, construction and improvement of the Vines at Riverpark to create middle-income housing.

The California Municipal Finance Authority is a joint powers authority founded to enable local government and eligible private entities access to low-cost, tax-exempt financing for projects that provide a tangible public benefit, contribute to social and economic growth and improve the overall quality of life in local communities throughout California.

The CMFA's mission is to support economic development, job creation and social programs throughout the State of California while giving back to California communities. By supporting our member communities and their local charities with a portion of the revenue generated through the issuance of taxable and tax-exempt bonds for public, private and nonprofit entities, the CMFA is able to directly contribute to the health and welfare of the residents of California.

The CMFA shares 25% of all issuance fees directly with its member communities. In addition, a grant equal to 25% of the issuance fee is made to the California Foundation for Stronger Communities ("CFSC") to fund charities designated by the member communities. A portion of the annual fees received by the CMFA will also be directed to charitable activities within California communities. This unique commitment to "give back" directly to the communities in which we operate sets the CMFA apart.

The CMFA Special Finance Agency, an affiliate joint powers authority, was created to enable the CMFA to continue to broaden its program offerings by being able to acquire public benefit-oriented capital projects through the issuance of tax-exempt governmental purpose bonds.

HomeFed Corporation, proposed co-developer and owner, is a real estate development company that specializes in creating vibrant, mixed-use master-planned communities that combine innovative placemaking techniques and environmental stewardship. Incorporated in 1988 and headquartered in Carlsbad, California, HomeFed is known for undertaking large, complex, environmentally challenging projects that require long-term investments. The company attributes its success to financial prudence, creative land planning, and a collaborative team approach with stakeholders and development partners.

Many Mansions, proposed co-developer and owner, is a non-profit organization that provides well-managed, service-enriched, affordable housing to low-income residents of Ventura and Los Angeles Counties, with a special focus on those of very low-income, who are formerly homeless, seniors, veterans, or disabled. The Many Mansions mission is to provide quality affordable housing in Ventura and Los Angeles Counties, and services that encourage residents to thrive.

Many Mansions owns and manages eighteen properties, over 600 units of affordable housing, serves approximately 1,300 adults and 300 children, provides on-site services and programs that include job training, case management, homework tutoring, supplemental food distributions, college scholarships, and much more. By providing decent housing and life-enriching services to those most in need, they aspire to help individuals and families to improve their lives and remove the barriers that prevent low-income members of our community from having a basic need met - a place to call home.

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

Typically, if a property is purchased by a non-profit or public entity, the property is exempt from paying property taxes, resulting in a loss of revenue, in the form of property tax, to the City. However, in the proposed Public Benefits Agreement, the CMFA Special Finance Agency is providing a Host City Charge which includes a 2% annual escalation that will offset the loss of property tax revenues from the property acquisition during the term of the Public Benefit Agreement.

Under the terms of the public benefit agreement, if a property generates surplus cash flow through the proceeds of the sale of a property, the City could receive a portion of the surplus revenue, which could exceed any loss of property tax revenue.

The CMFA Special Finance Agency is a public entity separate and apart from its members, and any debts, liabilities, and obligations incurred by the CMFA Special Finance Agency will not constitute debts, liabilities, or obligations of its member agencies. Bonds issued for any particular project will be indebtedness solely of the CMFA Special Finance

Agency, and payable only from revenues of the project. No financial expenditures, liabilities, or obligations are created by joining the CMFA Special Finance Agency or executing any public benefit agreement.

COMMITTEE OUTCOME

The Community Services, Public Safety, and Housing & Development approved the staff recommendation 3-0 on March 8, 2022.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

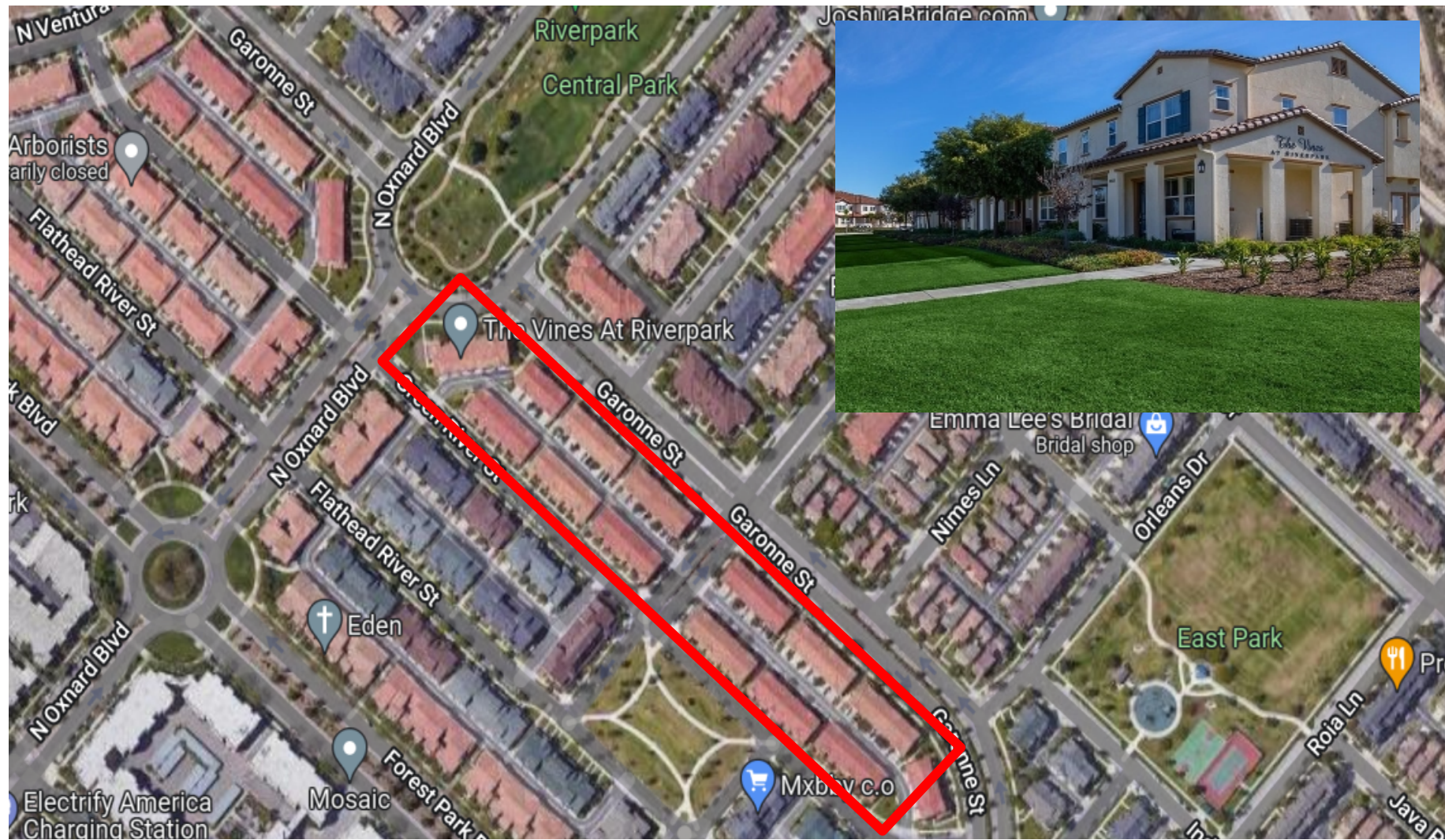
1. Participation in the Middle-Income Housing Program for The Vines at Riverpark, 3040 Oxnard Blvd - PowerPoint Presentation
2. Joining Resolution - The Vines at Riverpark
3. JPA Agreement - CMFA Special Finance Agency XV
4. Public Benefit Agreement - The Vines at Riverpark
5. Regulatory Agreement - The Vines at Riverpark

THE VINES AT RIVERPARK

Emilio Ramirez, Director
Housing Department
City Council
March 29, 2022

The Vines at Riverpark

2



The Middle Income Housing Program provides for housing at the higher income levels, but also, in this case staff and the project partners developed a Public Benefit Agreement, to include the following elements:

1. 4% rent cap
2. A Host City Charge of \$108,000 annually, with a 2% escalator for the term of the bonds to offset the loss in property tax for the project site since it will be owned by a non-profit
3. The City of Oxnard, at its sole discretion, may force a sale of the property between Year 15 and Year 30 of the bonds, and the City of Oxnard, along with certain other taxing agencies (including the County and School District) would receive a portion of the net sale proceeds
4. 5% of the units affordable to households below 50% of the area median income with a one bedroom rent of \$1,308
5. 30% of the units affordable to households below 100% of the area median income with a one bedroom rent of \$2,300
6. 65% of the units affordable to households below 120% of the area median income with a one bedroom rent of \$2,350
7. Issuance Fee sharing of \$98,750.00 will be granted to the City of Oxnard's General Fund
8. A nonprofit located within the city limits will also receive an anticipated donation of \$98,750.00 as part of the California Municipal Finance Authority's sharing of issuance fees.



1. Typically, if a property is purchased by a non-profit or public entity, the property is exempt from paying property taxes, resulting in a loss of revenue, in the form of property tax, to the City. However, in the proposed Public Benefits Agreement, the CMFA Special Finance Agency is providing a Host City Charge which includes a 2% annual escalation that will offset the loss of property tax revenues from the property acquisition during the term of the Public Benefit Agreement. The City of Oxnard will also be granted a share of the transaction issuance fee in the approximate amount of \$98,750.
2. Under the terms of the public benefit agreement, if a property generates surplus cash flow through the proceeds of the sale of a property, the City could receive a portion of the surplus revenue, which could exceed any loss of property tax revenue.
3. The CMFA Special Finance Agency is a public entity separate and apart from its members, and any debts, liabilities, and obligations incurred by the CMFA Special Finance Agency will not constitute debts, liabilities, or obligations of its member agencies. Bonds issued for any particular project will be indebtedness solely of the CMFA Special Finance Agency, and payable only from revenues of the project. No financial expenditures, liabilities, or obligations are created by joining the CMFA Special Finance Agency or executing any public benefit agreement.

That City Council:

1. Enter into a joint exercise of powers agreement relating to the California Municipal Finance Authority (“CMFA”) Special Finance Agency issuing bonds for the preservation and protection of middle-income rental housing (“Middle-Income Housing Program”);
2. CMFA Special Finance Agency’s issuance of bonds for the preservation and protection of middle-income housing pursuant to the Middle-Income Housing Program; and
3. Enter into a Public Benefit Agreement that includes annual host fee revenue that would likely offset the loss of City property tax revenues during the term of the agreement.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD
APPROVING, AUTHORIZING AND DIRECTING EXECUTION OF A JOINT
EXERCISE OF POWERS AGREEMENT RELATING TO THE CMFA SPECIAL
FINANCE AGENCY XV AND THE FORM OF A PUBLIC BENEFIT
AGREEMENT; AND APPROVING THE ISSUANCE OF REVENUE BONDS BY
SAID AGENCY FOR THE PURPOSE OF FINANCING THE ACQUISITION,
CONSTRUCTION OR IMPROVEMENT OF THE PROJECT LISTED HEREIN**

WHEREAS, pursuant to Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"), the City of Oxnard (the "City") and the California Municipal Finance Authority (the "CMFA," and together with the City, the "Members"), propose to enter into a Joint Exercise of Powers Agreement Relating to the CMFA Special Finance Agency XV (the "Agreement"), in order to form the CMFA Special Finance Agency XV (the "Agency") for the purpose of promoting economic, cultural and community development and in order to exercise any powers common to the Members or granted by the Act, including by the issuance of bonds, notes or other evidences of indebtedness; and

WHEREAS, the City has determined that it is in the public interest and for the public benefit that the City become a Member of the Agency in order to facilitate the promotion of economic, cultural and community development activities in the City, including the financing of projects therefor by the Agency; and

WHEREAS, the Agreement has been filed with the City, and the members of the City Council of the City (the "City Council"), with the assistance of its staff, have reviewed said document; and

WHEREAS, the Agency is authorized to issue and sell revenue bonds for the purpose, among others, of financing or refinancing the construction, acquisition and rehabilitation of capital projects; and

WHEREAS, among projects that may be financed by the Agency, the Agency proposes to issue from time to time its governmental purpose revenue bonds (the "Bonds") to finance the acquisition, construction, development and certain related costs of a middle-income multifamily rental housing development within the City located at 3040 N Oxnard Boulevard, known as "The Vines at Riverpark" (the "Project"); and

WHEREAS, the Agency proposes to grant to the City in connection with the financing of the Project the right to cause the Agency to sell the Project to the City or its designee, starting upon the date fifteen (15) years from the issuance of the Bonds pursuant to a Public Benefit Agreement (the "Public Benefit Agreement"), by and between the Agency and the City, substantially in the form that has been filed with the City Council, subject to such immaterial modifications as have been approved by the Mayor, the City Manager or the respective designee thereof and approved as to form by the City Attorney; and

WHEREAS, it is in the public interest and for the public benefit that the City Council approve the issuance of the Bonds by the Agency for the aforesaid purposes; and

WHEREAS, Section 3(A) of the Agreement, in accordance with Section 6508.1 of the California Government Code, expressly provides that the Bonds, and other debts, liabilities and obligations of the Agency do not constitute debts, liabilities or obligations of any Members.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL, AS FOLLOWS:

Section 1. The foregoing recitals are true and correct.

Section 2. The City hereby requests to become a Member of the Agency. The Agreement is hereby approved and the Mayor, the City Manager or the respective designee thereof is hereby authorized and directed to execute said document, and the City Clerk or such Clerk's designee is hereby authorized and directed to attest thereto.

Section 3. The proposed form of Public Benefit Agreement on file with the City Council is hereby approved. In connection with the Project, the Mayor, the City Manager or the respective designee thereof is hereby authorized and directed to execute an agreement in substantially said form, with such immaterial changes therein as such officer executing the same may require consistent with this Resolution and its basic purpose, and subject to the approval as to form of the City Attorney, such approval to be conclusively evidenced by the execution and delivery thereof. Any material changes to the form of Public Benefit Agreement must be approved by the City Council. The City Council hereby approves the issuance of Bonds by the Agency from time to time prior to the date that is the two year-anniversary of the date hereof.

Section 4. The issuance of Bonds shall be subject to the approval of the Agency of all financing documents relating thereto to which the Agency is a party. Pursuant to Section 3(A) of the Agreement and Section 13(C) of the Public Benefit Agreement, the City shall have no responsibility or liability whatsoever with respect to the Bonds or any other debts, liabilities and obligations issued by the Agency, and such Bonds and any other debts, liabilities and obligations of the Agency do not constitute debts, liabilities or obligations of any Members including the City.

Section 5. The adoption of this Resolution shall not obligate the City or any department thereof to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation or operation of the Project; (iii) make any contribution or advance any funds whatsoever to the Agency; or (iv) except as provided in this Resolution, take any further action with respect to the Agency or its membership therein.

Section 6. The executing officers(s), the City Clerk and all other proper officers and officials of the City are hereby authorized and directed to execute such other agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 7. The City Clerk shall forward a certified copy of this Resolution and an originally executed Agreement to the Agency:

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Ronald E. Lee, Esq.

Section 8. This resolution shall take effect immediately upon its passage.

THE FOREGOING RESOLUTION is approved and adopted by the City Council of the City of Oxnard at a regular meeting of the City Council held on the ____ day of _____ 20__ by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

[SIGNATURE PAGE FOR JPA AGREEMENT]

[Attached.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized representatives as of the day and year first above written.

Charter Member:

California Municipal Finance Authority

By _____

Name:

Title:

Charter Member:

City of Oxnard

By _____

Name:

Title:

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**JOINT EXERCISE OF POWERS AGREEMENT
RELATING TO THE CMFA SPECIAL FINANCE AGENCY XV**

THIS AGREEMENT, dated as of _____, 2022, among the parties executing this Agreement (all such parties, except those which have withdrawn as provided herein, are referred to as the “Members” and those parties initially executing this Agreement are referred to as the “Charter Members”):

WITNESSETH

WHEREAS, pursuant to Title 1, Division 7, Chapter 5 of the California Government Code (in effect as of the date hereof and as the same may from time to time be amended or supplemented, the “Joint Exercise of Powers Act”), two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, each of the Members is a “public agency” as that term is defined in Section 6500 of the Joint Exercise of Powers Act; and

WHEREAS, each of the Members is empowered by law to promote economic, cultural and community development, including, without limitation, the promotion of opportunities for the creation or retention of employment, the stimulation of economic activity, the increase of the tax base, and the promotion of opportunities for education, cultural improvement and public health, safety and general welfare; and

WHEREAS, each of the Members may accomplish the purposes and objectives described in the preceding preamble by various means; and

WHEREAS, each Member is also empowered by law to acquire, construct, improve, operate and dispose of real property for a public purpose; and

WHEREAS, the Joint Exercise of Powers Act authorizes the Members to create a joint exercise of powers entity with the authority to exercise any powers common to the Members, as specified in this Agreement, and to exercise the additional powers granted to it in the Joint Exercise of Powers Act and any other applicable provisions of the laws of the State of California; and

WHEREAS, a public entity established pursuant to the Joint Exercise of Powers Act is empowered to issue or execute bonds, notes, commercial paper or any other evidences of indebtedness, leases, installment sale or other financing agreements, obligations or certificates of participation therein (each and all herein referred to as “Bonds”), and to otherwise undertake financing programs under the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California to accomplish its public purposes; and

WHEREAS, the Members have determined to specifically authorize a public entity authorized pursuant to the Joint Exercise of Powers Act to issue Bonds pursuant to the Joint Exercise of Powers Act or other applicable provisions of the laws of the State of California; and

WHEREAS, it is the desire of the Members to use a public entity established pursuant to the Joint Exercise of Powers Act to undertake the financing and/or refinancing of projects of any nature, including, but not limited to, middle income housing projects and other capital or working capital projects, purchase or acquisition of property, improvements, leases, contracts, receivables, commodities, bonds, other revenue streams or assets of any kind, liability or other insurance, or retirement programs, or facilitating Members use of existing or new financial instruments and mechanisms; and

WHEREAS, by this Agreement, each Member desires to create and establish the "CMFA Special Finance Agency XV" for the purposes set forth herein and to exercise the powers provided herein;

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do agree as follows:

Section 1. Purpose.

This Agreement is made pursuant to the provisions of the Joint Exercise of Powers Act. The purpose of this Agreement is to establish a public entity for the joint exercise of powers common to the Members and for the exercise of additional powers given to a joint powers entity under the Joint Exercise of Powers Act or any other applicable law, including, but not limited to, the issuance of Bonds for any purpose or activity permitted under the Joint Exercise of Powers Act or any other law. Such purpose will be accomplished and said power exercised in the manner hereinafter set forth.

Section 2. Term.

This Agreement shall become effective in accordance with Section 17 as of the date hereof and shall continue in full force and effect until such time as it is terminated in writing by all the Members; provided, however, that this Agreement shall not terminate or be terminated until all Bonds issued or caused to be issued by the Agency (defined below) shall no longer be outstanding under the terms of the indenture, trust agreement, resolution or other instrument pursuant to which such Bonds are issued.

Section 3. Authority.

A. CREATION AND POWERS OF AUTHORITY.

There is hereby created pursuant to the Joint Exercise of Powers Act a joint exercise of powers authority and public entity to be known as the "CMFA Special Finance Agency XV." As provided in the Joint Exercise of Powers Act, the Agency shall be a public entity separate and apart from the Members. The Bonds or any other debts, liabilities and obligations of the Agency shall not constitute debts, liabilities or obligations of any Member, and Bonds issued by the Agency shall be non-recourse to the Agency except only as and to the extent moneys or other assets are pledged by the Agency to the Bonds by the indenture, trust agreement, resolution or other instrument pursuant to which such Bonds are issued. Notwithstanding any other provision of this Agreement, the Agency shall not have the power to incur any debt, liability or obligation that is not subject to the preceding sentence and shall not have the power to and shall not enter into any retirement contract with any public retirement system (as defined in Section 6508.2 of the Joint Exercise of Powers Act) for any reason. The provision in this

paragraph is intended to benefit Members and to be a confirming irrevocable obligation of the Agency which may be enforced by Members individually or collectively.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Agency will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State in the manner set forth in Section 6503.5 of the Joint Exercise of Powers Act. Such notice shall also be filed with the office of the Finance Director of the State.

The Board shall be the administering agency of this Agreement and, as such, shall be vested with the powers set forth herein, and shall administer this Agreement in accordance with the purposes and functions provided herein.

B. BOARD.

The Agency shall be administered by the Board of Directors (the "Board," or the "Directors" and each a "Director") consisting of, ex officio, the board of directors of the California Municipal Finance Authority (the "CMFA"). Any alternate members of the board of directors of the CMFA shall be, ex officio, alternate members of the Board, and may act as a member of the Board on the same terms as such alternate member may act as a voting member of the board of directors of the CMFA. The term of office as a member of the Board shall terminate when such member of the Board shall cease to hold his or her respective office as a regular or alternate member of the board of directors of the CMFA, and the successor to such member of the board of directors of CMFA shall become a member of the Board, upon assuming such office.

Members of the Board shall not receive any compensation for serving as such but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a member if the Board shall determine that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

Notwithstanding the preceding two paragraphs, the Board may by resolution or bylaws provide for changes in the qualifications, composition and number of directors on the Board, the appointment of successors, their respective terms of office and any other provisions relating to the qualification and office of the Board.

C. OFFICERS; DUTIES; OFFICIAL BONDS.

The officers of the Agency shall be the Chair, Vice Chair, Executive Director, Secretary and Treasurer, and one or more Assistant Secretaries and Assistant Treasurers. The Chair, Vice Chair, Executive Director, Secretary, Treasurer, Assistant Secretaries and Assistant Treasurers of the CMFA, respectively, shall be such officers of the Agency, ex officio.

The Chair of the Agency shall be the chair of the board of directors of the CMFA, ex officio. The term of office of the Chair shall be the same as the term of the chair of the board of directors of the CMFA. The Chair shall preside at all meetings of the Agency and shall submit such information and recommendations to the Board as he or she may consider proper concerning the business, policies and affairs of the Agency.

The Vice Chair shall be the vice chair of the board of directors of the CMFA, ex

officio. The term of office of the Vice Chair shall be the same as the term of the vice chair of the board of directors of the CMFA. The Vice Chair shall perform the duties of the Chair in the absence or incapacity of the Chair. In case of the absence, unavailability, resignation or death of the Chair, the Vice Chair shall perform such duties as are imposed on the Chair, until such time as a new Chair is selected or appointed.

The executive director of the CMFA is hereby designated as the Executive Director of the Agency, ex officio, and shall be responsible for execution and supervision of the affairs of the Agency. Except as otherwise authorized by resolution of the Board, any member of the Board, the Executive Director or any designee thereof shall sign all contracts, deeds and other instruments executed by the Agency.

The secretary of the CMFA is hereby designated as the Secretary of the Agency, ex officio. The Secretary shall keep the records of the Agency, shall act as Secretary at the meetings of the Agency and record all votes, and shall keep a record of the proceedings of the Agency in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office.

The treasurer of the CMFA is hereby designated, ex officio, as the Treasurer of the Agency.

Subject to the applicable provisions of any resolution, indenture, trust agreement or other instrument or proceeding authorizing or securing Bonds (each such resolution, indenture, trust agreement, instrument and proceeding being herein referred to as an "Indenture") providing for a trustee or other fiscal agent, and except as may otherwise be specified by resolution of the Board, the Treasurer is designated as the depositary of the Agency to have custody of all money of the Agency, from whatever source derived and shall have the powers, duties and responsibilities specified in Sections 6505, 6505.5 and 6509.5 of the Joint Exercise of Powers Act.

The Treasurer of the Agency is designated as the public officer or person who has charge of, handles, or has access to any property of the Agency, and such officer shall file an official bond with the Secretary of the Agency in the amount specified by resolution of the Board but in no event less than \$1,000.

The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

The Board shall have the power, by resolution, to the extent permitted by the Joint Exercise of Power Act or any other applicable law, to delegate any of its functions to one or more of the Directors or officers, employees or agents of the Agency and to cause any of said Directors, officers, employees or agents to take any actions and execute any documents or instruments for and in the name and on behalf of the Board or the Agency.

D. MEETINGS OF THE BOARD.

(1) Ralph M. Brown Act.

All meetings of the Board, including, without limitation, regular, adjourned regular, special, and adjourned special meetings shall be

called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the Government Code of the State of California), or any successor legislation hereinafter enacted (the "Brown Act").

(2) Regular Meetings.

The Board shall provide for its regular meetings; provided, however, it shall hold at least one regular meeting each year. The date, hour and place of the holding of the regular meetings shall be fixed by resolution of the Board. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(3) Special Meetings.

Special meetings of the Board may be called in accordance with the provisions of Section 54956 of the Government Code of the State of California. To the extent permitted by the Brown Act, such meetings may be held by telephone conference.

(4) Minutes.

The Secretary of the Agency shall cause to be kept minutes of the regular, adjourned regular, special, and adjourned special meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director.

(5) Quorum.

A majority of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board except upon the affirmative vote of a majority of the Directors present at the meeting, except that less than a quorum may adjourn a meeting to another time and place.

E. RULES AND REGULATIONS.

The Agency may adopt, from time to time, by resolution of the Board such bylaws, policies or rules and regulations for the conduct of its meetings and affairs as may be required. In the absence of such a resolution, the conflict of interest code, investment policy, and debt management policy of CMFA shall be the conflict of interest code, investment policy and debt management policy of the Agency, to the extent required or permitted by law to be adopted by the Agency.

Section 4. Powers.

The Agency shall have the power, in its own name, to exercise the common powers of the Members and to exercise all additional powers given to a joint powers entity under any of the laws of the State of California, including, but not limited to, the Joint Exercise of Powers Act, for any purpose authorized under this Agreement. Such powers shall include the common powers specified in this Agreement and may be exercised in the manner and according to the

method provided in this Agreement. The Agency is hereby authorized to do all acts necessary for the exercise of such power, including, but not limited to, any of all of the following: to make and enter into contracts; to employ agents and employees; to acquire, construct, improve, own, maintain and operate, or provide for maintenance and operation, and sell, lease, pledge, assign, mortgage or otherwise dispose, of any property, improvements, commodities, leases, contracts, receivables, bonds or other revenue streams or assets of any kind; to exercise the power of condemnation; to incur debts, liabilities or obligations; to receive gifts, contributions and donations of property, funds, services, and other forms of assistance from person, firms, corporations and any governmental entity; to sue and be sued in its own name; to establish and collect fees; to form public benefit nonprofit corporations or other affiliate entities to accomplish any of its purposes; to make grants, loans or provide other financial assistance to governmental, nonprofit and for profit organizations to accomplish any of its purposes; and generally to do any and all things necessary or convenient to accomplish its purposes. The boundaries of the Agency shall encompass the boundaries of all the Members and the powers of the Agency may be exercised anywhere within those boundaries or to the extent permitted by the laws of the State of California, including, but not limited to the Joint Exercise of Powers Act, outside of those boundaries, which may be outside of the State of California, provided that the power of condemnation may only be exercised within the jurisdictional boundaries of the Charter Members.

Without limiting the generality of the foregoing, the Agency may issue or cause to be issued Bonds, and pledge any property or revenues as security to the extent permitted under the Joint Exercise of Powers Act, or any other applicable provision of law; provided, however, the Agency shall not issue Bonds with respect to any project located in the jurisdiction of one or more Members unless the governing body of any such Member, or its duly authorized representative, shall approve, conditionally or unconditionally, the project, including the issuance of Bonds therefor. Such approval may be evidenced by resolution, certificate, order, report or such other means of written approval of such project as may be selected by the Member (or its authorized representative) whose approval is required. No such approval shall be required in connection with Bonds that refund Bonds previously issued by the Agency and approved by the governing board of a Member.

The manner in which the Agency shall exercise its powers and perform its duties is and shall be subject to the restrictions upon the manner in which a California city could exercise such powers and perform such duties. The manner in which the Agency shall exercise its powers and perform its duties shall not be subject to any restrictions applicable to the manner in which any other public agency could exercise such powers or perform such duties, whether such agency is a party to this Agreement or not.

Section 5. Fiscal Year.

For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by resolution of the Board, being, at the date of this Agreement, the period from July 1 to and including the following June 30, except for the first Fiscal Year which shall be the period from the date of this Agreement to June 30, 20__.

Section 6. Disposition of Assets.

At the end of the term hereof or upon the earlier termination of this Agreement as set forth in Section 2, after payment of all expenses and liabilities of the Agency, all property of the Agency both real and personal shall automatically vest in the Members in the manner and

amount determined by the Board in its sole discretion and shall thereafter remain the sole property of the Members; provided, however, that any surplus money on hand shall be returned in proportion to the contributions made by the Members.

Section 7. Bonds.

From time to time the Agency shall issue Bonds, in one or more series, for the purpose of exercising its powers and raising the funds necessary to carry out its purposes under this Agreement.

The services of bond counsel, financing consultants and other consultants and advisors working on the projects and/or their financing or refinancing or on post-issuance compliance or administration may be used by the Agency. The expenses of the Board shall be paid from the proceeds of the Bonds, payments made by Bond obligors or other third parties, project revenues, or any other unencumbered funds of the Agency available for such purpose.

Section 8. Bonds Only Limited and Special Obligations of Agency.

The Bonds, together with the interest and premium, if any, thereon, shall not be deemed to constitute a debt of any Member or pledge of the faith and credit of the Members or the Agency. The Bonds shall be only special obligations of the Agency, and the Agency shall under no circumstances be obligated to pay the Bonds except from revenues and other funds pledged therefor. Neither the Members nor the Agency shall be obligated to pay the principal of, premium, if any, or interest on the Bonds, or other costs incidental thereto or related to any project or program financed or refinanced with Bonds, except the Agency from the assets, revenues and funds pledged and available therefor, and neither the faith and credit nor the taxing power of the Members nor the faith and credit of the Agency shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds, or any costs related thereto or to any project or program financed or refinanced thereby, nor shall the Members or the Agency in any manner be obligated to make any appropriation for such payment.

No covenant or agreement contained in any Bond or related document shall be deemed to be a covenant or agreement of any Director, or any officer, employee or agent of the Agency in his or her individual capacity, and neither the Board of the Agency nor any Director or officer thereof executing the Bonds shall be liable personally on any Bond or be subject to any personal liability or accountability by reason of the issuance of any Bonds or by reason of any project or program financed or refinanced with Bonds.

Section 9. Accounts and Reports.

All funds of the Agency shall be strictly accounted for. The Agency shall establish and maintain such funds and accounts as may be required by good accounting practice and by any provision of any Indenture (to the extent such duties are not assigned to a trustee of Bonds). The books and records of the Agency shall be open to inspection at all reasonable times by each Member.

The Treasurer of the Agency shall cause an independent audit to be made of the books of accounts and financial records of the Agency by a certified public accountant or public accountant in compliance with the provisions of Section 6505 of the Joint Exercise of Powers Act. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of

accounts and records is made by a certified public accountant or public accountant, a report thereof shall be filed as a public record with each Member and also with the county auditor of each county in which a Member is located; provided, however, that to the extent permitted by law, the Agency may, instead of filing such report with each Member and such county auditor, elect to post such report as a public record electronically on a website designated by the Agency. Such report if made shall be filed within 12 months of the end of the Fiscal Year or Years under examination.

The Treasurer is hereby directed to report in writing on the first day of July, October, January, and April of each year to the Board and the Charter Members which report shall describe the amount of money held by the Treasurer for the Agency, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Bonds to the extent that such trustee or other fiduciary provided regular reports covering such amounts.)

Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section, shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for that purpose.

In any Fiscal Year the Board may, by resolution adopted by unanimous vote, replace the annual special audit with an audit covering a two-year period.

Section 10. Funds.

Subject to the applicable provisions of any Indenture, which may provide for a trustee or other fiduciary to receive, have custody of and disburse Agency funds, the Treasurer of the Agency shall receive, have the custody of and disburse Agency funds pursuant to the accounting procedures developed under Sections 3C and 9, and shall make the disbursements required by this Agreement or otherwise necessary to carry out any of the provisions of purposes of this Agreement.

Section 11. Notices.

Notices and other communications hereunder to the Members shall be sufficient if delivered to the clerk of the governing body of each Member; provided that, to the extent permitted by law, the Agency may provide notices and other communications and postings electronically (including, without limitation, through email or by posting to a website).

Section 12. Additional Members/Withdrawal of Members.

Qualifying public agencies may be added as parties to this Agreement and become Charter Members upon: (1) the filing by such public agency with the Agency of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such public agency approving this Agreement and the execution and delivery hereof; and (2) adoption of a resolution of the Board approving the addition of such public agency as a Charter Member. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing.

Qualifying public agencies may also be added as non-Charter Members ("Additional Members") of the Agency upon: (1) the filing by such public agency with the Agency of a resolution of the governing body of such public agency requesting to be added as an Additional Member of the Agency, and (2) adoption of a resolution of the Board approving the addition of such public agency as an Additional Member. An Additional Member may limit in the aforementioned resolution the scope of its Additional Membership to what is necessary or appropriate to facilitate the financing or refinancing of one or more specified projects or programs.

A Member may withdraw from this Agreement upon written notice to the Board; provided, however, that (i) at least one Member shall be a Charter Member, (ii) no such withdrawal shall result in the dissolution of the Agency so long as any Bonds remain outstanding and (iii) no such withdrawal shall cause the loss of the property tax exemption of any project owned by the Agency. Any such withdrawal shall be effective only upon receipt of the notice of withdrawal by the Board, which shall acknowledge receipt of such notice of withdrawal in writing and shall file such notice as an amendment to this Agreement effective upon such filing.

Section 13. Indemnification.

To the full extent permitted by law, the Board may authorize indemnification by the Agency of any person who is or was a Director or an officer, employee or other agent of the Agency, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a Director or an officer, employee or other agent of the Agency, against expenses, including attorneys' fees, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith in a manner such person reasonably believed to be in the best interests of the Agency and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful and, in the case of an action by or in the right of the Agency, acted with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. The Board may purchase a policy or policies of insurance in furtherance of any indemnification obligation created or otherwise in protection of Directors, officers, employees or other agents.

Section 14. Contributions and Advances.

Contributions or advances of public funds and of the use of personnel, equipment or property may be made to the Agency by the Members for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution or advance. Any such advance may be made subject to repayment, and in such case shall be repaid, in the manner agreed upon by the Agency and the Member making such advance at the time of such advance. It is mutually understood and agreed to that no Member has any obligation to make advances or contributions to the Agency to provide for the costs and expenses of administration of the Agency, even though any Member may do so. The Members understand and agree that a portion of the funds of the Agency that otherwise may be allocated or distributed to the Members and the funds of the Agency constituting fee or other revenues with respect to Bonds or Projects may instead be used to make grants, loans or provide other financial assistance to governmental units and to nonprofit organizations to accomplish any of the governmental unit's or nonprofit organization's purposes.

Section 15. Immunities.

All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, and other benefits which apply to the activity of officers, agents or employees of Members when performing their respective functions within the territorial limits of their respective public agencies, shall apply to the same degree and extent to the Directors, officers, employees, agents or other representatives of the Agency while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

None of the officers, agents or employees, if any, directly employed or engaged by the Agency shall be deemed, by reason of their employment or engagement by the Agency, to be employed or engaged by any Member or, by reason of their employment or engagement by the Agency, to be subject to any of the requirements of any Member.

Section 16. Amendments.

Except as provided in Sections 3B and 12 above, this Agreement shall not be amended, modified, or altered, unless the written consent of each of the Charter Members is obtained; provided that no amendment shall materially adversely affect the interests of any Additional Member unless the negative consent of that Additional Member is also obtained. To obtain the negative consent of each such Additional Member, the following negative consent procedure shall be followed: (a) the Agency shall provide each such Additional Member with a notice at least sixty (60) days prior to the date such proposed amendment is to become effective explaining the nature of such proposed amendment and this negative consent procedure; (b) the Agency shall provide each such Additional Member who did not respond a reminder notice with a notice at least thirty (30) days prior to the date such proposed amendment is to become effective; and (c) if no such Additional Member objects to the proposed amendment in writing within sixty (60) days after the initial notice, the proposed amendment shall become effective with respect to all Members.

Section 17. Effectiveness.

This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each of the Members on the date that the Board shall have received from two of the Charter Members an executed counterpart of this Agreement, together with a certified copy of a resolution of the governing body of each such Charter Member approving this Agreement and the execution and delivery hereof.

Section 18. Partial Invalidity.

If any one or more of the terms, provisions, promises, covenants or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 19. Successors.

This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto. Except to the extent expressly provided herein, no Member may assign any right or obligation hereunder without the consent of the other Members.

Section 20. Miscellaneous.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

This Agreement shall be governed under the laws of the State of California.

This Agreement, including its recitals which are incorporated herein, is the complete and exclusive statement of the agreement among the Members, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between and among the Members relating to the subject matter of this Agreement.

[SIGNATURES ON THE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized representatives as of the day and year first above written.

Charter Member:

California Municipal Finance Authority

By _____

Name: _____

Title: _____

Charter Member:

City of Oxnard

By _____

Name: _____

Title: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

**RECORDING REQUESTED
AND WHEN RECORDED MAIL TO:**

475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Josh D. Anzel

THIS SPACE IS FOR RECORDERS USE ONLY

PUBLIC BENEFIT AGREEMENT

(Title of Document)

Per Government Code 27388.1 (a)(1) "A fee of \$75 dollars shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, except those expressly exempted from payment of recording fees, per each single transaction per parcel or real property. The fee shall not exceed two hundred twenty-five dollars (\$225)"

Reason for Exemption:

- ☐ Exempt from fee per GC 27388.1 (a) (2); recorded concurrently "in connection with" a transfer subject to the imposition of documentary transfer tax (DTT).
- ☐ Exempt from fee per GC 27388.1 (a) (2); recorded concurrently "in connection with" a transfer of real property that is a residential dwelling to an owner-occupier.
- ☒ Exempt from fee per GC 27388.1 (a) (2) (D); recording fee exempt under GC 27383.
- ☐ Exempt from fee per GC 27388.1 (a) (1); fee cap of \$225.00 reached.
- ☐ Exempt from the fee per GC 27388.1 (a) (1); not related to real property.

Failure to include an exemption reason will result in the imposition of the \$75.00 Building Homes and Job Act Fee.

RECORDING REQUESTED BY
CMFA Special Finance Agency XV

WHEN RECORDED RETURN TO:
Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Josh D. Anzel

THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383
OF THE CALIFORNIA GOVERNMENT CODE

PUBLIC BENEFIT AGREEMENT

By and Between

CMFA SPECIAL FINANCE AGENCY XV

and

CITY OF OXNARD

Dated as of _____ 1, 20__

Relating to

**CMFA SPECIAL FINANCE AGENCY XV
SENIOR ESSENTIAL HOUSING REVENUE BONDS, SERIES 20__A-1
(THE VINES AT RIVERPARK)**

**CMFA SPECIAL FINANCE AGENCY XV
JUNIOR ESSENTIAL HOUSING REVENUE BONDS, SERIES 20__A-2
(THE VINES AT RIVERPARK)**

and

**CMFA SPECIAL FINANCE AGENCY XV
SUBORDINATE ESSENTIAL HOUSING REVENUE BONDS, SERIES 20__B
(THE VINES AT RIVERPARK)**

PUBLIC BENEFIT AGREEMENT

This PUBLIC BENEFIT AGREEMENT ("Agreement") is dated as of _____, 1, 20__, by and between the CMFA SPECIAL FINANCE AGENCY XV, a joint exercise of powers agency organized and existing under the laws of the State of California (including its successors and assigns, "Owner"), and the CITY OF OXNARD, a California municipal corporation and general law city ("Host").

BACKGROUND

WHEREAS, the Owner proposes to issue Bonds (as hereinafter defined) to finance Owner's acquisition of the certain multifamily rental housing projects (collectively, the "Project") located at 3040 N Oxnard Boulevard in the City of Oxnard, California, located on the real property site described in Exhibit A hereto; and

WHEREAS, the Owner has executed a Regulatory Agreement and Declaration of Restrictive Covenants between Owner and Wilmington Trust, National Association, dated concurrently and recorded in the official records of the County of Ventura, California (the "County"), which imposes requirements upon the Project with respect to maximum income levels of tenants, maximum rents payable by tenants, maintenance of the Project in accordance with industry standards, and certain other matters, and Host is entering into this Agreement in reliance on Owner's compliance with such requirements; and

WHEREAS, the Owner intends to sell the Project at the instigation of the Host or upon the retirement of all Project Debt (as defined herein) pursuant to this Agreement.

AGREEMENT

In consideration of the mutual covenants herein contained, and such other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Owner and Host mutually agree as follows:

Section 1. Right to Cause Sale. Host shall have the right to cause ("Sale Right") the Owner to sell the Property (as herein defined) to Host or Host's designee upon payment by the Purchaser (as herein defined) of the Sale Price (as herein provided) within the Sale Right Term (as herein defined) and in compliance with and observance of all of the terms and conditions of this Agreement.

Section 2. Definitions. Capitalized terms used in this Agreement shall have the meanings assigned to them in this Section 2; capitalized terms used in this Agreement and not defined in this Section 2 or elsewhere herein shall have the meanings assigned to them in the Indenture (herein defined).

(a) "Bonds" – collectively, (i) the CMFA Special Finance Agency XV Senior Essential Housing Revenue Bonds, Series 20__A-1 (The Vines at Riverpark), (ii) the CMFA Special Finance Agency XV Junior Essential Housing Revenue Bonds, Series 20__A-2 (The Vines at Riverpark), and (iii) the CMFA Special Finance Agency XV Subordinate Essential Housing Revenue Bonds, Series 20__B (The Vines at Riverpark) (the "Series B Bonds"), with such other series and sub-series designations as may be set forth in the Indenture, originally issued to finance Owner's acquisition of the Project and related transaction costs. The original principal amount of the Series B Bonds shall not exceed \$5,000,000.

(b) “Bond Trustee” – Wilmington Trust, National Association, or any successor trustee under the Indenture.

(c) “Closing” – shall have the meaning set forth in Section 8 hereof.

(d) “Conveyance” – that transaction or series of transactions by which Owner shall transfer, bargain, sell and convey any and all right, title or interest in and to the Property.

(e) “Exercise Notice” – shall have the meaning set forth in Section 4(a) hereof.

(f) “Extraordinary Costs and Expenses” – shall have the meaning set forth in the Indenture.

(g) “Host Indemnified Person” – the Host and each of its officers, governing members, directors, officials, employees, attorneys, agents and members.

(h) “Indenture” – the Trust Indenture between Owner, as issuer, and the Bond Trustee, as trustee, pursuant to which the Bonds were issued.

(i) “Minimum Sale Price” – means the lowest price at which the Property may be sold, as described in Section 4(c) hereof.

(j) “Outstanding” – with respect to Bonds, as of any given date, all Bonds which have been authenticated and delivered by the Trustee under the Indenture, except: (i) Bonds cancelled at or prior to such date or delivered to or acquired by the Trustee at or prior to such date for cancellation; (ii) Bonds deemed to be paid in accordance with Article IX of the Indenture; and (iii) Bonds in lieu of which other Bonds have been authenticated under the Indenture.

(k) “Owner Indemnified Person” – the Owner and each of its officers, governing members, directors, officials, employees, attorneys, agents and members.

(l) “Project Administrator” – HomeFed Asset Management LLC (or an affiliate) and its successors and assigns.

(m) “Project Debt” – any debt secured by the Project and incurred to finance or refinance Owner’s acquisition of the Project and related transaction costs, including any portion of the Bonds and any bonds, notes or other indebtedness issued by Owner to improve the Project or to refund the Bonds in whole or in part.

(n) “Property” – means all of Owner’s right, title and interest (which includes fee simple title to the real property) in and to all property and assets used in or otherwise related to the operation of the Project including, without limitation, all real property and interests in real property, all tangible and intangible personal property including furniture, fixtures, equipment, supplies, intellectual property, licenses, permits, approvals, and contractual rights of any kind or nature together with the right to own and carry on the business and operations of the Project.

(o) “Purchaser” – means the purchaser of the Property in a sale thereof.

(p) “Regulatory Agreement” – means the Regulatory Agreement and Declaration of Restrictive Covenants by and between the Owner and the Bond Trustee, relating to the Bonds.

(q) “Sale Price” – purchase price of the Property to be paid by the Purchaser upon sale of the Property by the Owner pursuant to the Sale Right in compliance with Section 4 hereof or sale by the Owner pursuant to Section 5 hereof.

(r) “Sale Right” – means the right of the Host to cause the Owner to sell the Property pursuant to Section 1 hereof.

(s) “Sale Right Exercise Date” – the date fifteen (15) years from the issuance of the Bonds.

(t) “Sale Right Term” – shall commence on the Sale Right Exercise Date and, if not exercised, shall terminate at 11:59 p.m. local time on the date that is the earlier of: (i) fourteen (14) years from the Sale Right Exercise Date or (ii) the date on which no Project Debt remains Outstanding.

(u) “Transaction Costs” – to the extent not otherwise described herein, any costs or expenses of any kind or nature associated with or incurred by Owner and Bond Trustee in connection with the consummation of the Conveyance, regardless of whether such costs and expenses are customarily borne by the seller or purchaser in any such transaction, including but not limited to taxes, recording fees and other impositions, Owner’s and Bond Trustee’s legal and other professional fees, fees for verification agents, bidding agents, escrow agents, custodians or trustees, assumption fees, prepayment fees, the cost of the appraisal, brokers’ fees and expenses, surveys, inspections, title commitments, title insurance premiums and other title-related fees, and all amounts required for indemnification of Owner, Trustee and Project Administrator.

Section 3. Effectiveness; Term and Termination. The Sale Right shall become effective on the Sale Right Exercise Date and may be exercised during the Sale Right Term. Owner agrees that it will not enter into any agreement to sell all or any part of the Property during the Sale Right Term other than as may be required by the Indenture (e.g., in the event of default), without the specific written request of the Host and delivery of an Opinion of Bond Counsel to the Owner substantially to the effect that such sale will not, in and of itself, adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

Section 4. Exercise of Sale Right.

(a) Host’s Notice. To exercise the Sale Right, Host shall provide a notice (an “Exercise Notice”) to Owner (with a copy to the Project Administrator) at any time during the Sale Right Term.

(b) Owner’s Best Efforts to Sell. Unless Host notifies Owner in writing that it is withdrawing its Exercise Notice within fifteen (15) business days of delivering the Exercise Notice under Section 4(a) hereof, Owner shall exercise its best efforts to enter into a purchase agreement for the sale of the Property in accordance with Section 7(d) and to sell and convey good and marketable title to the Property to Host or its designee within ninety (90) days following receipt of the Exercise Notice, or as soon as possible thereafter, in accordance with the purchase agreement, but only if it can sell at or above the Minimum Sale Price. The obligation of the Owner to enter into the purchase agreement for the sale and conveyance of the Property to Host or its designee shall be on a best efforts basis. The Owner shall endeavor to sell the Property at a commercially reasonable price, subject to subsection (c) of this Section, by

such means as the parties to the purchase agreement shall determine to be suitable for such purpose; provided that Owner shall incur no liability to any party as a result of or otherwise in connection with the sale or failure to sell. Subject to subsection (c), nothing herein shall require or prevent Owner selling the Property subject to the restrictions set forth in the Regulatory Agreement. The Owner shall direct the Bond Trustee in the foregoing as and to the extent necessary or appropriate.

(c) Sale Price. The Sale Price shall be at least equal to the sum of the amounts set forth below (net of any adjustments or prorations of the type described in Section 8(b)) (the "Minimum Sale Price"):

- i. an amount sufficient to either prepay, redeem in whole or fully defease for redemption on the earliest call date all Project Debt; plus
- ii. any fees or other amounts not identified in clause (i) that may be necessary to effect the complete release from and discharge of any lien, mortgage or other encumbrance on the Property; plus
- iii. any amounts due to Owner (including the Owner Indemnified Persons, as provided in the Indenture), the Bond Trustee or any predecessor or successor, or any other Person under any indenture, loan agreement, bond, note or other instrument relating to any Project Debt (including, without limitation, indemnification amounts, Owner's Extraordinary Costs and Expenses, recurrent and extraordinary fees and expenses, and reimbursable costs and expenses of any kind or nature); plus
- iv. Transaction Costs; minus
- v. Any funds held by or for Owner under the Indenture applied to the retirement of Project Debt. Owner may retain such portion of moneys in the Extraordinary Expense Fund or similar fund under the Indenture it deems reasonable as a reserve against future expected costs and expenses of the type described in subparagraph (iii). Owner's determination of this amount shall be final and incontestable.

Section 5. Mandatory Conveyance. Upon the retirement of all Project Debt, the Owner shall use its best efforts to effect a Conveyance within ninety (90) days thereafter, subject to Section 4(c) hereof. Owner shall give notice to Host of its intent to convey the Property, and Host (or its designee) shall have the first right to acquire the Property by delivery of an Exercise Notice to Owner within thirty (30) days after receipt of Owner's notice. Nothing herein shall require or prevent Owner selling the Property subject to the restrictions set forth in the Regulatory Agreement.

Section 6. Surplus Cash; Surplus Conveyance Proceeds. Upon a Conveyance of the Property, Owner shall apply the proceeds of such Conveyance (i) to redeem the Bonds then Outstanding, (ii) to prepay, redeem in whole or fully defease any other Project Debt, and (iii) to pay any fees or other amounts listed in Section 4(c)(ii) – (iv). Any proceeds remaining following the foregoing payments (such remaining amounts hereinafter referred to as “Surplus Conveyance Proceeds”) shall be transferred to Host, and Host shall equitably share (within Host’s reasonable discretion) such Surplus Conveyance Proceeds with the other taxing agencies in the County so as to reimburse such taxing agencies for any foregone property tax revenue.

Section 7. Terms of Conveyance.

(a) The Conveyance shall be in the nature of a grant deed to Purchaser in which Owner shall deliver one or more deeds, bills of sale, or other instruments of transfer without recourse or warranty of any kind or nature.

(b) The Property will be conveyed to Purchaser in AS IS CONDITION, WITH ALL FAULTS, and without representations or warranties of any kind or nature as to the condition of the Property, except as may otherwise be set forth in the purchase agreement.

(c) There shall be no partial transfer and that, upon consummation of the Conveyance, Owner shall be fully divested of any and all right, title or interest in and to the Property.

(d) Upon Host’s delivery of the Exercise Notice, Owner shall deliver to Purchaser a purchase agreement for the Property, and the parties shall negotiate in good faith towards a mutually satisfactory purchase agreement form and substance satisfactory to Owner and Purchaser and their counsel subject to the terms and conditions of this Agreement. The purchase agreement shall permit Purchaser to conduct physical inspections of the Property and conduct due diligence related to the purchase of the Property, including without limitation its value and physical and environmental condition, and shall provide Purchaser a due diligence approval period of not less than sixty (60) days after the date of the purchase agreement. The purchase agreement shall provide for Owner to deliver to Purchaser copies of all plans, studies, records, reports, governmental notices and approvals, and other written materials related to the use, occupancy or condition of the Property that Owner has in its possession, including without limitation environmental, structural, mechanical, engineering and land surveys. Purchaser shall provide Owner with comments to the form of purchase agreement within fifteen (15) business days of its receipt thereof, and Owner and Purchaser shall use good faith efforts to negotiate, draft and execute a mutually acceptable purchase agreement as soon as practicable thereafter. The purchase agreement shall provide for closing for the conveyance to Purchaser of good and marketable title to the Property at the Sales Price within the time set forth in Section 8(a) hereof.

Section 8. Closing.

(a) The closing of the Conveyance ("Closing") shall take place, in the case of a Conveyance pursuant to Section 4 hereof, not later than the ninetieth (90th) calendar day following the Owner's receipt of the Exercise Notice, or as soon as possible thereafter, and in the case of a mandatory conveyance pursuant to Section 5 hereof, not later than the ninetieth (90th) calendar day following the retirement of all Project Debt, or as soon as possible thereafter.

(b) All general and special real property taxes and assessments, and rents shall be prorated as of the Closing, with Purchaser responsible for all such items to the extent arising or due at any time following the closing. General real property taxes shall be prorated at the time of Closing based on the net general real property taxes for the year of Closing.

Section 9. Recording. This Agreement, and any amendment thereto, shall be recorded with the recorder's office of the County; *provided*, that upon termination of the term of this Agreement, Host shall cooperate with Owner to remove any such recorded Agreement or amendment thereto from title to the Property upon Owner's reasonable request therefor and, in any event, by no later than thirty (30) days after the expiration of the original term of this Agreement.

Section 10. Subordination. This Agreement shall be subordinate to any claim, pledge or interest in the Property securing the Bonds or any Project Debt.

Section 11. Annual Host Charge. On each anniversary of the Issue Date, commencing on the first anniversary thereof, and on the earlier of (i) the Closing of the Conveyance or (ii) the date on which no Project Debt remains Outstanding (which earlier date shall be the final Annual Host Charge due hereunder), Owner shall pay to Host the Annual Host Charge. The final Annual Host Charge shall be prorated for the actual number of days elapsed since the most recent Annual Host Charge. For purposes of this Section, the term "Issue Date" shall mean the date of issuance of the Bonds, currently expected to occur on _____, 20__; and the term "Annual Host Charge" shall mean an annual charge payable in arrears in the amount of \$108,000, inflated annually for each Annual Host Charge payable after the first anniversary by 2% of the most recent Annual Host Charge. Host represents, acknowledges and agrees that neither Owner, nor Project Administrator nor their representatives have made any representation or warranty about the validity or enforceability of the Annual Host Charge and that Host has sought and relied exclusively upon its own independent legal advice concerning the same.

Section 12. Assignment. Neither party to this Agreement shall assign its interests, obligations, rights and/or responsibilities under this Agreement without the prior written consent of the other party, except as provided herein.

Section 13. Limitation on Liability.

(a) The Owner and Host shall not be directly, indirectly, contingently or otherwise liable for any costs, expenses, losses, damages, claims or actions, of any conceivable kind on any conceivable theory, under or by reason of or in connection with this Agreement or any sale or Conveyance or failure or price thereof or application of proceeds thereof, except only as to moneys available therefor under and in accordance with the Indenture or this Agreement.

(b) No Owner Indemnified Person or Host Indemnified Person shall be individually or personally liable for the payment of any sum hereunder or be subject to any personal liability or accountability by reason of the execution and delivery of this Agreement, or by any proceedings for the sale or Conveyance or failure or price thereof, or Host's exercise or waiver of same, or otherwise except in the case of such Owner Indemnified Person's own willful misconduct.

(c) The Bonds will not be a debt, liability or obligation of Host but rather, solely indebtedness of the Owner, limited to the Trust Estate pledged and available therefor under the Indenture. Under no circumstances shall Host be obligated to (i) provide any financing to acquire or construct the Project or any refinancing of the Project; (ii) approve any application or request for or take any other action in connection with any planning approval, permit or other action necessary for the acquisition, construction, rehabilitation or operation of the Project; or (iii) make any contribution or advance any funds whatsoever to the Owner.

Section 14. Notices, Governing Law, Binding Effect and Other Miscellaneous Provisions.

(a) Notices. All notices provided for in this Agreement shall be in writing and shall be given to Owner or Host at the address set forth below or at such other address as they individually may specify thereafter by written notice in accordance herewith:

If to Owner or:
Designated Agent CMFA Special Finance Agency XV
 2111 Palomar Airport Road, Suite 320
 Carlsbad, California 92011
 Attention: Financial Advisor

With a copy to: HomeFed Asset Management LLC
 1903 Wright Place, Suite 220
 Carlsbad, California 92008
 Attention: Chris Foulger, Erin Ruhe and
 Shaun Bradley
 Email: cfoulger@hfc-ca.com; eruhe@hfc-
 ca.com; sbradley@hfc-ca.com

If to Host: City of Oxnard
 300 West Third Street
 4th Floor
 Oxnard, California 93030
 Attention: City Manager

With a copy to: City of Oxnard
 Office of the City Attorney
 350 West Third Street, Suite 100E
 Oxnard, California 93030
 Email: Stephen.Fischer@Oxnard.org

Such notices shall be deemed effective upon actual delivery or upon the date that any such delivery was attempted and acceptance thereof was refused, or if mailed, certified return receipt requested, postage prepaid, properly addressed, three (3) days after posting.

(b) Consents and Approvals. All consents and approvals and waivers required or asserted hereunder shall be in writing, signed by the party from whom such consent, approval, waiver or notice is requested.

(c) Non-Liability of Host or Owner Officers and Employees. No officer or employee of the Host shall be personally liable to the Owner, or any successor in interest, in the event of any default or breach by Host of any obligation of the terms of this Agreement. No officer or employee of the Owner shall be personally liable to Host, or any successor in interest, in the event of any default or breach by Owner of any obligation of the terms of this Agreement.

(d) Pronouns. Where appropriate to the context, words of one gender include all genders, and the singular includes the plural and vice versa.

(e) Amendments. This Agreement may not be modified except in a written instrument signed by Host and Owner.

(f) Complete Agreement; Benefits. This Agreement together with all schedules and exhibits attached hereto and made part thereof supersedes all previous agreements, understandings and representations made by or between the parties hereto. This Agreement shall inure solely and exclusively to the benefit of the Owner and Host, and no other party shall have any right, remedy or claim under or by reason of this Agreement.

(g) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of law principles. All claims of whatever character arising out of this Agreement, or under any statute or common law relating in any way, directly or indirectly, to the subject matter hereof or to the dealings between Owner and any other party hereto, if and to the extent that such claim potentially could or actually does involve Owner, shall be filed and maintained in the Superior Court of California, County of Ventura, California. By executing and delivering this Agreement, each party hereto irrevocably: (i) accepts generally and unconditionally the exclusive jurisdiction and venue of such court; (ii) waives any defense of forum non-conveniens; and (iii) agrees not to seek removal of such proceedings to any court or forum other than as specified above. The foregoing shall not be deemed or construed to constitute a waiver by Owner of any prior notice or procedural requirements applicable to actions or claims against or involving governmental units and/or political subdivisions of the State of California that may exist at the time of and in connection with such matter.

(h) [Reserved].

(i) Term. This Agreement shall terminate upon the Conveyance.

(j) Captions. The captions used in this Agreement are solely for convenience and shall not be deemed to constitute a part of the substance of the Agreement for purpose of its construction.

(k) Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same Agreement.

(l) Regulatory Agreement. Owner shall not amend the Regulatory Agreement to increase the maximum income levels or maximum rents of the Affordable Units, or to revise the percentages of units to be rented as Low Income Units, Median Income Units and Moderate Income Units, without the prior written approval of Host, which approval shall not unreasonably be withheld.

(m) [Reserved.]

(n) Community Facilities District No. 5. The Owner agrees to pay, and not challenge the validity of, the special taxes levied for Host's Community Facilities District No. 5.

(o) No Challenge to Validity. On behalf of itself and its officers, officials, employees and agents, Owner agrees not to challenge the validity of this Agreement or any portion thereof.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

CMFA SPECIAL FINANCE AGENCY XV

By: _____
Edward J. Becker
Executive Director

CITY OF OXNARD

By: _____
John C. Zaragoza, Mayor

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

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, _____,
(insert name and title of the officer)

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 _____

(Seal)

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

The Land referred to herein is situated in the State of California, County of Ventura, City of Oxnard, and described as follows:

[TO COME]

**RECORDING REQUESTED
AND WHEN RECORDED MAIL TO:**

Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Josh D. Anzel, Esq.

THIS SPACE IS FOR RECORDERS USE ONLY

**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

(Title of Document)

Per Government Code 27388.1 (a)(1) "A fee of \$75 dollars shall be paid at the time of recording of every real estate instrument, paper, or notice required or permitted by law to be recorded, except those expressly exempted from payment of recording fees, per each single transaction per parcel or real property. The fee shall not exceed two hundred twenty-five dollars (\$225)"

Reason for Exemption:

- ☐ Exempt from fee per GC 27388.1 (a) (2); recorded concurrently "in connection with" a transfer subject to the imposition of documentary transfer tax (DTT).
- ☐ Exempt from fee per GC 27388.1 (a) (2); recorded concurrently "in connection with" a transfer of real property that is a residential dwelling to an owner-occupier.
- ☒ Exempt from fee per GC 27388.1 (a) (2) (D); recording fee exempt under GC 27383.
- ☐ Exempt from fee per GC 27388.1 (a) (1); fee cap of \$225.00 reached.
- ☐ Exempt from the fee per GC 27388.1 (a) (1); not related to real property.

Failure to include an exemption reason will result in the imposition of the \$75.00 Building Homes and Job Act Fee.

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:
Jones Hall, A Professional Law Corporation
475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Josh D. Anzel, Esq.

**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

By and Between

CMFA SPECIAL FINANCE AGENCY XV

and

**WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee**

Dated as of _____ 1, 20__

Relating to

**CMFA Special Finance Agency XV
Senior Essential Housing Revenue Bonds, Series 20__A-1
(The Vines at Riverpark)**

**CMFA Special Finance Agency XV
Junior Essential Housing Revenue Bonds, Series 20__A-2
(The Vines at Riverpark)**

and

**CMFA Special Finance Agency XV
Subordinate Essential Housing Revenue Bonds, Series 20__B
(The Vines at Riverpark)**

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REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (as supplemented and amended from time to time, this "Regulatory Agreement") is made and entered into as of _____ 1, 20__, by and between the CMFA SPECIAL FINANCE AGENCY XV, a joint exercise of powers authority duly organized and existing under the laws of the State of California, as issuer of the Bonds (as further defined herein) and as owner of the Project identified herein (together with any successor to its rights, duties and obligations hereunder, the "Owner"), and WILMINGTON TRUST, NATIONAL ASSOCIATION, a national banking association, as trustee (together with its successors in trust and assigns, the "Trustee").

WITNESSETH:

WHEREAS, pursuant to Chapter 5 of Division 7 of Title 1 of the California Government Code (the "Act"), the Owner proposes to issue its Senior Essential Housing Revenue Bonds, Series 20__A-1 (The Vines at Riverpark) (the "Series 20__A-1 Bonds"), Junior Essential Housing Revenue Bonds, Series 20__A-2 (The Vines at Riverpark) (together with the Series 20__A-1 Bonds, the "Series A Bonds"), and Subordinate Essential Housing Revenue Bonds, Series 20__B (The Vines at Riverpark) (together with the Series A Bonds, the "Bonds") pursuant to a Trust Indenture, dated as of _____ 1, 20__ (as supplemented and amended from time to time, the "Indenture"), between the Owner and the Trustee;

WHEREAS, a portion of the proceeds of the Bonds will be used to provide, in part, financing for the acquisition of the multifamily rental housing project known as The Vines at Riverpark, located on the real property site described in Exhibit A hereto (as further described herein, the "Project");

WHEREAS, to satisfy the public purposes for which the Bonds are authorized to be issued under the Act, and in furtherance of certain specific public purposes of the Owner, previously approved by the Owner's Resolution No. __ - _____, which include supporting, preserving and providing low income, median income and moderate income multifamily rental housing in areas in which demand for such housing is not currently being adequately met, certain limits on the occupancy of units in the Project need to be established and certain other requirements need to be met;

NOW, THEREFORE, in consideration of the issuance of the Bonds by the Owner and the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Owner and the Trustee hereby agree as follows:

Section 1. Definitions and Interpretation. Unless the context otherwise requires, the capitalized terms used herein shall have the respective meanings assigned to them in the recitals hereto, in this Section 1, or in the Master Glossary of Terms, dated as of _____ 1, 20__.

"Administrator" means any administrator or program monitor appointed by the Owner to administer this Regulatory Agreement, and any successor administrator appointed by the Owner.

"Area" means the Metropolitan Statistical Area or County, as applicable, in which the Project is located, as defined by HUD.

"Bonds" has the meaning given to it in the recitals hereto.

"Certificate of Continuing Program Compliance" means the Certificate to be filed by the Owner with the Administrator, pursuant to Section 4(e) hereof, which shall be substantially in the form attached as Exhibit C hereto or in such other comparable form as may be provided by the Owner.

"City" means the City of Oxnard, California.

"Closing Date" means _____, 20____, the date the Bonds are issued and delivered to the initial purchaser thereof.

"Compliance Period" means the period beginning on the Closing Date and ending on the first date on which there are no Bonds Outstanding.

"County" means the County of Ventura, California.

"Deed of Trust" means the Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing dated as of the Closing Date, by the Owner granting a lien on its fee simple interest in the Property, subject to Permitted Encumbrances, to the Trustee for the benefit of the holders from time to time of the Bonds, as the same may be modified, amended or supplemented from time to time, or any deed of trust (or similar security instrument) containing a power of sale clause reflecting a valid, perfected first priority lien on the fee interest in the Project delivered by the Owner to secure the Owner's obligations to a third-party lender.

"Gross Income" means the gross income of a person (together with the gross income of all persons who reside with such person in one residential unit) as calculated in the manner prescribed by Section 8 of the Housing Act.

"Housing Act" means the United States Housing Act of 1937, as amended, or its successor.

"HUD" means the United States Department of Housing and Urban Development.

"Income Certification" means a Tenant Income Certification and a Tenant Income Certification Questionnaire in the form attached as Exhibit B hereto or in such other comparable form as may be provided by the Owner.

"Low Income Tenant" means a tenant occupying a Low Income Unit.

"Low Income Unit" means any available unit if the aggregate Gross Income of all tenants therein does not exceed sixty percent (60%) of median gross income for the Area, with adjustments for family size. The determination of an available unit's status as a Low Income Unit shall be made by the Owner upon commencement of each lease term with respect to such unit, and annually thereafter, on the basis of an Income Certification executed by each tenant. A vacant unit that was most recently determined to be a Low Income Unit in accordance with the previous sentence will remain a Low Income Unit for purposes of Section 4(a)(i) hereof until that unit is reoccupied.

"Management Agreement" means that certain Property Management Agreement, dated as of the date hereof, by and among the Owner and the Manager.

“Manager” means the property manager, and any other Person who is an assignee of the initial Management Agreement.

“Median Income Tenant” means a tenant occupying a Median Income Unit.

“Median Income Unit” means any available unit if the aggregate Gross Income of all tenants therein does not exceed one hundred percent (100%) of median gross income for the Area, with adjustments for family size. The determination of an available unit’s status as a Median Income Unit shall be made by the Owner upon commencement of each lease term with respect to such unit, and annually thereafter, on the basis of an Income Certification executed by each tenant. A vacant unit that was most recently determined to be a Median Income Unit in accordance with the previous sentence will remain a Median Income Unit for purposes of Section 4(a)(ii) hereof until that unit is reoccupied.

“Moderate Income Tenant” means (i) a tenant occupying a Moderate Income Unit or (ii) an Over Income Tenant if such tenant occupied an available unit on the effective date of this Regulatory Agreement.

“Moderate Income Unit” means any available unit if the aggregate Gross Income of all tenants therein does not exceed one hundred and twenty percent (120%) of median gross income for the Area, with adjustments for family size. The determination of an available unit’s status as a Moderate Income Unit shall be made by the Owner upon commencement of each lease term with respect to such unit, and annually thereafter, on the basis of an Income Certification executed by each tenant. A vacant unit that was most recently determined to be a Moderate Income Unit in accordance with the previous sentence will remain a Moderate Income Unit for purposes of Section 4(a)(iii) hereof until that unit is reoccupied.

“Over Income Tenant” means a tenant occupying an Over Income Unit.

“Over Income Unit” means any occupied unit in which the aggregate gross income of all tenants therein exceeds one hundred twenty percent (120%) of median gross income for the Area, with adjustments for family size.

“Project” means the 164-unit multifamily rental housing development to be located in the City on the real property site described in Exhibit A hereto, consisting of those facilities, including real property, structures, buildings, fixtures or equipment situated thereon, as it may at any time exist, the acquisition of which facilities is to be financed, in whole or in part, from the proceeds of the sale of the Bonds, and any real property, structures, buildings, fixtures or equipment acquired in substitution for, as a renewal or replacement of, or a modification or improvement to, all or any part of the facilities described in the Deed of Trust.

“Regulations” means the Income Tax Regulations of the Department of the Treasury applicable under the Code from time to time.

“Regulatory Agreement” means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be supplemented and amended from time to time.

“Rental Payments” means the rental payments paid by the occupant of a unit, excluding any supplemental rental assistance to the occupant from the State, the federal government, or any other public agency.

“Tax-Exempt” means with respect to interest on any obligations of a state or local government, including the Bonds, that such interest is excluded from gross income for State of California personal income and federal income tax purposes; provided, however, that such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

“TCAC” means the California Tax Credit Allocation Committee.

“Transfer” means the conveyance, assignment, sale or other disposition of all or any portion of the Project; and shall also include, without limitation to the foregoing, the following: (1) an installment sales agreement wherein Owner agrees to sell the Project or any part thereof for a price to be paid in installments; and (2) an agreement by the Owner leasing all or a substantial part of the Project to one or more persons or entities pursuant to a single or related transactions.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of any gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting and revision of this Regulatory Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

Section 2. Representations, Covenants and Warranties of the Owner.

(a) The Owner hereby incorporates herein, as if set forth in full herein, each of the representations, covenants and warranties of the Owner contained in the Tax Certificate and the Indenture relating to the Project.

(b) The Owner hereby represents and warrants that the Project is located entirely within the City.

(c) The Owner acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Bonds to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions.

Section 3. Residential Rental Project. For the term of this Regulatory Agreement, the Owner hereby represents, covenants, warrants and agrees as follows:

(a) The Project will be owned and operated for the purpose of providing multifamily residential rental property. The Owner will own, and cause the Project to be managed and operated, as a project to provide multifamily residential rental property comprised of a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, in accordance with such requirements as may be imposed thereby on the Project from time to time. The Owner shall cause the Project to be maintained in a good, habitable and safe (so as to not threaten the health or safety of the Project's tenants or their invited guests) condition and repair (reasonable wear and tear excepted) and shall create and fund a Capital Expense Fund and shall cause Capital Repairs to be made on an annual basis during the Compliance Period. Capital Repairs shall include, without limitation, the following: carpet and drape replacement; appliance replacement; exterior painting, including exterior trim; hot water heater replacement; plumbing fixtures replacement, including tubs and showers, toilets, lavatories, sinks, faucets; air conditioning and heating replacement; asphalt repair and replacement, and seal coating; roofing repair and replacement; landscape tree replacement; irrigation pipe and controls replacement; sewer line replacement; water line replacement; gas line pipe replacement; lighting fixture replacement; elevator replacement and upgrade work; miscellaneous motors and blowers; common area furniture replacement; and common area and exterior repainting.

(b) Except as otherwise approved by the Owner, all of the dwelling units in the Project (except for the units set aside for resident managers or other administrative uses) will be similarly constructed units, and each dwelling unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range, refrigerator and sink.

(c) None of the dwelling units in the Project will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park; provided that the use of certain units for tenant guests on an intermittent basis shall not be considered transient use for purposes of this Regulatory Agreement. Owner shall not rent dwelling units for a term of 30 days or less, and shall use commercially reasonable efforts to inform residents that short-term rentals of 30 days or less are prohibited.

(d) No part of the Project will at any time during the Compliance Period be owned by a cooperative housing corporation, nor shall the Owner take any steps in connection with a conversion to such ownership or use, and the Owner will not take any steps in connection with a conversion of the Project to condominium ownership during the Compliance Period.

(e) All of the available units in the Project will be available for rental during the period beginning on the date hereof and ending on the termination of the Compliance Period on a continuous basis.

Section 4. Tenants; Income Requirements. The Owner shall comply, or shall cause the Manager to comply, with the following requirements:

(a) During the Compliance Period, except for units occupied by residential managers, for which no income or rent restrictions shall apply, the Owner shall ensure that the following income restrictions are met at all times:

(i) no less than five percent (5%) of the completed residential units in the Project shall be Low Income Units;

(ii) no less than thirty percent (30%) of the completed residential units in the Project shall be Median Income Units; and

(iii) the balance of the completed residential units in the Project shall be Moderate Income Units;

provided, that any unit remaining vacant for at least 30 consecutive days may be offered and leased as a Low Income Unit, Median Income Unit or Moderate Income Unit without regard for the requirements set forth in sub-paragraphs (i), (ii) and (iii) above. For the avoidance of doubt, any vacant unit shall only be offered as a Low Income Unit, Median Income Unit or Moderate Income Unit.

(b) No tenant shall be denied continued occupancy of a unit in the Project because, after admission, the aggregate Gross Income of all tenants in the unit occupied by such tenant increases to exceed the qualifying limit for the respective Low Income Unit, Median Income Unit or Moderate Income Unit initially occupied by such tenant. However, if after a tenant's initial occupancy of a Low Income Unit, Median Income Unit or Moderate Income Unit, as applicable, the aggregate Gross Income of tenants in such unit, as of the most recent determination thereof, exceeds that which is defined for such unit occupied by the same number of tenants, the next available unit of comparable or smaller size shall, subject to the discretion of the Owner and Manager as described in the next succeeding paragraph, be rented (or held vacant and available for immediate occupancy) in a manner that would maintain the unit mix required by Section 4(a) hereof. For the avoidance of doubt, this Section 4(b) shall apply to existing tenants occupying the Project on the Closing Date.

Notwithstanding any provision of this Regulatory Agreement to the contrary, the Owner shall verify, or cause the Manager to verify, all tenant incomes at least annually and shall continually re-balance the mix of household incomes by leasing vacant units to Low Income Tenants, Median Income Tenants or Moderate Income Tenants as needed to meet the income set-aside requirements set forth in this Section 4(a).

(c) For the Compliance Period, the Owner shall cause the Manager to obtain, complete and maintain on file Income Certifications for each tenant, including (i) an Income Certification dated immediately prior to the initial occupancy of such tenant in the unit and a second Income Certification dated one year after the tenant's initial move-in date, and (ii) thereafter, an annual verifiable self-certification with respect to each tenant. The Owner shall, or shall cause the Manager to, provide such additional information as may be required in the future by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to Tax-Exempt obligations. Upon request of the Administrator or the Trustee, copies of Income Certifications for tenants commencing or continuing occupation of a residential unit shall be submitted to the Administrator or the Trustee, as requested.

(d) The Owner shall cause the Manager to verify that the income information provided by an applicant in an Income Certification is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain pay stubs for the three most recent pay periods, (2) obtain an income tax return for the most recent tax year, (3) obtain a credit report or conduct a similar type credit search, (4) obtain an income verification from the applicant's current employer, (5) obtain an income verification from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies, or

(6) if the applicant is unemployed and does not have an income tax return, obtain another form of independent verification reasonably acceptable to the Owner.

(e) The Owner shall prepare and submit or cause the Manager to prepare and submit to the Administrator not less than annually, commencing not less than one year after the Closing Date, a Certificate of Continuing Program Compliance executed by the Owner in substantially the form attached hereto as Exhibit C.

(f) For the Compliance Period, all tenant leases or rental agreements shall be subordinate to this Regulatory Agreement and the Deed of Trust. All leases shall contain clauses, among others, wherein each tenant: (i) certifies the accuracy of the statements made by such tenant in the Income Certification; (ii) agrees that the family income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy of such tenant, that such tenant will comply promptly with all requests for information with respect thereto from the Owner or the Administrator on behalf of the Owner, and that the failure to provide accurate information in the Income Certification or self-certification or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of the tenancy of such tenant; (iii) acknowledges that the Owner has relied on the statements made by such tenant in the Income Certification and supporting information supplied by the tenant in determining qualification for occupancy of a Low Income Unit, Median Income Unit or Moderate Income Unit, as applicable, and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement; and (iv) agrees that the tenant's income is subject to annual certification in accordance with Section 4(c) and that if upon any such certification the aggregate Gross Income of tenants in such unit exceeds the applicable income limit under Section 4(b), the unit occupied by such tenant may cease to qualify as a Low Income Unit, Median Income Unit or Moderate Income Unit, as applicable, and such unit's rent may be subject to increase.

(g) In reviewing and considering applications from prospective tenants, the Owner shall provide a preference to households which include one or more persons who live, work, or have been hired to work in the City, have graduated from a City high school, are employed by a public school district in the City, and/or are employed as a first responder.

Section 5. Affordable Rental Requirements; Limitations on Rent Increases; Rent Reductions. During the Compliance Period, except for units occupied by residential managers, for which no income or rent restrictions shall apply, in addition to the other requirements set forth herein, the Owner hereby agrees that it shall comply, or cause the Manager to comply, with the following:

(a) The Rental Payments for the Low Income Units paid by the tenants thereof shall not exceed 35% of the Low Income limit for the County, adjusted for household size, as published annually by HUD and utilized by TCAC.

(b) The Rental Payments for the Median Income Units paid by the tenants thereof shall not exceed 35% of the Median Income limit for the County, adjusted for household size, as published annually by HUD and utilized by TCAC.

(c) The Rental Payments for the Moderate Income Units paid by the tenants thereof shall not exceed 35% of the Moderate Income limit for the County, adjusted for household size, as published annually by HUD and utilized by TCAC.

(d) The Owner shall accept as tenants, on the same basis as all other prospective tenants, qualified low-income persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act.

For purposes of this Section 5, base rents shall be adjusted for household size using the following assumptions:

Unit Size	Assumed Occupancy
studio	1
one-bedroom	2
two-bedroom	3
three-bedroom	4
four-bedroom	5

(e) The following limitations shall apply to annual rent increases for households occupying available units in the Project:

(i) For a household qualifying as a Low Income Unit, a Median Income Unit, or a Moderate Income Unit, as applicable, but for which annual rent payable is lower than the applicable limit set forth in paragraph (a), (b) or (c) above, respectively, rent shall not be increased more than 4% annually and then only up to the applicable limit set forth in such paragraphs above.

(ii) For a household qualifying as a Low Income Unit, a Median Income Unit, or a Moderate Income Unit, as applicable, but for which annual rent payable exceeds the applicable limit set forth in paragraph (a), (b) or (c) above, respectively, rent shall be decreased as soon as practicable to the applicable limit set forth in such paragraphs above.

Except as set forth in Section 13 hereof, the covenants and conditions of this Regulatory Agreement shall be binding upon successors in interest of the Owner.

Section 6. Tax-Exempt Status of Bonds. The Owner hereby represents, warrants and agrees as follows:

(a) The Owner will not knowingly take or permit, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-Exempt nature of the interest on the Bonds and, if it should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Owner will file of record such documents and take such other steps as are necessary, in the written opinion of Bond Counsel filed with the Owner, in order to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County.

Section 7. Requirements of the Owner. In addition to other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 4 through 6 hereof, the Owner hereby agrees to comply with each of the requirements set forth in this Section 7, as follows:

(a) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Owner and shall be maintained in a reasonable condition for proper audit.

(b) The Owner shall appoint the Administrator to administer this Regulatory Agreement and to monitor performance by the Owner of the terms, provisions and requirements hereof. In the event that the Administrator resigns or is terminated, the Owner shall, following consultation with the City, appoint a successor Administrator, experienced and capable, in the judgment of the Owner, of performing the duties under the Project Administration Agreement. The Owner shall comply with any reasonable request made by the Administrator to deliver to any such Administrator any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator. The fees and expenses of the Administrator shall be paid by the Owner.

Section 8. Modification of Covenants. The Owner and the Trustee hereby agree as follows:

(a) To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Bond Counsel filed with the Trustee and the Owner, retroactively impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement, and if such requirements are applicable to the Project and compliance therewith is necessary to maintain the validity of, or the Tax-Exempt status of interest on the Bonds, this Regulatory Agreement shall be deemed to be automatically amended to impose such additional or more restrictive requirements.

(b) The Owner and the Trustee shall execute, deliver and, if applicable, file of record any and all documents and instruments necessary to effectuate the intent of this Section 8.

Section 9. Indemnification. The Owner and the Trustee will be indemnified as required by and pursuant to the Project Administration Agreement.

Section 10. Consideration. The Owner has agreed to issue the Bonds and to use the proceeds thereof to, among other things, finance the acquisition of the Project. In furtherance of the significant public benefits of the Project, the Owner has entered into this Regulatory Agreement and has agreed to restrict the uses to which this Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Owner and the Trustee hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons, including but not limited to the Administrator, interested in the legality and validity of the Bonds, in the exemption from California personal income taxation of interest on the Bonds and in the Tax-Exempt status of the interest on the Bonds. In performing their duties and obligations hereunder, the Owner and the Administrator may rely upon statements and certificates of the tenants, and upon audits of the books and records of the Owner pertaining to the Project. In addition, the Owner may consult with counsel, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Owner hereunder in good faith and in conformity with such opinion.

Section 12. Transfer of the Project. For the Compliance Period, except as permitted by the Indenture or the Public Benefit Agreement, the Owner shall not Transfer the Project, in whole or in part, unless the following conditions are satisfied: (A) the receipt by the Owner and the

Trustee of evidence acceptable to the Owner and the Trustee that (1) the Owner shall not be in default hereunder, if in effect (which may be evidenced by a Certificate of Continuing Program Compliance), or the transferee reasonably undertakes to cure any defaults of the Owner; (2) the continued operation of the Project shall comply with the provisions of this Regulatory Agreement; (3) all rights, responsibilities and duties of the transferor under the Project Administration Agreement shall have been assigned to the transferee, or the transferee shall enter into a new project administration agreement in the form of the current Project Administration Agreement; and (4) the person or entity that is to acquire the Project does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; (B) the execution by the transferee of any document reasonably requested by the Owner with respect to the assumption of the Owner's obligations under this Regulatory Agreement, including without limitation an instrument of assumption hereof and thereof, and delivery to the Owner of an opinion of such transferee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such transferee, subject to bankruptcy and other standard limitations affecting creditor's rights; (C) receipt by the Owner of an opinion of Bond Counsel to the effect that any such Transfer will not adversely affect the Tax-Exempt status of interest on the Bonds; (D) receipt by the Owner of all fees and/or expenses then currently due and payable to the Owner.

It is hereby expressly stipulated and agreed that any Transfer of the Project in violation of this Section 12 shall be null, void and without effect, shall cause a reversion of title to the Owner, and shall be ineffective to relieve the Owner of its obligations under this Regulatory Agreement. Nothing in this Section shall affect any provision of any other document or instrument between the Owner and any other party which requires the Owner to satisfy certain conditions or obtain the prior written consent of such other party in order to Transfer the Project. Upon any Transfer that complies with this Regulatory Agreement, the Owner shall be fully released from its obligations hereunder to the extent such obligations have been fully assumed in writing by the transferee of the Project.

The foregoing notwithstanding, the Project may be transferred pursuant to a foreclosure, exercise of power of sale or deed in lieu of foreclosure or comparable conversion under the Deed of Trust without the consent of the Owner or compliance with the provisions of this Section 12.

For the Compliance Period, the Owner shall not: (1) encumber any of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project, except for (A) encumbrances permitted under the Deed of Trust, or (B) a Transfer in accordance with the terms of this Regulatory Agreement, in each case upon receipt by the Owner of an opinion of Bond Counsel to the effect that such action will not adversely affect the Tax-Exempt status of interest on the Bonds (provided that such opinion will not be required with respect to any encumbrance, lease or transfer relating to a commercial operation or ancillary facility that will be available for tenant use and is customary to the operation of multifamily housing developments similar to the Project); (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is demolished or removed is replaced with comparable property or such demolition or removal is otherwise permitted by the Deed of Trust; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 13. Term. This Regulatory Agreement and all and several of the terms hereof shall become effective upon its execution and delivery, and shall remain in full force and effect for

the period provided herein and shall terminate as to any provision not otherwise provided with a specific termination date and shall terminate in its entirety at the end of the Compliance Period.

The terms of this Regulatory Agreement notwithstanding, the requirements of this Regulatory Agreement shall terminate and be of no further force and effect in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire or other casualty, seizure, requisition, foreclosure or transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date, which prevents the Owner from enforcing such provisions, or condemnation or a similar event, but only if, within a reasonable period, either the Bonds are retired or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure or the delivery of a deed in lieu of foreclosure or a similar event, the Owner or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Owner hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Owner nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes.

Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Trustee and the Owner, upon receipt by the Owner of an opinion of Bond Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Bonds for federal income tax purposes. Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

Section 14. Covenants to Run With the Land. Notwithstanding Section 1461 of the California Civil Code, the Owner hereby subjects the Project to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Trustee and the Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Owner's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 15. Burden and Benefit. The Trustee and the Owner hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the land in that the Owner's legal interest in the Project is rendered less valuable thereby. The City shall be a third party beneficiary of this Regulatory Agreement. For purposes of clarity, there are no other third party beneficiaries.

Section 16. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use of the site on which the Project is located.

Section 17. Default; Enforcement. If the Owner defaults in the performance or observance of any covenant, agreement or obligation of the Owner set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after notice thereof shall have been given by the Manager, the Controlling Party or the Trustee to the Owner, or for a period of 60 days from the date the Owner should, with reasonable diligence, have discovered such default, then the Trustee shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as (i) the Owner institutes corrective action within said 60 days and diligently pursues such action until the default is corrected, and (ii) in the opinion of Bond Counsel, the failure to cure said default within 60 days will not adversely affect the Tax-Exempt status of interest on the Bonds.

Following the declaration of an Event of Default hereunder, the Owner shall have the right, in its sole and absolute discretion, to replace the Manager and terminate the Property Management Agreement in accordance with its terms, and the Trustee, subject to the terms of the Indenture, may take any one or more of the following steps, in addition to all other remedies provided by law or equity:

(a) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Owner to perform its obligations and covenants hereunder or enjoin any acts or things that may be unlawful or in violation of the rights of the Trustee hereunder;

(b) have access to and inspect, examine and make copies of all of the books and records of the Owner pertaining to the Project; and

(c) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Owner hereunder.

The Owner hereby agrees that specific enforcement of the Owner's agreements contained herein is the only means by which the Trustee may fully obtain the benefits of this Regulatory Agreement made by the Owner herein, and the Owner therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Owner hereunder.

The Trustee and the Owner hereby agree that cure of any Event of Default made or tendered by the Manager shall be deemed to be a cure by the Owner and shall be accepted or rejected on the same basis as if made or tendered by the Owner.

Section 18. [Reserved].

Section 19. Recording and Filing. (a) The Owner shall cause this Regulatory Agreement and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County, and in such other places as the Owner may reasonably deem necessary. The Owner shall pay all fees and charges incurred in connection with any such recording.

(b) The Owner and the Trustee will file of record such other documents and take such other steps as are reasonably necessary, in the opinion of Bond Counsel, in order to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Owner hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project to another person to the end that such transferee has notice of, and is bound by, such restrictions, and, except in the case of a foreclosure or comparable involuntary conversion of the Deed of Trust, whereby the Trustee becomes the owner of the Project, to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 20. [Reserved].

Section 21. Governing Law; Venue. This Regulatory Agreement shall be construed in accordance with and governed by the laws of the State of California applicable to contracts made and performed in the State of California. This Regulatory Agreement shall be enforceable in the State of California, and any action arising hereunder shall (unless waived by the Owner in writing) be filed and maintained in the Superior Court of California, County of Ventura.

Section 22. Amendments; Waivers. Except as provided in Sections 8(a) hereof, this Regulatory Agreement may be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County, California, and only upon (i) receipt by the Owner of an opinion from Bond Counsel that such amendment will not adversely affect the Tax-Exempt status of interest on the Bonds and (ii) the written consent of the Controlling Party, who shall receive a copy of any such amendment.

(a) Anything to the contrary contained herein notwithstanding, the Trustee and the Owner hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Bond Counsel, in order that interest on the Bonds remains Tax-Exempt. The parties requesting such amendment shall notify the other parties to this Regulatory Agreement of the proposed amendment, with a copy of such proposed amendment to Bond Counsel and a request that Bond Counsel render to the Owner an opinion as to the effect of such proposed amendment upon the Tax-Exempt status of interest on the Bonds. This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

(b) Any waiver of, or consent to, any condition under this Regulatory Agreement must be expressly made in writing.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses specified in the Indenture, or at such other addresses as may be specified in writing by the parties hereto. Unless otherwise specified by the Administrator, the address of the Administrator is:

To Owner: CMFA Special Finance Agency XV
2111 Palomar Airport Road, Suite 320
Carlsbad, California 92011
Attention: Financial Advisor
Email: jstoecker@cmfa-ca.com

With a copy to: HomeFed Asset Management LLC
1903 Wright Place, Suite 220
Carlsbad, California 92008
Attention: Chris Foulger, Erin Ruhe and Shaun Bradley

Email: cfoulger@hfc-ca.com; eruhe@hfc-ca.com;
sbradley@hfc-ca.com

With a copy to:

City of Oxnard
Office of the City Attorney
350 West Third Street, Suite 100E
Oxnard, California 93030
Email: Stephen.Fisher@Oxnard.org

The Administrator and the Owner may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission; provided that any telecopy or other electronic transmission received by any party after 4:00 p.m., local time of the receiving party, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day.

Section 24. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 25. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 26. Limitation on Liability. Notwithstanding the foregoing or any other provision or obligation to the contrary contained in this Regulatory Agreement, the liability of the Owner under this Regulatory Agreement to any person or entity, including, but not limited to, the Trustee or the Controlling Party and their successors and assigns, is limited to moneys available therefor under and in accordance with the Indenture.

Section 27. Annual Reporting Covenant. No later than January 31 of each calendar year (commencing January 31, 20__), the Owner agrees to provide to the California Debt and Investment Advisory Commission, by any method approved by the California Debt and Investment Advisory Commission, the annual report information required by Section 8855(k)(1) of the California Government Code. This covenant shall remain in effect until the later of the date (i) the Bonds are no longer outstanding or (ii) the proceeds of the Bonds have been fully spent.

IN WITNESS WHEREOF, the Owner and the Trustee have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

CMFA SPECIAL FINANCE AGENCY XV

By: _____
Name: Edward J. Becker
Title: Executive Director

WILMINGTON TRUST, NATIONAL ASSOCIATION,
as Trustee

By: _____
Name:
Title:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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, _____, 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 of Notary Public

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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, _____, 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 of Notary Public

EXHIBIT A
DESCRIPTION OF REAL PROPERTY

[TO COME]

EXHIBIT B

FORM OF INCOME CERTIFICATION

Effective Date:

Move-In Date:

Household Size:

Floorplan:

Unit:

HOUSEHOLD COMPOSITION

<i>Household Member</i>	<i>Name</i>	<i>Relationship</i>	<i>Birthdate</i>
1		Head	
2			
3			
4			
5			
6			
7			

INCOME COMPOSITION (ANNUAL)

<i>Household Member</i>	<i>Employment / Wages</i>	<i>Social Security / Pension</i>	<i>Public Assistance</i>	<i>Other Income</i>
1				
2				
3				
4				
5				
6				
7				
TOTALS	\$	\$	\$	\$
			TOTAL INCOME	\$

EXHIBIT C

FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

Witnesseth that on this day of _____, 20__, the undersigned, on behalf of the CMFA SPECIAL FINANCE AGENCY XV (the "Owner"), does hereby certify with respect to the multifamily rental housing development (the "Project") that:

1. During the preceding year (i) such Project was substantially and continually in compliance with the Regulatory Agreement and (ii) ____% of the units in the Project were occupied by Low Income Tenants, ____% of the units in the Project were occupied by Median Income Tenants ____% of the units in the Project were occupied by Moderate Income Tenants.

Set forth below are the unit numbers of Low Income Tenants, Median Income Tenants and Moderate Income Tenants who commenced or terminated occupancy during the preceding month.

Commenced Occupancy	Terminated Occupancy
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.
6.	6.
7.	7.
8.	8.
9.	9.
10.	10.
11.	11.
12.	12.
13.	13.
14.	14.
15.	15.
16.	16.
17.	17.
18.	18.
19.	19.
20.	20.

Additional units that have commenced or terminated occupancy may be found in an additional attached sheet

2. The units occupied by Low Income Tenants, Median Income Tenants and Moderate Income Tenants are of similar size and quality to other units and are dispersed throughout the Project. Attached is a separate sheet listing the number of each unit and indicating which units are occupied by Low Income Tenants, Median Income Tenants and Moderate Income Tenants, the size, the number of bedrooms of such units and the number of Low Income Tenants, Median Income Tenants and Moderate Income Tenants who commenced occupancy of units during the preceding month.

The representations set forth herein are true and correct to the best of the undersigned's knowledge and belief.

Date: _____

Owner: _____



CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. K.6

DATE: March 29, 2022

TO: City Council

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

SUBJECT: Downtown Improvement Program Settlement Funds Update. (0/10/10)

RECOMMENDATION

That the City Council:

1. Receive an update on the implementation of the approved program priorities funded with the Downtown Improvement Program Settlement Funds; and
2. Appropriate \$85,716 per fiscal year in FYs 22-23 and 23-24, for a total of \$171,432, for homeless outreach coordinator contract services as part of the annual budget process.
(Community Services, Public Safety, Housing & Development Committee approved 3-0)

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/eCIC8ByP5Qo>

BACKGROUND

After a long-standing dispute regarding the disposition of funds earmarked for Downtown Revitalization, a settlement agreement was reached and finalized in April 2015, between the City and developers of Centennial Plaza. The settlement involves the distribution of funds derived from the development of a new RiverPark theater complex at The Collection. Settlement funds are intended to offset the potential impact that the theater complex at the Collection might have on Downtown Oxnard. The settlement funds were placed into a City account entitled "Downtown Improvement Program," and throughout this report, the settlement money will be referred to as Downtown Improvement Program Settlement Funds (DIPSF).

Previously, the City Council authorized expenditures from this fund for lighting improvements, public restrooms pilot program, tree trimming, Downtown Development Code, Parking Management Plan, Arts Hub, and a Downtown Revitalization Manager. The Downtown Improvement Program Settlement Fund balance at the end of Fiscal Year (FY) 2020-2021 was approximately \$4,804,484, which includes interest earned to date.

DISCUSSION

In December of 2019, staff presented to the Council a multi-pronged approach to downtown revitalization which included the following elements:

1. Addressing the impact of homelessness and vagrancy;
2. Seeking private economic investment through the development of city and privately-owned properties;

3. Creating a clean and safe environment; and
4. Creating a vibrant downtown environment.

Staff made recommendations for use of the Downtown Improvement Program Settlement Fund for a three-year timeframe which focused on creating a physical and safe environment in order to attract private economic investment. Despite the fact that the global pandemic had an impact on businesses and hampered development, significant progress in achieving these goals was nevertheless made. The intent of this report is to provide an update on the projects that were approved and funded for FY19-20, FY 20-21, and FY 21-22.

APPROVED AND FUNDED PROJECTS AND PROGRAMS FOR FY19-20, FY 20-21, and FY 21-22

Homeless Outreach: \$50,000 approved in Fiscal Year 2019-2020 and \$100,000 (Annually for Two Years)

In September of 2019, the City issued a Request for Proposals from entities interested in providing homeless outreach and case management services. Following a review of the proposals submitted, the Salvation Army was selected and contracted for the provision of these services for the remainder of the Fiscal Year 2019-2020. Due to the onset of the COVID-19 pandemic, the commencement of the Salvation Army's outreach and case management services was delayed until May of 2020, when two outreach specialists began work in the field.

The Salvation Army Street Outreach team serves some of Oxnard's most vulnerable residents, including those who are homeless and living unsheltered. On a typical week, the Salvation Army engages with forty new clients citywide, and provides regular ongoing case management to approximately twenty-five people at a time.

Effective July 1, 2020, with the approval of the DIPSF in the FY 20-21 budget, the scope of services was expanded to include an additional component to provide outreach services focused on the downtown area. The Salvation Army hired additional staff dedicated to the downtown service area commencing June 2021. The DIPSFs are only used to pay for staff dedicated to the downtown area.

The City Council originally approved \$250,000 to be spent over three fiscal years. Due to COVID-19 and the delay in hiring the team dedicated to the downtown, the \$50,000 approved in Downtown Improvement Program Settlement Funds were not spent in Fiscal Year 2019-2020 and only \$700 of the \$100,000 programmed in Fiscal Year 2020-2021 were spent. In Fiscal Year 2021-2022, the City has incurred a monthly cost of \$7,143 for the downtown street outreach team. Staff anticipate a total cost of \$85,716 for the current fiscal year.

The downtown street outreach team has accomplished the following since June 2021:

1. Contacts: 235
2. Shelter: 120 (about half of these are referrals and half are placements into shelter)
3. Salvation Army ARC treatment (rehab): 10
4. Hygiene bags: 180
5. Food bags: 71
6. Transportation: 30
7. DMV vouchers: 21

They have also successfully helped two of the "Top 10" hard to reach clients complete judicial diversion and they are still currently staying in the shelter working on permanent housing plans.

The "Top 10" persons that the Police Department have identified as having a high volume of police interactions and hardest to engage into services. Although two people seems small, this is actually a huge impact for these two people and

for the downtown community.

Because of delays caused by COVID-19, staff asks the Committee to recommend to City Council, as part of the FY budget processes, to appropriate \$85,716 in DIPSF in FY 22-23 and \$85,716 in FY 23-24. This would total \$257,848 for street outreach rather than \$250,000 originally approved.

Property Management and Maintenance: \$260,000 (One Time)

Laundromat (318 W. 5th Street) (\$195,000)

It is critical that the City invest in nuisance abatement for the most challenging properties owned within the Downtown. One such location that presents ongoing challenges is the Laundromat building located at 318 West 5th Street. Over the past few years, this building has regularly experienced break-ins and damage that impact the adjacent properties and the overall Downtown area. In addition, these incidents often require responses from Police, Fire, and Facilities, costing the City significant ongoing expenses. City staff have concluded that the best option is to demolish this building. In 2019, staff recommended, and Council approved, funding for the demolition of the building, at an estimated cost of \$195,000. In Fiscal Year 2020-2021, \$14,847 was spent on design fees. The City procured a contractor for such a demolition and a contract was awarded in January 2022 at a cost of \$174,773 including contingency fees. Demolition is scheduled to begin by March 2022.

As presented to Council Committee in 2019, staff believes that it will be critical that the demolition of this nuisance property not create a new nuisance in the vacant lot left behind. Therefore, the City will explore temporary uses and community activation of the site and surrounding area to ensure the property is an ongoing asset to the Downtown community. City staff presented potential activation ideas to downtown stakeholders and is preparing to issue a Request for Proposals seeking a service provider that can activate the space after the demolition is complete. \$250,000 in American Rescue Plan Act funds have been allocated to activate the subject site, as well as the vacant City-owned site on A Street north of 5th Street.

Downtown Parking Structure (\$65,000)

The council authorized \$65,000 to address safety concerns and support the ongoing efforts to create a clean and safe environment in the Downtown Parking Structure. To address these concerns, staff suggested updating the security camera system and lighting in the structure. Initial camera system upgrades were estimated to cost \$65,000. The City engaged Guidepost Solutions to generate a camera system and design for the structure. During that engagement, and working with Facilities and the Oxnard Police Department, staff realized there was an opportunity and need to improve overall security in the facility as well as realize savings and economies of scale in system and infrastructure deployment by addressing emergency call boxes in the structure at the same time. Guidepost also determined that cabling in the facility will need to be replaced.

In October of 2021, staff amended the engagement with Guidepost to include emergency call box system design in the scope of work. The design drawings for the camera system and the emergency call boxes were submitted for review and final specifications. It is anticipated that the cost to implement the upgraded design with the emergency call boxes will be approximately \$157,495. A funding source for the remaining costs has not been identified. Therefore, staff propose to carry these funds over to Fiscal Year 2022-2023 to give staff time to identify a funding source and include it in next year's budget.

Public Safety: \$200,000 (Annually for Three Years)

Downtown Targeted Police Deployment (\$200,000)

Downtown businesses and residents were becoming increasingly frustrated at the growing number of incidents that were occurring downtown, including burglaries, trespassing, drug use, public urination, and more. Due to budget cuts, the number of police officers assigned to downtown had been reduced from six to two. Business owners were repeatedly hearing from residents that they no longer felt safe going downtown and business owners were forced to spend more money on safety measures while their customers dwindled. The City drafted stronger ordinances to address vagrancy but continued to lack the police presence to enforce these ordinances.

It became clear that it would be extremely difficult to attract private investment into the downtown without addressing these public safety issues. The Oxnard Police Department requested funding from the Downtown Improvement Program Settlement Fund in order to allocate additional police hours to this geographical area. This funding allowed police officers to strategically focus their enforcement efforts and address criminal behavior during the busiest times. The Oxnard Police Department's Central Business District deployment has benefited greatly from these funds, which have resulted in forty additional hours per week dedicated to the Downtown area. These deployments are similar to other communities such as Seabridge and Riverpark that fund additional Police personnel for those areas. These funds cover overtime, which also allows for more weekend coverage and a return to alcohol compliance efforts in the evening hours, which the Oxnard Police Department was doing very little of. Overtime funding, rather than additional authorized officer positions, allows for a more direct impact by choosing the busiest hours and days for selective uniformed enforcement.

By providing additional overtime funding at a rate of \$200,000 annually limited to service within the Downtown, the Oxnard Police Department has been able to enhance efforts directed towards the mitigation of both downtown vagrancy and quality of life issues, as well as the ability to conduct business compliance checks related to both Alcohol and Beverage Control and tobacco regulations. From December-2020 to September-2021, officers issued over 500 citations related to violations of various city and state ordinances, focusing on repeat offenders. Additionally, officers made 500 arrests in the form of misdemeanor citations for other violations, including narcotic offenses, penal code violations, and traffic matters. While this may have moved some of the problems elsewhere, this has also given the officers an opportunity to become more familiar with the small number of people responsible for the majority of the issues. Officers were able to continue to conduct business compliance checks prior and during COVID-related shutdowns and reductions, focusing on compliance with both Alcohol and Beverage Control regulations and matters related to Public Health Orders.

Staff and Consultants: Additional \$30,000 approved in Fiscal Year 2019-2020 and \$90,000 annually for two additional years

In Fiscal Year 2017-2018 and Fiscal Year 2018-2019, the Downtown Improvement Program Settlement Fund allocated sufficient funding for a full-time Downtown Revitalization Manager through April 2019. However, in FY 20-21 and FY 21-22 rather than funding one full-time Downtown Revitalization Manager, funding was appropriated to fund a portion of the salaries of the staff that were dedicating a portion of their time to drive Downtown results. Positions that have received partial funding include the Community Development Director, Economic Development Manager, and the Economic Development Administrative Secretary.

In addition, with Council approval, the City contracted with New City America to provide revitalization services. In Fiscal Year 2019-2020 the contract with New City America was \$91,000. In Fiscal Years 20-21 and 21-22, \$90,000 each year was allocated from the DIPSF for these services.

New City America worked with the Downtown Oxnard Improvement Association (DOIA) to receive its charitable, 501(c)(3) status, selected an interim Board of Directors and officers and created new working committees. The new DOIA Board has expanded from six Board members with the former Oxnard Downtown Management District to over fifteen.

The Downtown Oxnard Improvement Association now has a functioning Marketing Committee and contracted services with the Downtowners. They also created a system of ongoing maintenance and beautification which was previously done in-house. Through New City America's guidance, the support of City Council, and the DOIA Board, DOIA is poised to be highly productive in the coming year due to its realignment of the budget and giving each Committee a working budget to work with.

STRATEGIC PRIORITIES

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 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, promote safe neighborhoods, encourage

community engagement, and support 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 budget over three years totals \$1,787,153; whereas the projected expenses over three years total \$1,313,859.

In Fiscal Year 2019-2020 (Year 1), a total of \$748,474 was appropriated from the Downtown Improvement Program Settlement Fund for the program priorities described in this report. Actual expenses totaled approximately \$344,632.

In Fiscal Year 2020-2021 (Year 2), a total of \$538,337 was appropriated and expenses totaled approximately \$386,738.

In Fiscal Year 2021-2022 (Year 3), a total of \$500,342 is appropriated and \$582,489 is projected to be spent.

Staff recommends that the Council appropriate \$85,716 per fiscal year in FYs 22-23 and 23-24 for a total appropriation of \$171,432 for homeless outreach coordinator contract services. If the Council Committee supports this recommendation, the funding would be appropriated as part of the annual budget processes.

The projected Fiscal Year 2021-2022 ending unassigned fund balance of the Downtown Improvement Program Settlement Fund is estimated to be approximately \$4.0 million.

COMMITTEE OUTCOME

The Community Services, Public Safety, Housing & Development Committee approved 3-0 on March 8, 2022, to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

1. Budget Table - Year 1 - 3 sr.docx
2. Downtown Improvement Program Settlement Funds Update PP Presentation

EXHIBIT A

Project	Budget Year 1 FY 19-20	Year 1 Actual FY 19-20	Budget Year 2 FY 20-21	Year 2 Actual FY 20-21	Budget Year 3 FY 21-22	Year 3 Projected FY 21-22	Total Budget over 3 Years	Total Projected Actual over 3 Years
Economic Development Staff Costs (annually)	\$147,474	\$78,138	\$148,337	\$73,691	\$110,342	\$32,000	\$406,153	\$183,829
Homeless Outreach (annually)	\$50,000	\$0	\$100,000	\$700	\$100,000	\$85,716	\$250,000	\$86,416
Laundromat (one-time)	\$195,000	\$0	\$0	\$14,847	\$0	\$174,773	\$195,000	\$189,620
Parking Structure (one-time)	\$65,000	\$0	\$0	\$0	\$0	\$0	\$65,000	\$0
Police Resources (annually)	\$200,000	\$198,994	\$200,000	\$200,000	\$200,000	\$200,000	\$600,000	\$598,994
Consultant (annually)	\$91,000	\$67,500	\$90,000	\$97,500	\$90,000	\$90,000	\$271,000	\$255,000
Totals (approx.)	\$748,474	\$344,632	\$538,337	\$386,738	\$500,342	\$582,489	\$1,787,153	\$1,313,859

Downtown Improvement Program Settlement Funds Update

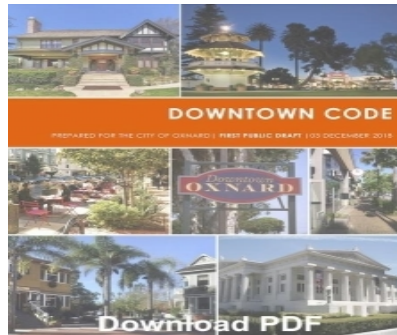
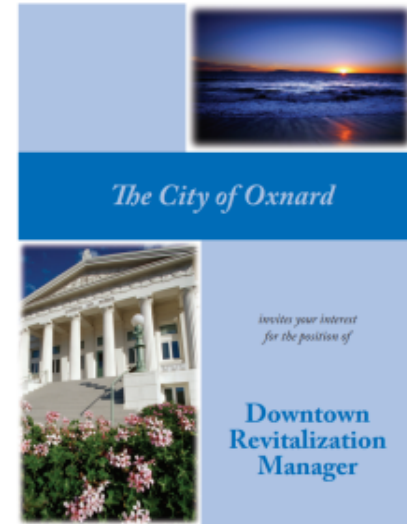
Emilio Ramirez, Director
Housing Department
City Council
March 29, 2022

1. April 2015 - Settlement agreement reached and finalized between the City and developers of Centennial Plaza
2. Settlement funds placed into a City account titled Downtown Improvement Program Settlement Funds
3. \$6.15 million earmarked for Downtown Revitalization
4. Estimated Fiscal Year 2021 - 2022 ending unassigned fund balance will be approximately \$4 million

Previously Funded Projects

3

1. Lighting Improvements
2. Public Restrooms Pilot Program
3. Tree Trimming
4. Downtown Development Code
5. Parking Management Plan
6. Arts Hub
7. Downtown Revitalization Manager



On December 3, 2019, Council approved projects associated with the following multi-pronged strategy to revitalize downtown



Vibrant Downtown



Clean & Safe



3 Year Budget Appropriations

1. Homeless Outreach: \$50,000 in FY 19-20 and \$100,000 in FY 20-21 & FY 21-22
2. Property Management and Maintenance \$260,000 (one time)
 - a. Laundromat Building Demolition(318 West 5th Street) \$195,000
 - b. Downtown Parking Structure Improvements: \$65,000
3. Downtown Targeted Police Deployment \$200,000 (annually for three years)
4. Staff and Consultants
 - a. City Staff: \$147,474 (annually for three years)
 - b. Through the budget process this has been reduced to more closely match anticipated staff costs
 - c. New City America: \$91,000 FY 19-20; \$90,000 in FY 20-21 & FY 21-22

Street outreach worker hired for downtown



DOING THE MOST GOOD

1. Salvation Army Partners with local service providers enforcement
2. June 2021, Salvation Army hired staff dedicated to downtown service area only
3. \$250,000 budget over three years; \$86,416 project to be spent over three years
4. Due to COVID impacts and delays, request previously appropriated funds be extended to Fiscal Years 2022 - 2023 and 2023 – 2024
5. Council approved \$250,000 over three years. This request is a \$7,848 increase from the original approval

FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24	TOTAL
0	\$700	\$85,716	\$85,716	\$85,716	\$257,848

Downtown Street Outreach:

1. Contacts: 235
2. Shelter: 120
3. Salvation Army ARC treatment: 10
4. Hygiene bags: 180
5. Food bags: 71
6. Transportation: 30
7. DMV vouchers: 21
8. Successfully assisted two of our “Top 10” hard to reach clients complete judicial diversion.



DOING THE MOST GOOD

Laundromat (318 W. 5th Street) –

1. \$195,000 allocated; \$189,620 projected to be spent
2. Demolish building
3. 2020 design fees \$14,847
4. 2021 awarded cost of \$174,773 which includes contingency and funds for engineering, inspections, survey, and project management
5. Total: \$189,620
6. Contract awarded - January 2022
7. Construction to begin by March 2022
8. Activate space – ARPA funds allocated



Downtown Parking Structure - \$65,000 allocated; no funds spent

1. Camera system & lighting upgrades recommended for \$65,000
2. Scope of Work recommended to include call boxes, cabling, system upgrade. Enhanced plans estimated to cost approximately \$158,000
3. Project put on hold while additional funds are identified



Additional Police Deployment Resources

1. \$600,000 allocated over three years; \$598,994 projected to be spent over three years
2. 40 hours a week dedicated to the Downtown area
3. Overtime funding allows focus on new ordinances and Oxnard Police Department to return to evening alcohol compliance efforts and COVID business compliance
4. 500+ citations issued for various city and state ordinances between December 2020 to September 2021
5. 500+ arrests in the form of misdemeanor citations
6. Small business compliance checks during COVID-19
7. Alcohol and Beverage Control compliance



1. In Fiscal Years 2017-2018 2018-2019, funded a full-time Downtown Revitalization Manager.
2. FYs 19-20, 20-21 and 21-22 funding was appropriated to fund a portion of the salaries of the staff that were dedicating a portion of their time to drive Downtown results.
3. \$400,6,153 budget for three years; \$183,829 projected to be spent on staffing over three years



Oxnard Downtown
Management District



Downtown Oxnard
Improvement
Association

\$271,000 budget over three years;

\$255,000 projected to be spent over 3 years

OUTCOMES:

501(C)(3) status

Interim Board of Directors

Working committees

Board expansion from 6 to 15

Contracted out Maintenance Services

1. Total allocated over three years: \$1,787,153
2. Total projected expenses over three years: \$1,313,859
 - a) Total Fiscal Year 2019-2020 actuals - \$344,632
 - b) Total Fiscal Year 2020-2021 actuals - \$386,738
 - c) Projected Fiscal Year 2021-2022 Annual Costs - \$582,489 (estimated)
3. Projected Fiscal Year 2021 - 2022 ending fund balance = \$4 million
4. Due to COVID-19 impacts, requesting that \$85,716 per year (total of \$171,432) be appropriated from the DIPSF for street outreach in Fiscal Year 2022 - 2023 and Fiscal Year 2023 - 2024

That the City Council:

1. Receive an update on the implementation of the approved program priorities funded with the Downtown Improvement Program Settlement Funds; and
2. Appropriate \$85,716 per fiscal year in FYs 22-23 and 23-24, for a total of \$171,432, for homeless outreach coordinator contract services as part of the annual budget process.





CITY COUNCIL AGENDA REPORT

REPORTS AGENDA ITEM NO. K.7

DATE: March 29, 2022

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: FY 2021 American Rescue Plan Act Economic Adjustment Assistance Grant Application Resolution (0/5/5)

RECOMMENDATION

That the City Council:

1. Adopt a resolution authorizing the City Manager to submit an application for an amount not to exceed \$5,000,000 in FY 2021 American Rescue Plan Act Economic Adjustment Assistance grant funds for needed equipment, improvements and renovations for the Oxnard Performing Arts & Convention Center; and
2. Approve and authorize the City Manager or designee to execute grant agreements; the Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the use of the FY 2021 American Rescue Plan Act Economic Adjustment Assistance grant funds if awarded; and the Director of Public Works or designee to submit non-financial reports.

Please click the following link to view the required Measure M pre-recorded presentation video: <https://youtu.be/5p7Y-BEtAak>

BACKGROUND

The intent of the Economic Development Administration's (EDA) FY 2021 American Rescue Plan Act Economic Adjustment Assistance grant is to help communities and regions devise and implement long-term economic recovery strategies through a variety of non-construction and construction projects to assist communities and regions impacted by the coronavirus pandemic. This is the last ARPA grant funding available through the EDA and is highly competitive with an estimated 300 projects to be funded ranging from \$500K to \$5M in scope, for a total of \$500,000,000 to be distributed. EDA encourages the submission of applications based on long-term, regionally oriented, coordinated, and collaborative economic development or redevelopment strategies that foster economic growth and resilience.

Sterling Venue Ventures, the Oxnard Performing Arts Center Corporation, Economic Development Collaborative, and City staff have all reviewed the renovation and equipment needs of Oxnard PACC and the merits of this one-time funding opportunity. The proposal aligns with the EDA's investment priorities of: 1) Equity, 2) Recovery & Resilience and 3) Workforce Development.

DISCUSSION

Opened in 1968, the Oxnard Performing Arts & Convention Center (Oxnard PACC) is a highly utilized facility serving the needs of Western Ventura County, for conventions, concerts, business meetings, special events, and performances and contributes significantly to the region's creative economy. Data Arts 2020 ranked Ventura County as one of the nation's top 10 "arts vibrant" mid-sized communities out of 947 metropolitan areas studied, including 2nd in number of

artists per capita, and 4th in number of creative businesses. Yet, Ventura County ranks 624th in the amount of government support for the arts. Under non-pandemic operations, annually, Oxnard PACC welcomes over 350K visitors to over 1,500 events.

With the exception of a theater renovation in the 1990's, Oxnard PACC - particularly the Convention Center - has suffered from deferred maintenance. Priority equipment and renovation needs identified for this grant opportunity include:

1. Theater roof repairs
2. New paving for sidewalks and outdoor stages (ADA accessibility)
3. Repaving of employee/ back parking lot
4. Handicap railing in theater balcony
5. Updated theater lighting
6. New signage
7. Exterior and interior paint
8. New landscaping
9. New tables, chairs
10. New audio and projection systems for ballrooms
11. Refinishing of Ballroom floors
12. ADA compliant bathrooms in Convention Center
13. Air conditioning in Convention Center
14. Kitchen renovations (Ventura Room, Main Kitchen, Auditorium Lobby)
15. Entrance from PACC to Hobson Park East
16. Updates security and networking systems
17. Shading for courtyards
18. Hazardous material removal (e.g. asbestos) if necessary

By investing in these identified needs, Oxnard PACC can operate as a competitive, modern, and multifunctional venue and diversify its revenue streams vis-a-vis augmented programming, rental services and workforce development initiatives.

The timeline to submit an application for this grant is March 31, 2022. As such, staff is recommending submitting the application despite having some uncertainties in order to not miss an opportunity to receive this non-traditional funding. These uncertainties include:

1. As of the date of drafting this staff report, Public Works is waiting for the structural report on the Oxnard PACC theater. After review of this final report, a determination if any or all of the proposed improvements are feasible will need to be made.
2. Public Works already has a number of priority CIP projects underway. Many of those projects have funding deadlines and/or project specific timelines to necessitate future required CIP projects. The exact project-delivery timeframe and/or funding program year for the EDA funds is not certain and needs further clarification by EDA. If an expedited project timeline is required by EDA for the PACC improvements, a prioritization decision will need to be made or additional staffing in Engineering will be required.
3. The grant recommends a 20% match. Sterling Venue Ventures has agreed to serve as this match as the OPAC nonprofit works to identify additional funding sources.

In consideration of the above uncertainties, it should be noted that if any of these should result in a project impact, the application may be withdrawn, or if awarded the grant, funds may need to be returned to the granting authority.

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 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

At the time of report writing, the cost for basic equipment and renovations for Oxnard PACC is estimated to be \$5,000,000. The grant would cover 80% of the costs and suggests a 20% match, which Sterling Venue Ventures has committed to provide while the OPAC nonprofit seeks additional sources of funding. There is no City match required for this grant. Ongoing maintenance funding would need to be considered in Fiscal Year 2027-28 after construction is finalized and if the grant is awarded. Annual operations and maintenance cost increases are yet to be determined and will be directly related to the funding amount received and improvements made.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Eric Humel, Grants Specialist

ATTACHMENTS

1. OPAC - City Resolution
2. OPAC Grant Match Commitment Letter
3. EDA Tourism Grant
4. Presentation

CITY COUNCIL OF THE CITY OF
OXNARD RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OXNARD APPROVING THE SUBMITTAL OF A GRANT APPLICATION FOR FY 2021
AMERICAN RESCUE PLAN ACT ECONOMIC ADJUSTMENT ASSISTANCE GRANT FUNDS

WHEREAS, City Council Resolution No.12,053 sets out the procedure by which City staff may submit grant applications, following approval by resolution of the City Council; and

WHEREAS, the Public Works Department has requested that City Council approve the submittal of an application to the Economic Development Administration for an amount not to exceed \$5,000,000 for FY 2021 American Rescue Plan Act Economic Adjustment Assistance grant funds to be used for needed equipment, improvements and renovations for the Oxnard Performing Arts & Convention Center.

NOW, THEREFORE, the City Council of the City of Oxnard resolves to approve the submittal of a grant application by the City Manager to the Economic Development Administration for the purpose of obtaining grant funding for the Oxnard Performing Arts & Convention Center equipment and renovations. The City Council further resolves that the City Manager or designee is authorized to execute grant agreements; the Finance Director or designee is authorized to submit financial reports and grant claims and approve special budget appropriations for the use of grant funds; and the Director of Public Works or his or her designee is authorized to submit non-financial reports.

PASSED AND ADOPTED THIS 31st Day of March, 2022, 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

March 9, 2022

To whom it may concern,

Greetings! My name is Lance Sterling, one of the original founders of the House of Blues. Together with my wife, Caryn, we own Sterling Venue Ventures, a family-owned, Ventura County-based live entertainment company that operates and programs multiple venues across Southern California, including The Canyon in Agoura Hills, Santa Clarita, and Montclair, the Saban Theater in Beverly Hills, the Libbey Bowl in Ojai, the Starlight Bowl in Burbank, and the Redondo Beach Performing Arts Center.

In March 2020, we entered into a 5-year management agreement with the City of Oxnard for the Oxnard Performing Arts & Convention Center. It is a rare cultural asset in our community and one that is highly utilized by over 350,000 visitors annually, but has had significant deferred maintenance since its founding in 1968 that affects its functionality, the user experience, and to some degree the health and safety of our patrons. The roofs are in need of repair, several bathrooms are out of ADA compliance, the sidewalks are in need of repaving, the kitchens need significant upgrades, and handicap rails are needed in the theater's balcony to improve accessibility.

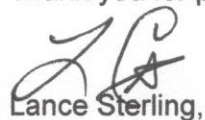
The facility - as it currently exists - affects our ability to grow our operations, our programmatic offerings and the local creative economy. All of our venues in their respective cities are assets for local workforce development goals, providing job training in well-paying fields such as audio engineering, lighting design, hospitality, and the culinary arts. Oxnard should be no different, but needs an infusion of funding in order to bring it up to modern standards so it can serve as a competitive venue and a key player in the creative economy.

In 2020, DataArts ranked Ventura County as one of the nation's top 10 "arts vibrant" mid-sized communities out of 947 metropolitan areas studied, including 2nd in # of artists per capita, and 4th in # of creative businesses. Yet, the County ranks 624th in the amount of government support for the arts. Creative industries contributed \$4.9B to Ventura County's economy (3.8% of VC's GDP), supported 24,318 jobs in in/direct employment, and now exceeds the value of agriculture production in the region. Imagine what this facility could do with the needed renovations!

Sterling Venue Ventures is vested in the success of the Oxnard Performing Arts & Convention Center and is committed to providing the needed 20% guarantee for the match for the EDA-2021-ARPAEAA Grant.

Should you have any questions, please feel free to contact me at lance@wmmts.com.

Thank you for providing this rare opportunity for Americans,



Lance Sterling,
Sterling Venue Ventures, CEO

STERLING VENUE VENTURES
WWW.WHEREMUSICMEETSTHESOUL.COM • 888-645-5006



ARPA Competitive Tourism Grant Oxnard Performing Arts & Convention Center (Oxnard PACC)

A sustainable leader, Oxnard Performing Arts Center Corporation is at the center of Oxnard's artistic, educational, and economic life, inviting residents to discover, create, and connect through engagement with the arts and each other.

HONORARY BOARD

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Cola Boyy
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PROJECT OVERVIEW

To renovate and expand the Oxnard Performing Arts & Convention Center, a mid-century modern complex with significant deferred maintenance since its 1968 debut. The Center serves as one of the main tourism anchors for the City of Oxnard, a hub for community and creative placemaking and a nexus for the creative workforce dev't. The project would:

1. Invest in new equipment, fixtures, and lacking basic amenities such as A/C,
2. Renovate outdated existing spaces for more utility and COVID health and safety,
3. Grow creative job sector through Center employment, indirect jobs (concert promoters, event planners, musicians) and career training for youth and young adults.
4. [Phase 2] Build new studio space/s (digital content production, audio engineering/recording) for job training and workforce development, and
5. [Phase 2] Create connectivity with the adjacent park through open-air event space (new construction) for outdoor recreation and entertainment opportunities.

BACKGROUND

- **Location:** 1 hr north of L.A., Oxnard PACC is the only anchor of its scale in Western Ventura County (VC), located in the underserved city of Oxnard, CA. Occupies 2 city blocks in a low-income neighborhood in downtown Oxnard
- **Facility:** Built in 1968 by the community, the City-owned Center has a 1,604-seat theater, 2 ballrooms, 5 classrooms, Youth Center, a network of 4 outdoor courtyards, 2 parking lots (500 spaces) and adjoins an 11-acre park
- **Demographics:** Oxnard is an agricultural/urban community of 210K residents (74% Latinx, 85% BIPOC) and home to 20K+ Mixteco & Purepecha indigenous farmworkers. The Center is used by VC residents at large (846K, 45% BIPOC) and visitors.
- **Patrons:** 350K visitors annually to 1,500+ events and is utilized by 200+ orgs for meetings, trade shows, workshops, conventions, performances, weddings, concerts, etc. Ticket sales reflect visitorship from 35+ states annually.
- **Arts Vibrancy:** Data Arts 2020 ranks VC as one of the nation's top 10 "arts vibrant" mid-sized communities out of 947 metropolitan areas studied, including 2nd in # of artists per capita, and 4th in # of creative businesses. Yet, VC ranks 624th in the amount of local gov't support for the arts. A 2018 VC Community Foundation report found that creative industries contributed \$4.9B to VC's economy (3.8% of VC's GDP), supported 24,318 jobs in in/direct employment, and now exceeds the value of agriculture production in the region. While the 2020 CARES Act distributed \$75M in direct relief to the arts, VC received only .0002% of those dollars. The NEA expedited distribution of the 2020 CARES Act money by sending \$40M directly to its grantees, but VC had no grantees and thus did not receive any of those funds.

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Oxnard, CA 93030
(805) 385-8147
OxnardPerformingArts.com

@OxnardPACC

@OxnardPACC

@OxnardPerformingArts



Vaccine Outreach



Anderson .Paak



Dia de Muertos 591

“This working-class, super-majority Latino city remains the brown-skinned stepchild of a county where the split between wealthy suburbs and agricultural towns is straight outta the 1950s. So it’s little surprise the coronavirus has disproportionately ravaged Oxnard: The city represents 25% of the County’s population but 40% of its COVID cases and 37% of its deaths.”

– Gustavo Arellano, LA Times Columnist, Feb. 2021

A COMMUNITY SEVERELY AND DISPROPORTIONATELY IMPACTED BY COVID

TOURISM:

- VC jobs created by travel spending = 13,560
- Direct Travel Spending in VC ↓ \$1.826M (2019) to \$917M (2020)
- Tax receipts generated by travel spending (which funds civic services) ↓ 84M to 35M in 2020.

COVID:

- **The city represents 25% of the County’s population but 40% of its COVID cases and 37% of its deaths.**
- A “Safe City” for immigrants, Oxnard is a hub of industrial agriculture, attracting immigrant communities to work in its fields, the very frontline workers who kept Americans fed during this pandemic.
- Oxnard PACC was the 1st VC Covid testing site activated, hosted emergency food + PPE distributions and blood drives, helped with Census and Covid Vaccine outreach, and serves as a Red Cross site during disasters.

RECREATION:

- Over 80% of Oxnard’s student body receives free or reduced lunch. The dropout rate is 34%, 9% of students are English Learners and 30% of VC children are overweight/obese.
- Many of our frontline workers/families are rent burdened, lack affordable housing and live in crowded environments, oftentimes with multiple families living in a single apartment, as is the case in our immediate neighborhood. By activating the adjacent park, which has been plagued by drugs, crime and homelessness, we can provide safe, outdoor recreation for residents and visitors, improve community health, and help revitalize downtown.

HISTORICAL CHALLENGES; A ONCE-IN-A-LIFETIME OPPORTUNITY

- As an underserved community of color, the City of Oxnard has struggled to maintain financial sustainability and has significantly deferred maintenance of Oxnard PACC, with the exception of a theater renovation in the 90s. Severe budget cuts in 2019 nearly closed Oxnard PACC (Oxnard’s Carnegie Art Museum did not survive the cuts and remains closed.) **55 staff were laid off.** The Center underwent a restructuring, from a city-nonprofit operating model to a nonprofit-private model with a new concert company, that went into effect March 2020; Covid shuttered the theater 2 weeks later. Ticket sales are off by 60%.
- Communities of color have to advocate harder and louder to keep arts and culture alive and struggle to find the donor bases other nonprofits/communities in our County have. The City is on its way to financial recovery and stability through new tax increases and stimulus funding, but still has a ways to go before investing in the arts, even more so for the millions needed to repair, renovate and expand Oxnard PACC. A seismic study in Nov. ‘21 shows that the building is structurally sound.
- EDA support would help make Oxnard PACC a first class, competitive regional venue that not only drives tourism dollars vis-a-vis events and entertainment, but would enable us to become a nexus for creative jobs through state-of-the-art studios and real world training, experience and mentorship through the theater (i.e.- sound engineering, lighting design, production, streaming, etc). In CA, jobs and the economy: \$174.6B Creative Sector, \$93.3B Construction, \$54B Ag; thus good paying jobs in arts is not only possible, but lucrative. With our mild Mediterranean climate, activating the park is a year-round initiative that expands our programming footprint and increases our revenue streams in a safe, healthy manner. The project would help rehire staff previously laid off, provide employment for local carpenters and construction workers.

CONFIRMED PROJECT STAKEHOLDERS

City of Oxnard, OPAC, Economic Development Collaborative, RRM Design Group, Carpenters Union Local 805, LIUNA 585

A VIEW OF OXNARD PACC



Exterior of the mid-century modern, 1604-seat theater
Needs new paint, landscaping, signage, enhanced lighting.



Inside the theater which needs an updated fly rail
system, renovated backstage areas, handicap railing, etc.



The commercial kitchen, catering kitchen and food
service area in the theater all need modernization and
could run culinary workforce development programs.



Two Ballrooms (1,400 capacity) need air-conditioning (a
first!), ADA-compliant restrooms, refinished floors,
updated lighting, sound, and curtains, and a modern look.



Cracked concrete stages in the courtyards and throughout
the sidewalks make the Center unsafe and affect
accessibility and usability.



Where Oxnard PACC meets Hobson Park East. Better
connectivity between the two and outdoor performance
space would help with park activation and safety.



Carolyn Merino Mullin, Executive Director
Office: 805-385-8147 | Cell: 530-520-5397
carolyn@oxnardperformingarts.com | www.oxnardperformingarts.com

FY 2021 American Rescue Plan Act Economic Adjustment Assistance Grant Application Resolution

City Council
March 29, 2022

Eric Humel, Grants Coordinator, City of Oxnard
Carolyn Mullin, Executive Director, OPAC

That the City Council:

1. Adopt a resolution authorizing the City Manager to submit an application for an amount not to exceed \$5,000,000 in FY 2021 American Rescue Plan Act Economic Adjustment Assistance grant funds for needed equipment, improvements and renovations for the Oxnard Performing Arts & Convention Center; and
2. Approve and authorize the City Manager or designee to execute grant agreements; the Chief Financial Officer or designee to submit financial reports and grant claims and approve budget appropriations for the use of the FY 2021 American Rescue Plan Act Economic Adjustment Assistance grant funds if awarded; and the Director of Public Works or designee to submit non-financial reports.

- Highly competitive, this is the last of EDA's ARPA funding.
- The grant help communities impacted by COVID devise & implement long-term economic recovery strategies through non-construction and construction projects.
- Funds 300 projects ranging from \$500K to \$5M in scope, for a total of \$500M to be distributed.
- Sterling Venue Ventures, OPAC nonprofit, Economic Dev't Collaborative, and City staff have all reviewed the renovation and equipment needs of Oxnard PACC and the merits of this one-time funding opportunity.

- Under non-pandemic operations, annually, Oxnard PACC welcomes over 350K visitors to over 1,500 events (concerts, business mtgs, special events, etc).
- The Center is a highly utilized facility and contributes significantly to the region's creative economy.
- The County is
 - one of the nation's top 10 "arts vibrant" mid-sized communities out of 947
 - 2nd in # of artists per capita and 4th in # of creative businesses.
 - ranks 624th in the amount of government support for the arts.

Priority equipment and renovation needs identified for this grant include:

1. Theater roof repairs
2. ADA sidewalks and outdoor stages (CC)
3. Repaving back parking lot
4. Handicap railing in theater
5. Updated theater lighting
6. New signage
7. Exterior and interior paint
8. New landscaping
9. New tables, chairs
10. New audio and projection (CC)
11. Refinishing floors
12. ADA bathroom (CC)
13. Air conditioning (CC)
14. Kitchen renovations
15. PACC to Park Entrance
16. Security/ networking systems
17. Shading for courtyards
18. Hazardous material removal (if necessary)



Cracked concrete on outdoor stages, outdated furniture, and floors in need of refinishing are some of the issues affecting the Center's aesthetics, functionality, user experience, and profitability.



Windstorm damage to Oxnard PACC theater roof.



Oxnard PACC and Hobson Park East could mutually benefit from better connectivity and a shared entrance.

- Grant is due 3/31/22. Staff recommends submitting despite uncertainties:
 - Pending structural report for PACC theater. After report review, a determination if any/ all proposed improvements are feasible will need to be made.
 - Public Works has a number of priority CIP projects w/ funding deadlines and/or project timelines.
 - EDA project/funding timeframe needs further clarification. If requiring expediting, a prioritization decision or additional Engineering staffing may be required.
- Grant recommends a 20% match. SVV will serve as a match as the OPAC nonprofit works to identify add'l funding.
- If any of the above results in a project impact, the application may be withdrawn, or if awarded the grant, funds may need to be returned to the EDA.

- At the time of report writing, the cost for basic equipment and renovations for Oxnard PACC is estimated to be \$5,000,000
- The grant would cover 80% of the costs and suggests a 20% match, which Sterling Venue Ventures has committed to while the OPAC nonprofit seeks additional sources of funding
- There is no City match required for this grant
- Ongoing maintenance funding would need to be considered in Fiscal Year 2027/28 after construction is finalized and if the grant is awarded.



QUESTIONS