



AGENDA
CITY COUNCIL/SUCCESSOR AGENCY/STANTON HOUSING AUTHORITY
JOINT REGULAR MEETING
STANTON CITY HALL, 7800 KATELLA AVENUE, STANTON, CA
TUESDAY, MAY 10, 2022 - 6:30 P.M.

SAFETY ALERT – NOTICE REGARDING COVID-19

The health and well-being of our residents is the top priority for the City of Stanton, and you are urged to take all appropriate health safety precautions given the health risks associated with COVID-19. The City Council meeting will be held in person in the City Council Chambers located at 7800 Katella Avenue, California 90680.

ANY MEMBER OF THE PUBLIC WISHING TO PROVIDE PUBLIC COMMENT FOR ANY ITEM ON THE AGENDA MAY DO SO AS FOLLOWS:

- Attend in person and complete and submit a request to speak card to the City Clerk.
- E-Mail your comments to Pvazquez@StantonCA.gov with the subject line "PUBLIC COMMENT ITEM #" (insert the item number relevant to your comment). Comments received no later than 5:00 p.m. before the scheduled meeting will be compiled, provided to the City Council, and made available to the public before the start of the meeting. Staff will not read e-mailed comments at the meeting. However, the official record will include all e-mailed comments received until the close of the meeting.

Should you have any questions related to participation in the City Council Meeting, please contact the City Clerk's Office at (714) 890-4245.

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (714) 890-4245. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

The City Council agenda and supporting documentation is made available for public review and inspection during normal business hours in the Office of the City Clerk, 7800 Katella Avenue, Stanton California 90680 immediately following distribution of the agenda packet to a majority of the City Council. Packet delivery typically takes place on Thursday afternoons prior to the regularly scheduled meeting on Tuesday. The agenda packet is also available for review and inspection on the city's website at www.ci.stanton.ca.us.

1. CLOSED SESSION (6:00 PM)

- 2. ROLL CALL** Council / Agency / Authority Member Taylor
Council / Agency / Authority Member Van
Council / Agency / Authority Member Warren
Mayor Pro Tem / Vice Chairman Ramirez
Mayor / Chairman Shawver

3. PUBLIC COMMENT ON CLOSED SESSION ITEMS

Closed Session may convene to consider matters of purchase / sale of real property (G.C. §54956.8), pending litigation (G.C. §54956.9(a)), potential litigation (G.C. §54956.9(b)) or personnel items (G.C. §54957.6). Records not available for public inspection.

4. CLOSED SESSION

**4A. PUBLIC EMPLOYEE APPOINTMENT
(Pursuant to Government Code Section 54957)**

Title: Interim City Manager

**4B. CONFERENCE WITH LABOR NEGOTIATORS
(Pursuant to Government Code Section 54957.6)**

Agency Designated Representative: Mayor

Unrepresented Employee: Interim City Manager

**4C. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
(Pursuant to Government Code Section 54957.6)**

Title: City Manager

5. **CALL TO ORDER STANTON CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY JOINT REGULAR MEETING (6:30 PM)**
6. **ROLL CALL** Council / Agency / Authority Member Taylor
Council / Agency / Authority Member Van
Council / Agency / Authority Member Warren
Mayor Pro Tem / Vice Chairman Ramirez
Mayor / Chairman Shawver
7. **PLEDGE OF ALLEGIANCE**
8. **SPECIAL PRESENTATIONS AND AWARDS**
 - A. Presentation of certificate of recognition honoring Orange County Sheriff's Department Deputy Eric Peevey.
 - B. Presentation by the Orange County Housing Finance Trust sharing their mission with the City Council and providing information on their current operations.
9. **CONSENT CALENDAR**

All items on the Consent Calendar may be acted on simultaneously, unless a Council/Board Member requests separate discussion and/or action.

CONSENT CALENDAR

- 9A. **MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED**

RECOMMENDED ACTION:

City Council/Agency Board/Authority Board waive reading of Ordinances and Resolutions.

9B. APPROVAL OF WARRANTS

City Council approve demand warrants dated April 8, 2022 – April 21, 2022, in the amount of \$2,665,207.79.

9C. APPROVAL OF MINUTES

City Council/Successor Agency/Housing Authority approve Minutes of Special & Joint Regular Meeting – April 26, 2022.

9D. RESOLUTION ADOPTING THE LIST OF PROJECTS FOR FISCAL YEAR 2022-2023 TO BE FUNDED BY SB 1

The proposed resolution approves a list of projects to be funded by SB 1, The Road Repair and Accountability Act of 2017, for Fiscal Year 2022-23.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from the California Environmental Quality Act (“CEQA”) under Section 15378(b)(5) of the State CEQA Guidelines because CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. Adopt Resolution No. 2022-21, entitled:

“RESOLUTION ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2022-23 FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017”.

9E. APPLICATION FOR FUNDS FOR THE ENVIRONMENTAL CLEANUP, TIER 1 GRANT PROGRAM

The Orange County Transportation Authority (OCTA) has issued a call for projects for the Environmental Cleanup Program (ECP), Tier 1 Grant. The City of Stanton is requesting approximately \$56,000 in funds from OCTA to purchase and install catch basin connector pipe screens to keep trash from reaching local waterways.

RECOMMENDED ACTION:

1. City Council declare that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301(c) – Existing highways and streets, sidewalks, gutters, bicycle, and pedestrian trails, and similar facilities; and
2. Adopt Resolution No. 2022-23 authorizing the application of funds for the Environmental Cleanup, Tier 1 Grant Program entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON AUTHORIZING AN APPLICATION FOR FUNDS FOR THE ENVIRONMENTAL CLEANUP, TIER 1 GRANT PROGRAM UNDER ORANGE COUNTY LOCAL TRANSPORTATION ORDINANCE NO. 3 FOR STANTON CATCH BASIN FULL TRASH CAPTURE SYSTEM INSTALLATIONS – 2022"; and

3. Authorize the Public Works Director to sign the 2022 Tier 1 Call for Projects Application for Funding.

9F. MARCH 2022 INVESTMENT REPORT

The Investment Report as of March 31, 2022, has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Receive and file the Investment Report for the month of March 2022.

9G. MARCH 2022 INVESTMENT REPORT (SUCCESSOR AGENCY)

The Investment Report as of March 31, 2022, has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTION:

1. Successor Agency find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Receive and file the Investment Report for the month of March 2022.

9H. MARCH 2022 GENERAL FUND REVENUE AND EXPENDITURE REPORT; HOUSING AUTHORITY REVENUE AND EXPENDITURE REPORT; AND STATUS OF CAPITAL IMPROVEMENT PROGRAM

The Revenue and Expenditure Report for the month ended March 31, 2022, has been provided to the City Manager in accordance with Stanton Municipal Code Section 2.20.080 (D) and is being provided to City Council. This report includes information for both the City's General Fund and the Housing Authority Fund. In addition, staff has provided a status of the City's Capital Improvement Projects (CIP) as of March 31, 2022.

RECOMMENDED ACTION:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Receive and file the General Fund and Housing Authority Fund's March 2022 Revenue and Expenditure Report and Status of Capital Improvement Projects for the month ended March 31, 2022.

9I. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND

The existing resolution authorizing deposits and withdrawals of monies in LAIF, required by Section 16429.1 of the Government Code, needs to be updated to include the Finance Director.

RECOMMENDED ACTION:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(4) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly, or indirectly); and
2. Adopt Resolution No. 2022-20, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AUTHORIZING THE INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND."

9J. RESOLUTION OF THE STANTON HOUSING AUTHORITY OF THE CITY OF STANTON AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND

The existing resolution authorizing deposits and withdrawals of monies in LAIF, required by Section 16429.1 of the Government Code, needs to be updated to include the Finance Director.

RECOMMENDED ACTION:

1. Stanton Housing Authority finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(4) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly, or indirectly); and
2. Adopt Resolution No. SHA 2022-01, entitled:

"A RESOLUTION OF THE STANTON HOUSING AUTHORITY OF THE CITY OF STANTON, CALIFORNIA, AUTHORIZING THE INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND."

9K. AMENDMENT TO AGREEMENT FOR THE STANTON FAMILY RESOURCE CENTER UNDER THE COUNTY OF ORANGE FAMILIES AND COMMUNITIES TOGETHER (FaCT) PROGRAM

The attached First Amendment to the Agreement for Family Resource Center Services would increase the overall amount of annual funding from \$300,000 per year to \$370,800.

RECOMMENDED ACTION:

1. City Council declare that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3); and
2. Approve the First Amendment to the Agreement for Family Resource Center Services with the County of Orange Social Services Agency; and
3. Authorize the City Manager to bind the City of Stanton and the County of Orange Social Services Agency in an amended agreement to provide Family Resource Center services.

9L. UPDATE ON BONANNI CLOUD HOUSE PROJECT LOCATED AT 12331-12435 BEACH BOULEVARD

In September and October of 2020, the City Council approved a Zoning Code amendment, development agreement, Planned Development Permit, and a Site Plan and Design Review (collectively the "Entitlements") for the development of a new 321 multifamily apartment community at a 3.75 acre site located at 12331-12435 Beach Boulevard (the "Cloud House Project").¹ The application was submitted as "Bonanni Development," and the parties intend to clarify in the Entitlements that the applicant title is "Bonanni Development Company, LLC, a California limited liability company." Additionally, the developer recently informed the City that it would be assigning the Entitlements to Stanton 2.0 LLC, which is also controlled by the Bonanni team.

The clarification to the documents and the assignment can be done administratively. Staff prepared this report to keep the City Council and members of the public apprised of these recent Cloud House Project developments.

RECOMMENDED ACTION:

1. City Council declare that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2); and
2. Receive and file the update.

¹ The Project entitlements include: Zoning Code Amendment ZCA 20-01, Development Agreement (DA 20-03), Planned Development Permit PDP 20-04, and a Site Plan and Design Review SPDR-807.

9M. RENEWAL OF AUTHORIZATION FOR VIRTUAL PUBLIC MEETINGS PURSUANT TO AB 361

Consideration of the circumstances of the state of emergency related to the COVID-19 pandemic to determine whether remote teleconference meetings of the City Council, Committees, and Commissions can continue to be held under the provisions of AB 361.

RECOMMENDED ACTION:

3. City Council declare that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3); and
4. Reconsider the circumstances of the state of emergency; and
5. Find that state or local officials have continued to impose or recommend measures to promote social distancing; and
6. Direct staff, no later than 30 days after the City Council approves the recommended action, to report back on the state-proclaimed state of emergency so that City Council may reconsider the circumstances of the emergency, and, if appropriate, make findings to continue to hold virtual meetings of City legislative bodies pursuant to AB 361.

END OF CONSENT CALENDAR

10. PUBLIC HEARINGS **None.**

11. UNFINISHED BUSINESS

11A. CITY OF STANTON'S AMERICAN RESCUE PLAN ACT (ARPA) ALLOCATION OF FUNDS REVIEW AND UPDATE

Staff will provide an American Rescue Plan Act (ARPA) presentation to provide the City Council with an update and review of the City's ARPA allocation plans. In addition, staff is recommending the City Council shift the funding source for the City's funding commitment of the permanent supportive housing project located at the Riviera Motel from the ARPA Fund (#257) to the Housing Authority Fund (#285).

RECOMMENDED ACTION:

1. City Council declare that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3); and
2. Receive and file the presentation; and
3. Approve an appropriation to reallocate the City's \$2,500,000 Homekey Project funding commitment regarding the Riviera Motel acquisition (Task Code 2022-832) from the ARPA Fund (#257) to the Housing Authority Fund (#285); and
4. Direct City Staff to allocate unencumbered ARPA funds to specified unfunded projects, based on the priorities identified by the City Council.

12. NEW BUSINESS

12A. INTERIM CITY MANAGER EMPLOYMENT AGREEMENT

For consideration is the Interim City Manager Employment Agreement between the City and Zenia Bobadilla for the position of Interim City Manager.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15378(b)(2) - continuing administrative or maintenance activities, such as purchase of supplies, personnel-related actions, general policy and procedures making; and
2. Authorize the Mayor to approve and execute the Interim City Manager Employment Agreement with Zenia Bobadilla; and
3. Adopt Resolution No. 2022-22 amending the Employee Benefits and Salary Rates, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, REGARDING EMPLOYEE BENEFITS AND SALARY RATES FOR ALL CLASSES OF EMPLOYMENT".

13. ORAL COMMUNICATIONS - PUBLIC

At this time members of the public may address the City Council/Successor Agency/Stanton Housing Authority regarding any items within the subject matter jurisdiction of the City Council/Successor Agency/Stanton Housing Authority, provided that NO action may be taken on non-agenda items.

- Members of the public wishing to address the Council/Agency/Authority during Oral Communications-Public or on a particular item are requested to fill out a REQUEST TO SPEAK form and submit it to the City Clerk. Request to speak forms must be turned in prior to Oral Communications-Public.
- When the Mayor/Chairman calls you to the microphone, please state your Name, slowly and clearly, for the record. A speaker's comments shall be limited to a three (3) minute aggregate time period on Oral Communications and Agenda Items. Speakers are then to return to their seats and no further comments will be permitted.
- Remarks from those seated or standing in the back of chambers will not be permitted. All those wishing to speak including Council/Agency/Authority and Staff need to be recognized by the Mayor/Chairman before speaking.

14. WRITTEN COMMUNICATIONS None.

15. MAYOR/CHAIRMAN COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS

15A. COMMITTEE REPORTS/ COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS

At this time Council/Agency/Authority Members may report on items not specifically described on the agenda which are of interest to the community provided no discussion or action may be taken except to provide staff direction to report back or to place the item on a future agenda.

15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE MEETING

At this time Council/Agency/Authority Members may place an item on a future agenda.

15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION

At this time Council/Agency/Authority Members may place an item on a future study session agenda.

15D. CITY COUNCIL INITIATED ITEM — DISCUSSION REGARDING THE CITY'S ALTERNATIVE RESOURCES TO ASSIST IN ENFORCING ANTI-CAMPING LAWS WITHIN STANTON

At the April 26, 2022, City Council meeting, Council Member Taylor requested that this item be agendaized for discussion. Council Member Taylor is requesting to discuss the City's alternative resources to assist in enforcing anti-camping laws within Stanton, ensuring the use of all of the City's available resources to enforce its laws.

RECOMMENDED ACTION:

City Council provide direction to staff.

15E. CITY COUNCIL INITIATED ITEM — DISCUSSION REGARDING THE CITY WORKING WITH ITS BUSINESS OWNERS TO IMPROVE PUBLIC SAFETY WITHIN STANTON

At the April 26, 2022, City Council meeting, Council Member Warren requested that this item be agendaized for discussion. Council Member Warren is requesting to discuss the City leading/hosting a meeting with its business owners to work in unison to improve public safety within Stanton.

RECOMMENDED ACTION:

City Council provide direction to staff.

16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

17A. ORANGE COUNTY FIRE AUTHORITY

At this time the Orange County Fire Authority will provide the City Council with an update on their current operations.

18. ADJOURNMENT

I hereby certify under penalty of perjury under the laws of the State of California, the foregoing agenda was posted at the Post Office, Stanton Community Services Center and City Hall, not less than 72 hours prior to the meeting. Dated this 5th day of May, 2022.

s/ Patricia A. Vazquez, City Clerk/Secretary

Item: 9B

[Click here to return to the agenda.](#)

CITY OF STANTON ACCOUNTS PAYABLE REGISTER

April 8, 2022 - April 21, 2022

Electronic Transaction Nos.	1844-1870	\$	2,478,778.00
Check Nos.	135010-135069	\$	186,429.79

TOTAL	\$	2,665,207.79
-------	----	--------------

Demands listed on the attached registers
conform to the City of Stanton Annual
Budget as approved by the City Council.



City Manager

Demands listed on the attached
registers are accurate and funds
are available for payment thereof.



Finance Director

Accounts Payable

Checks by Date - Detail by Check Number

User: mbannigan
Printed: 4/28/2022 12:55 PM



Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
1844	OCF2164	OC FIRE AUTHORITY	04/08/2022	
	S0455154	3rd Quarter Contract		914,439.25
	S0455154	3rd Quarter Contract		353,576.00
	S0455154	3rd Quarter Facilities Maint.		2,168.25
	S0455154	3rd Quarter Vehicle Replacement		13,203.50
Total for Check Number 1844:				1,283,387.00
1845	OCA2137	COUNTY OF ORANGE TREASURER- T.	04/08/2022	
	SH 61598	AFIS (fingerprinting) March, 2022		1,529.00
Total for Check Number 1845:				1,529.00
1846	BES12575	BEST BEST & KRIEGER LLP	04/08/2022	
	929923	Regional CBO - Homelessness Study (Feb 2022)		13,623.40
Total for Check Number 1846:				13,623.40
1847	KAN13336	SOO KANG	04/08/2022	
	Y5, Feb 2022	Regional Special Dept Exp. - Vehicle - Feb 2022		600.00
	Y5, Feb 2022	Regional Special Dept Exp. - Communication - F		150.00
	Y5, Mar 2022	Regional Special Dept Exp. - Vehicle - Mar 2022		600.00
	Y5, Mar 2022	Regional Special Dept Exp. - Communication - F		150.00
Total for Check Number 1847:				1,500.00
1848	USB3019	US BANK	04/08/2022	
	00059A	Job Ad/Building Official		199.00
	02/04/2022	League of CA Cities/2022 City Manger's Conf/L		551.08
	02/08/2022	Lunch Mtg/City of Anaheim/Life on Beach		61.63
	02/08/2022	Promotion Plaque for M.Baltodano		109.25
	02/16/2022	Lunch Mtg/Public Works Director J.Ames/CM		28.14
	02/17/2022	Lunch Mtg/Econ Dev Mtg/J.Lilley/CM		47.87
	02/18/2022	2022 CSMFO Conference Lodging		799.96
	020722	Postage to send State Mandated Claim Forms to		13.01
	1/24/2022	OCSD Motor Officer/Motorcycle Gas		26.78
	1/25/2022	OCSD Motor Officer/Motorcycle Gas		9.28
	1/27/2022	OCSD Motor Officer/Motorcycle Gas		29.16
	1/28/2022	5 Tables for OST/FRC		330.64
	1026472	ladder		160.55
	10589126	parking structure lights		51.89
	111-9810796-880	Memory Card & Waterproof Camera		203.62
	112-1238563-778	Security/Network/Cameras/Corp Yard		516.56
	112-6725938-360	Earbud replacements for headset		6.99
	113-1063304-601	Supplies / Ink Cartridges		25.98
	113-1063304-601	Supplies / Ink Cartridges		27.07
	113-1792924-609	OST - Hula Hoops		39.12
	113-2341604-897	OST-Positive Affirmation Cards		75.39
	113-2528326-091	Computer Hardware/Power Chargers/Surface		213.09
	113-4155576-086	City Hall Stage lights		117.36

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	113-5085977-843	IT Hardware/Electronics/(3) Android Tablets		409.96
	113-6150496-428	REFUND/IT Hardware/Electronics/Android Tab		-141.36
	113-7734149-326	supplies for public works		16.31
	113-9787605-587	Office Supplies/Rulers		7.17
	114-0361838-826	OST-Rulers, Paper plates, color pencils, cotton b		109.45
	114-074119-6926	(1) Cup dispenser, (1) caution floor may be slipp		39.62
	114-3362620-824	refrigerator filter		128.62
	114-3413055-941	(1) 30 pcs Luca Party Swirl decoration for KNO		16.53
	114-4641520-463	vacuum bags		71.51
	114-4641520-763	basketball net		13.31
	114-4707837-178	(1) 1in jingle bells,(1)Natural fish net,(4)String u		34.13
	114-4757630-939	(1) Airman Cordless multi-purpose air pump		100.31
	114-6043864-884	parts to repair SCP gate		31.47
	114-74452889-65	refrigerator filter		62.18
	114-7445289-658	parts for street paint sprayer parts		84.56
	114-7607106-940	(1) 10pk allen wrench keychain for MPR doors		9.91
	114-9268247-054	7oz plastic cups		8.81
	114-9898988-565	Electrical box for Council Chambers		156.87
	12622	Valentine decorations for office		8.18
	1276609	hotel during CSMFO conference in San Diego		561.65
	133043695	Egg Hunt Candy, Chocolate Variety		647.64
	133-3278744-162	Toner Supply		436.92
	138373072	Clients birth certificate (vital records)		59.50
	138759291	Clients birth certificate (vital records)		59.50
	14619	Car Wash		6.00
	156905031402810	Monthly Spotify Membership for music at even		9.99
	163813	Backflow locks		265.74
	2/10/2022	CFRA Funds - Family Assistance		180.00
	2/10/2022	CFRA Funds - Family Assistance		150.00
	2/10/2022	CFRA Funds - Family Assistance		410.00
	2/10/2022	KNO - Craft materials numbers, letters		6.83
	2/10/2022	Gift Card for Arebalo Family		200.00
	2/10/2022	Food for Prostitution Sting/John Operation		108.91
	2/10/2022	Grocery Gift Card for Arebalo Family		130.00
	2/10/2022	CFRA Funds - Family Assistance		250.00
	2/11/2022	Paid Electricity bill for Carrillo Family		504.00
	2/11/2022	CFRA Funds - Family Assistance		330.00
	2/11/2022	Credit Card Service Fee for Edison		1.65
	2/14/2022	Misc. Office Supplies/restock batteries/note pads		101.38
	2/14/2022	Grocery Gift Card for Lopez Family		250.00
	2/14/2022	OCSD Motor Officer/Motorcycle Gas		17.92
	2/17/2022	OCSD Motor Officer/Motorcycle Gas		27.23
	2/18/2022	Grocery Gift Card for Lopez Family		170.00
	2/2/2022	OCSD Motor Officer/Motorcycle Gas		28.52
	2/4/2022	OCSD Motor Officer/Motorcycle Gas		20.43
	2/7/2022	\$250 gift card for Cervantes family		250.00
	2/7/2022	\$340 gift card for groceries for Cervantes family		340.00
	2/8/2022	\$250 gift card for Cervantes family		250.00
	2/8/2022	OCSD Motor Officer/Motorcycle Gas		26.01
	2/9/2022	KNO - Chips and Waters for 2/25		27.98
	2/9/2022	OST-Foam Cups for crafts		1.35
	2/9/2022	OST - Glue for crafts		29.69
	2/9/2022	Lunch Mtg/Life on Beach/J.Lilley/M.Tinio		31.45
	2013636	tools for public works		313.18
	20184	Notarial Services		15.00
	202439910118710	(2) 2pk swiffer wejet quickdry wood cleaner		23.57
	20639	Internet Coverage for City/FEB-2022		3,657.52
	2072022	Prizes for KNO games: (1)Ukelele, (1)Candle ki		32.33
	2102022	(1) Dust pan and (1) Brrom for Dotson Park		32.55

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	220203-27900903	WhenToWork subscription renewal. paid throughl		220.00
	24996	Outreach supplies - water, snacks for homeless o		86.47
	2690-1364	Work Order Program Usage Fee 2/5/22-3/5/22		450.00
	29804	Office Supplies/Materials		15.06
	3011882	FRC faucet		107.66
	31501010	Asphalt patch		588.02
	31693163	Asphalt repair		598.02
	3542819	Plexiglass for SCP		105.22
	38323123	JAN-2022/Mitel Phone System		2,202.41
	38686888	FEB-2022/Mitel Phone System		2,466.83
	3902529	FEB-2022/City Website Hosting Service		22.00
	42194947	Survey Monkey Upgrade		134.40
	5012667	parts for light repair at linear parks		14.12
	56758	City Vehicle Car Wash		10.00
	59778	Dec 2021/Fingerpring Rolling Fees		124.00
	60623	Jan 2022/Fingerprint Rolling Fees		25.00
	6132	FlowFlex Antigen Home Test Kits		3,262.50
	6164649	Shelves for P&R closet		139.48
	6164676	parts for community garden		9.72
	715029605	2,000 toy filled eggs, 2,000 empty eggs, 2,000 pi		891.87
	74259	Car Wash		10.00
	81310	Notary charge for client's birth certificate affidav		15.00
	96842	Cleaning supplies		64.43
	9ddf175e0abc	City Vehicle Car Wash		7.99
	AAYJ8DB4F2	Faebook: Boost Posts: Women of Distinction, CI		126.24
	D8AD7B	train fare to CSMFO conference in San Diego		27.00
	D8AD7B-Credit	credit for train fare to CSMFO conference in Sar		-20.25
	MIK48035664	(25) 3" clay pots for KNO craft		34.21
	N-00368070	5 WATCH manuals		108.16
	NU2VVB4F2	Social Media Marketing: Redistricting		5.43
	S119919224	parts for light repair at linear parks		22.79
	W882018571	(1) Loaded Ball Mount for John Deere Gator		29.76
Total for Check Number 1848:				26,678.94
1849	BOY14651 NOC-PSC 3	BOYS & GIRLS CLUBS OF BREA-PLAC Brea CBO - Focus Area #1, 3- Mar 2022	04/08/2022	2,694.16
Total for Check Number 1849:				2,694.16
1850	PUB15477 PPE 3/26/2022	PUBLIC AGENCY RISK SHARING AUT PARS - PPE 3/26/2022	04/08/2022	1,011.98
Total for Check Number 1850:				1,011.98
1851	MET12565 APR-22 APR-22	METLIFE SBC April 22 Metlife Dental - Employee Share April 22 Metlife Dental - City Share	04/08/2022	29.58 194.28
Total for Check Number 1851:				223.86
1852	OCA2137	COUNTY OF ORANGE TREASURER- T. .25% Early Payment Discount	04/08/2022	-2,585.77
	SH 61748	Sheriff Contract Services (Mobile Data Compute		334.83
	SH 61748	Sheriff Contract Services Apr-2022		307,121.97
	SH 61748	Sheriff Contract Svcs Apr-2022 (Step Grant Reir		-287.55
	SH 61748	Sheriff Contract Services Apr-2022		713,169.29
	SH 61748	Sheriff Contract Svcs (Crime Prevention Special		6,979.75
	SH 61748	Sheriff Contract Svcs - (Office Specialist Front C		6,252.42
	SH 61748	Sheriff Contract Services (Mobile Data Compute		738.00

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
Total for Check Number 1852:				1,031,722.94
1853	TIM14834 2 - Year 5	TIM SHAW & ASSOCIATES Regional CBO - Capacity Building (Mar 2022)	04/08/2022	2,475.00
Total for Check Number 1853:				2,475.00
1854	BEN15755 10705 10705 10705	BENEFIT COORDINATORS CORPORAT March 2022 Prism Life Ins - Employee March 2022 Prism Life Ins - City March 2022 Prism Life Ins - City	04/08/2022	508.38 507.60 2,624.90
Total for Check Number 1854:				3,640.88
1855	ORA15061 01-0122-0322	ORANGE COUNTY CONSERVATION C Regional CBO - Focus Areas #2, 3 - Jan-Mar 20	04/08/2022	24,337.59
Total for Check Number 1855:				24,337.59
1856	VSP13387 814687789 814687789	VISION SERVICE PLAN - (CA) April 2022 Health Ins-Employer VSP April 2022 Health Ins-Employee VSP	04/08/2022	513.62 59.12
Total for Check Number 1856:				572.74
1857	SED15718 SF-9238-9022-01	SEDGWICK CLAIMS MANAGEMENT S Claims Funding for Payments Issued	04/08/2022	513.47
Total for Check Number 1857:				513.47
1858	REC16138 25237 25323 25379 25384 25403 25456 25456 25675/25780 25805 25823 25827 25833 25834 25892 25985	RECTRAC REFUNDS Refund deposit #25237 Chinda Khiv 10600 Wes Refund deposit #25323 Anthony Nguyen 11248 Refund deposit #25379 Chris Aragon 8380 Stant Refund deposit #25384 Anna Vanh 11860 Poes S Refund deposit #25403 Michelle Tena 2660 W. I Refund cancelled deposit #25456 Payal Shah721 Refund cancelled deposit #25456 Payal Shah 72 Refund deposit #25675/25780 Meilani Robles 12 Refund deposit #25805 Marcella Vega 8200 Bol Refund deposit #25823 Shari Villafor 8801 Walk Refund deposit #25327 Thuong Nguyen 10550 V Refund deposit #25833 Jasmine Ramirez 10419 Refund deposit #25834 Iratze Rico 2830 W. Ball Refund deposit #25892 Sheyla Cardia 10900 Ma Refund deposit #25985 Paula Trejo 8100 Park Pl	04/11/2022	200.00 150.00 300.00 300.00 150.00 75.00 100.00 300.00 150.00 300.00 100.00 150.00 150.00 150.00 150.00
Total for Check Number 1858:				2,675.00
1859	CAL12493 100000016757149	CALPERS 2022 Replacement Benefit Contribution	04/12/2022	2,707.02
Total for Check Number 1859:				2,707.02
1860	GOL1321 03/21/2022	GOLDEN STATE WATER COMPANY Water Services Park 01/21-03/18	04/12/2022	120.26
Total for Check Number 1860:				120.26
1861	GOL1321 April 13	GOLDEN STATE WATER COMPANY Jan 25-Mar 22 Water Services Median March 23	04/14/2022	254.11

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
Total for Check Number 1861:				254.11
1862	GOL1321	GOLDEN STATE WATER COMPANY	04/15/2022	
	April 14	Jan 26-Mar 23 Water Services Median March 24		1,847.26
	April 14	Jan 26-Mar 23 Water Services Park March 24		1,347.05
	April 14	Jan 26-Mar 23 Water Services Building March 2		793.71
Total for Check Number 1862:				3,988.02
1863	BOY15369	BOYS & GIRLS CLUBS OF GREATER A	04/15/2022	
	NOC 3-22	Anaheim CBO-Focus Area #1-Mar 2022		12,049.83
Total for Check Number 1863:				12,049.83
1864	OCA2137	COUNTY OF ORANGE TREASURER- T.	04/15/2022	
	SH 61780	AFIS (Fingerprinting) April, 2022		1,529.00
Total for Check Number 1864:				1,529.00
1865	GOL1321	GOLDEN STATE WATER COMPANY	04/18/2022	
	March 25	Water Services Median Feb 9 - Mar 11		63.85
Total for Check Number 1865:				63.85
1866	INT1569	INTERNAL REVENUE SERVICE	04/18/2022	
	4/14/2022	(ME) Medicare - City Share		5.56
	4/14/2022	(ME) Medicare - Employee Share		5.56
	4/9/2022	(FD) Federal Tax Withholding		16,068.69
	4/9/2022	(MC) Medicare - Employee Share		2,300.11
	4/9/2022	(ME) Medicare - City Share		2,300.11
Total for Check Number 1866:				20,680.03
1867	EDD1067	EDD	04/18/2022	
	4/14/2022	State Unemployment		8.82
	4/9/2022	State Tax Withholding		5,751.50
	4/9/2022	State Unemployment		260.75
Total for Check Number 1867:				6,021.07
1868	GOL1321	GOLDEN STATE WATER COMPANY	04/19/2022	
	March 28	Water Services Housing Authority Jan 28 - Mar 2		6,624.73
	March 28	Water Services Park Jan 28 - Mar 28		948.97
Total for Check Number 1868:				7,573.70
1869	ICM1540	ICMA RETIREMENT TRUST 302393	04/19/2022	
	PPE 04/09/2022	PPE 4/09/22-ICMA #302393		4,720.00
Total for Check Number 1869:				4,720.00
1870	CAS680	CA ST PERS 103	04/19/2022	
	PPE 04/09/2022	PERS - City Share New T3 PPE 04/09/2022		6,018.88
	PPE 04/09/2022	PERS - Survivor (Employee) T1 PPE 04/09/2022		9.30
	PPE 04/09/2022	PERS - Survivor New T3 PPE 04/09/2022		27.90
	PPE 04/09/2022	PERS - City Share T1 PPE 04/09/2022		3,007.51
	PPE 04/09/2022	PERS - City Share Classic T2 PPE 04/09/2022		3,386.67
	PPE 04/09/2022	PERS - Employee Classic T2 PPE 04/09/2022		2,740.66
	PPE 04/09/2022	PERS - Employee New T3 PPE 04/09/2022		5,352.74
	PPE 04/09/2022	PERS - Survivor Classic T2 PPE 04/09/2022		6.51
	PPE 04/09/2022	PERS - Employee Share T1 PPE 04/09/2022		1,934.98

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
Total for Check Number 1870:				22,485.15
135010	ALL11857 03.31.2022	ALLIANT INSURANCE SERVICES INC Payment for January-March 2022 Insurance	04/21/2022	1,751.00
Total for Check Number 135010:				1,751.00
135011	ATT377 4/11/2022 4/11/2022	AT&T Cerritos/Dale-Mar 714-826-1129 Cerritos/Knott-Mar 714-236-0402	04/21/2022	22.56 22.57
Total for Check Number 135011:				45.13
135012	ATL16020 1360	ATLAS PLANNING SOLUTIONS Mar-22/Local Hazard Mitigation Plan Prep	04/21/2022	2,362.00
Total for Check Number 135012:				2,362.00
135013	AUT12223 4072452566	AUTOZONE INC. Tire repair kits	04/21/2022	19.34
Total for Check Number 135013:				19.34
135014	BAR16292 2021-571	EVANGELINA BARRIOS Refund deposit #2021-571 Evangelina Barrios is	04/21/2022	90.00
Total for Check Number 135014:				90.00
135015	BAR16293 2021-235	JOSE BARRIOS Refund Deposit #2021-235 Jose Barrios 10263 Y	04/21/2022	3,600.00
Total for Check Number 135015:				3,600.00
135016	BEA14942 15238	BEAR ELECTRICAL SOLUTIONS, INC Maintenance Service-Mar	04/21/2022	1,045.00
Total for Check Number 135016:				1,045.00
135017	CRI13190 23464	C.R.I ELECTRIC, INC Repair lamps and ballast at City Yard	04/21/2022	1,541.35
Total for Check Number 135017:				1,541.35
135018	C3O13388 INV145679	C3 TECHNOLOGY SERVICES CS/Eng Sharp Copier/Toner/Maintenance 2/9/22	04/21/2022	454.38
Total for Check Number 135018:				454.38
135019	CAC563 SMIP CY22 Q1	CA CONSERVATION DEPT SMIP Fee Q1 CY2022 Less 5%	04/21/2022	5,206.67
Total for Check Number 135019:				5,206.67
135020	CAS662 573204	CA ST DEPT OF JUSTICE Mar2022/Fingerprints	04/21/2022	147.00
Total for Check Number 135020:				147.00
135021	CAL12690 CY22 Q1	CALIFORNIA BUILDING STANDARDS CBSC SB1473 Fee 2022Q1 Less 10%	04/21/2022	1,409.40

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
Total for Check Number 135021:				1,409.40
135022	CAL16221	CALIFORNIA WATERS	04/21/2022	
	12427	Splash pad repair at SCP-Mar		540.00
	12427	Splash pad repair at Dotson-Mar		540.00
Total for Check Number 135022:				1,080.00
135023	WES11851	CITY OF WESTMINSTER	04/21/2022	
	5155	Animal Control Agmt 3rd Qtr (May, June, 2022)		32,413.50
	5155	Animal Control - July, 2022		16,206.75
Total for Check Number 135023:				48,620.25
135024	CLI15829	CLIFTONLARSONALLEN LLP	04/21/2022	
	3213453	Second interim billing on single audit for YE 6/3		2,500.00
Total for Check Number 135024:				2,500.00
135025	COL15604	COLANTUONO, HIGHSMITH & WHATI	04/21/2022	
	51388	Mar-22/Legal Svcs for Collection of UUT		379.94
Total for Check Number 135025:				379.94
135026	FIR1181	CORELOGIC SOLUTIONS, LLC	04/21/2022	
	82126380	March-22/Geographic Package-Realquest		315.00
Total for Check Number 135026:				315.00
135027	CYP925	CYPRESS ENGRAVING	04/21/2022	
	72308	Name plates for Council Chambers		77.48
Total for Check Number 135027:				77.48
135028	DIV13216	DIVISION OF THE STATE ARCHITECT	04/21/2022	
	CY22 Q1	AB1379: Amount due to State Architect-10%		352.00
Total for Check Number 135028:				352.00
135029	DOM1014	DOMEN LAWNMOWER	04/21/2022	
	170246	parts for city repairs		84.80
Total for Check Number 135029:				84.80
135030	DRO12418	CECILIA DROSIHN	04/21/2022	
	04/06/2022	Reimbursement: Greeting Cards/Dept Re-stock		19.36
Total for Check Number 135030:				19.36
135031	ECO15351	ECONO TIRE, INC	04/21/2022	
	015927	Repair front pads and rotors and oil change on Ti		426.87
	25407	Oil change for Rav 4 (Lic 1608076)		69.04
Total for Check Number 135031:				495.91
135032	EMP1089	EMPIRE PIPE CLEANING AND EQUIP	04/21/2022	
	Progress Pymt 4	Catch Basin Cleaning and Hotspot cleaning		25,047.15
Total for Check Number 135032:				25,047.15
135033	GRE1360	GREAT SCOTT TREE SERVICE, INC	04/21/2022	
	121581	Tree trimming FY 21/22 (90%)-Mar		2,254.50

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	121581	Tree trimming FY 21/22 (10%)-Mar		250.50
		Total for Check Number 135033:		2,505.00
135034	HER15003 25627	ABEL HERNANDEZ Refund deposit #25627 Abel Hernandez Quincin	04/21/2022	400.00
		Total for Check Number 135034:		400.00
135035	HIN1468 SIN015639 SIN015639	HINDERLITER DELLAMAS & ASSOCI Audit Services-Transactions Tax Q3/2021 Contract Services-Transactions Tax Q3/2021	04/21/2022	1,661.26 300.00
		Total for Check Number 135035:		1,961.26
135036	HRD13741 INV11468975 INV11468976 INV11468977	HRDIRECT Poster Guard Renewal/SCSC Poster Guard Renewal/City Hall Poster Guard Renewal/City Yard	04/21/2022	97.86 97.86 97.86
		Total for Check Number 135036:		293.58
135037	INT16247 PPE 4/9/2022	INTERNAL REVENUE SERVICE Wage Garnishment PPE 4/9/2022	04/21/2022	161.00
		Total for Check Number 135037:		161.00
135038	JOH16217 48760	JOHNSON-FRANK & ASSOCIATES, INC Document review services for tract/parcel maps	04/21/2022	575.00
		Total for Check Number 135038:		575.00
135039	LIF16289 25340	LIFE CHRISTIAN CHURCH OF ORANG Refund deposit Life Christian Church on Mar 1,	04/21/2022	1,500.00
		Total for Check Number 135039:		1,500.00
135040	LIS13391 6960 6961 6962 6966 6967 6968 7014 7015 7016	LISA HALL & ASSOCIATES Translation Redistricting Public Notice 3 & 4: S Translation Redistricting Public Notice 3 & 4: K Translation Redistricting Public Notice 3 & 4: V Translation Redistricting Amendment to PN 3&4 Translation Redistricting Amendment to PN 3&4 Translation Redistricting Amendment to PN 3&4 Translation Redistricting Amendment Continued Translation Redistricting Amendment Continued Translation Redistricting Amendment Continued	04/21/2022	120.00 155.00 135.00 155.00 120.00 135.00 95.00 75.00 95.00
		Total for Check Number 135040:		1,085.00
135041	MAR1873 244201	MARK'S OLD TOWNE SERVICE, INC. Repair flat rear tire on backhoe	04/21/2022	499.27
		Total for Check Number 135041:		499.27
135042	MAR16291 2021-621 2021-621	YADIRA MARQUEZ Refund deposit Yadira Marquez permit #2021-62 Refund deposit Yadira Marquez permit #2021-62	04/21/2022	20.88 396.72
		Total for Check Number 135042:		417.60
135043	MCA15302	MCA DIRECT	04/21/2022	

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	2022079	Election Supplies		495.14
		Total for Check Number 135043:		495.14
135044	MER12502	MERCHANTS BUILDING MAINTENAN	04/21/2022	
	664024	Janitorial Services at FRCI for Apr 2022		303.59
	664024	Janitorial Services at City Hall for Apr 2022		1,482.22
	664025	Dotson Park Restrooms-Disinfecting the transmi		324.00
	664900	Covid 19 mitigation-Disinfect and sanitation of C		507.00
	664901	Covid 19 mitigation-Disinfect and sanitation of C		552.00
		Total for Check Number 135044:		3,168.81
135045	NAT2050	NATIONWIDE ENVIRONMENTAL SVC	04/21/2022	
	32324	Sweeper Services for April 2022		11,607.73
		Total for Check Number 135045:		11,607.73
135046	NOW1000	NOWLIN FENCE INC.	04/21/2022	
	26503	Repair guard rail @ Orangewood end at Santa R		2,497.00
		Total for Check Number 135046:		2,497.00
135047	OCC11851	OC CLERK-RECORDER	04/21/2022	
	02/08/2022	NOD/2021-29 Housing & Safety Element Updat		3,539.25
	02/08/2022	Filing Fee/NOD/2021-29 Housing & Safety Eler		50.00
		Total for Check Number 135047:		3,589.25
135048	OCR2183	ORANGE COUNTY REGISTER	04/21/2022	
	Acct# 160011891	OC Register/Digital Access thru 4/18/2023		134.95
		Total for Check Number 135048:		134.95
135049	PHA12971	PARS	04/21/2022	
	50339	Feb2022/PARS/Administrator Services		478.03
		Total for Check Number 135049:		478.03
135050	MAI13147	QUADIENT LEASING USA, INC	04/21/2022	
	N9342248	Postage Meter Lease 01/30/22 - 04/29/22		936.59
		Total for Check Number 135050:		936.59
135051	QUA15782	QUALITY MANAGEMENT GROUP, INC	04/21/2022	
	2022-03-PR	CM & Maintenance Salaries for Tina Pacific Dev		8,016.66
	2022-04	Property Management for Tina Pacific Developn		6,250.00
		Total for Check Number 135051:		14,266.66
135052	RAW16286	SALEH RAWAN	04/21/2022	
	ST349524	Refund dismissed citation ST349524		57.00
		Total for Check Number 135052:		57.00
135053	RED2467	RED BALL HARDWARE	04/21/2022	
	21214	Supplies need for repairs in the City for Mar		128.03
	21217	Supplies need for repairs in the City for Mar		210.40
	21219	Supplies need for repairs in the City for Mar		149.86
	21220	Supplies need for repairs in the City for Mar		57.95
		Total for Check Number 135053:		546.24

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
135054	SCS13184	S.C. SIGNS & SUPPLIES LLC	04/21/2022	
	225787	No parking hour based signs		1,218.00
	225788	No parking anytime signs		1,326.75
Total for Check Number 135054:				2,544.75
135055	SOC2734	SO CAL EDISON	04/21/2022	
	03/31/22	Electric Service-Medians		445.94
	04/04/2022	Electric Service-SCP Mar		2,416.77
	04/04/2022	Stanton District Light Mar		14,695.74
	04/07/2022	Electric Service - Parks Mar		675.59
	04/07/2022	Electric Service-Signals Mar		1,021.38
	4/11/2022	Electric Service-Parks Mar		795.43
	4/11/2022	Electric Service-Building Mar		2,446.49
	4/11/2022	Electric Service-Signals-Mar		66.79
Total for Check Number 135055:				22,564.13
135056	SOC12606	SO CAL INDUSTRIES	04/21/2022	
	556799	Fence Rental @ 8910-8920 Pacific Ave-April		311.94
Total for Check Number 135056:				311.94
135057	GAS1282	SOCALGAS	04/21/2022	
	4/4/2022	Gas service-City Hall Mar		1,066.69
Total for Check Number 135057:				1,066.69
135058	SPE14381	SPECTRUM	04/21/2022	
	0012363040122	Apr-22/Spectrum TV		97.49
Total for Check Number 135058:				97.49
135059	SPE14885	SPECTRUM FIRE PROTECTION	04/21/2022	
	25908	Repairs to fire system at the City Yard		778.78
Total for Check Number 135059:				778.78
135060	SPE15087	SPECTRUM SPECIALTIES & AWARDS	04/21/2022	
	33843	(5) Tactical Shoes		727.31
Total for Check Number 135060:				727.31
135061	STA12282	STANLEY CONVERGENT SECURITY S	04/21/2022	
	6002316468	Service Call-reset zones @ City Hall		500.00
Total for Check Number 135061:				500.00
135062	STA14610	STANTEC CONSULTING SERVICES INC	04/21/2022	
	1909624	Phase 1 Environmental Site Assessment-Baumar		2,155.52
Total for Check Number 135062:				2,155.52
135063	THO13835	THOMSON INC	04/21/2022	
	30846767	Repair to HVAC at City Hall		382.50
	31194415	Repair to HVAC at City Hall		143.44
Total for Check Number 135063:				525.94
135064	TOW14437	TOWNSEND PUBLIC AFFAIRS, INC	04/21/2022	
	18287	Apr-2022/Public Advocacy/Consulting Svcs		4,000.00

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
Total for Check Number 135064:				4,000.00
135065	TRU13167 650183965	TRULY NOLEN OF AMERICA INC Monthly pest spraying for Apr 22	04/21/2022	165.00
Total for Check Number 135065:				165.00
135066	TUR2970 37207 37208	TURBO DATA SYSTEMS INC March-22/Parking Citation Processing March-22/Admin Citation Processing	04/21/2022	3,186.31 715.90
Total for Check Number 135066:				3,902.21
135067	VEN13764 2502557-IN	VENCO WESTERN INC Irrigation repairs on medians March	04/21/2022	1,134.97
Total for Check Number 135067:				1,134.97
135068	VIS3077 2022-479329-00 2022-479463-00	VISTA PAINT CORP Paint Supplies-Graffiti Paint Supplies-Graffiti	04/21/2022	226.56 30.23
Total for Check Number 135068:				256.79
135069	WEI16219 0782	BRENDA WEINER Temporary Rental Assistance-Robyn Motland/M	04/21/2022	1,880.00
Total for Check Number 135069:				1,880.00
Report Total (87 checks):				2,665,207.79

MINUTES OF THE CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY
OF THE CITY OF STANTON
SPECIAL & JOINT REGULAR MEETING APRIL 26, 2022

CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY MEETING – CLOSED SESSION
(5:30 PM)
JOINT REGULAR CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY MEETING
(6:30 PM)

**1. CALL TO ORDER STANTON SPECIAL JOINT CITY COUNCIL - CLOSED SESSION
(5:30 PM)**

The Special Joint City Council Meeting – Closed Session was called to order at 5:30 p.m. by Mayor Shawver.

2. ROLL CALL

Present: Council/Agency/Authority Member Taylor, Council/Agency/Authority Member Van, Council/Agency/Authority Member Warren, Mayor Pro Tem/Vice Chairman Ramirez, and Mayor/Chairman Shawver.

Absent: None.

Excused: None.

3. PUBLIC COMMENT ON CLOSED SESSION ITEMS None.

4. CLOSED SESSION

The members of the City Council / Successor Agency / Housing Authority of the City of Stanton proceeded to closed session at 5:30 p.m. for discussion regarding:

**4A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR
(Pursuant to Government Code Section 54956.8)**

Property: 10692 Beach Boulevard, CA (APN 126-434-12)

Negotiating Parties: Jarad L. Hildenbrand, City Manager, City of Stanton
Hyuncho Park, Owner

Under Negotiation: Instruction to negotiator will concern price and terms of payment.

DRAFT

4B. PUBLIC EMPLOYEE APPOINTMENT (Pursuant to Government Code Section 54957)

Title: Interim City Manager

4C. CONFERENCE WITH LABOR NEGOTIATORS (Pursuant to Government Code Section 54957.6)

Agency Designated Representative: Mayor

Unrepresented Employee: Interim City Manager

4D. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION Existing litigation pursuant to Government Code section 54956.9(d)(1) Number of cases: 2

Arcadia, et al. v. So. Cal. Edison Corp., Santa Barbara Superior Court Case
Number: 20 CV 02026

5. CALL TO ORDER STANTON CITY COUNCIL / SUCCESSOR AGENCY / HOUSING AUTHORITY JOINT REGULAR MEETING (6:30 PM)

The meetings were called to order at 6:31 p.m. by Mayor / Chairman Shawver.

The City Attorney / Agency Counsel reported that the Stanton City Council /
Successor Agency / Housing Authority met in closed session from 5:30 to 6:30 p.m.

The City Attorney / Agency Counsel reported that there was no reportable action.

6. ROLL CALL

Present: Council/Agency/Authority Member Taylor, Council/Agency/Authority
Member Van, Council/Agency/Authority Member Warren, Mayor Pro
Tem/Vice Chairman Ramirez, and Mayor/Chairman Shawver.

Absent: None.

Excused: None.

7. PLEDGE OF ALLEGIANCE

Led by Council Member Hong Alyce Van.

DRAFT

8. SPECIAL PRESENTATIONS AND AWARDS

- A. Presentation by Mr. Eric O'Donnell, Senior Associate, Townsend Public Affairs, providing the City Council with an update on State and Federal Legislation.
- B. Mayor Shawver proclaimed the months of May through August 2022, to be Drowning Prevention Awareness Months "Always Watch the Water" and "Never Swim Alone" within the City of Stanton and presented a proclamation to Orange County Fire Authority Battalion Chief Erik Miranda.

9. CONSENT CALENDAR

Mayor Shawver pulled item 9E from the Consent Calendar for separate discussion.

Motion/Second: Warren/Van

ROLL CALL VOTE:	Council/Agency/Authority Member Taylor	AYE
	Council/Agency/Authority Member Van	AYE
	Council/Agency/Authority Member Warren	AYE
	Mayor Pro Tem/Vice Chairman Ramirez	AYE
	Mayor/Chairman Shawver	AYE

Motion unanimously carried:

CONSENT CALENDAR

9A. MOTION TO APPROVE THE READING BY TITLE OF ALL ORDINANCES AND RESOLUTIONS. SAID ORDINANCES AND RESOLUTIONS THAT APPEAR ON THE PUBLIC AGENDA SHALL BE READ BY TITLE ONLY AND FURTHER READING WAIVED

The City Council/Agency Board/Authority Board waived reading of Ordinances and Resolutions.

9B. APPROVAL OF WARRANTS

The City Council approved demand warrants dated March 25, 2022 – April 7, 2022 in the amount of \$292,506.43.

DRAFT

9C. APPROVAL OF MINUTES

1. The City Council/Successor Agency/Housing Authority approved Minutes of Joint Regular Meeting – March 22, 2022; and
2. The City Council/Successor Agency/Housing Authority approved Minutes of Joint Special Meeting – March 29, 2022; and
3. The City Council/Successor Agency/Housing Authority approved Minutes of Special and Joint Regular Meeting – April 12, 2022; and
4. The City Council/Successor Agency/Housing Authority approved Minutes of Joint Special Meeting (Closed Session) – April 19, 2022; and
5. The City Council/Successor Agency/Housing Authority approved Minutes of Joint Special Meeting (Community Meeting) – April 19, 2022.

9D. AMENDMENT TO AGREEMENT FOR FAMILY RESOURCE CENTER SERVICES WITH BOYS & GIRLS CLUB OF GARDEN GROVE

The attached First Amendment to the Agreement for Family Resource Center Services would increase the current part-time counselor position at the Family Resource Center (FRC) to a full-time position, to be funded through the City's American Rescue Plan Act (ARPA) funds.

1. The City Council declared that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3); and
2. Approved the First Amendment to the Agreement for Family Resource Center Services with the Boys & Girls Club of Garden Grove; and
3. Authorized the City Manager to bind the City of Stanton and the Boys & Girls Club of Garden Grove in an amended agreement to provide counseling services.

DRAFT

9F. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA APPROVING SUBDIVISION TRACT MAP NO. 19119

The subdivision tract map for the development known as Bigsby by Bonanni Development, which consists of a 79-unit townhome development including 7 low-income affordable units for the property located at 12200 Beach Boulevard has been submitted by the developer for final certification and recordation.

1. The City Council hereby determines that based upon the Initial Study and Mitigated Negative Declaration, the City Council exercises its independent judgment and finds the project's potential significant adverse impacts can be mitigated to a level of insignificance with the mitigation measures identified in the IS/MND and Mitigation Monitoring and Reporting Program (MMRP) and therefore the requirements of the California Environmental Quality Act (CEQA) have been met; and
2. Adopted Resolution No. 2022-19 approving final Tract Map No. 19119, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, APPROVING SUBDIVISION TRACT MAP NO. 19119 FOR THE PROPERTY LOCATED AT 12200 BEACH BOULEVARD"; and
3. Finds that the recordation of Tract Map No. 19119 will not be in violation of any of the provisions of Section 66474, 66474.1, and 66474.2 of the Subdivision Map Act; and
4. Finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the general plan required by Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of the Government Code, or any specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1 of the Government Code; and
5. Directed the City Engineer to review and approve any further technical edits necessary to allow for County Surveyor approval and for recordation of the map with the County Recorder of Orange County, and if edits are necessary, to require a revised Tract Map; and
6. Directed the City Engineer to collect any security instruments required by the Stanton Municipal Code, the Subdivision Map Act, and/or the conditions of approval to guarantee construction of private and public improvements prior to the City Clerk endorsing the City Clerk's certificate on the face of the Tract Map; and

DRAFT

7. Directed the City Clerk to endorse on the face of the map of the Tract Map, the certificate which embodies the approval of said map, and submit the map to the County Recorder of Orange County for recording.

END OF CONSENT CALENDAR

9E. AWARD OF CONSTRUCTION CONTRACT FOR THE FY 2021-2022 CITYWIDE STREET RESURFACING PROJECT

Four bids for the FY 2021-2022 Citywide Street Resurfacing Project were opened on April 18, 2022. Based on the post-bid analysis of the bids received, staff recommends the bid submitted by All American Asphalt, Inc. to be the lowest responsible and responsive bid. The construction cost is estimated at \$2,023,062, which includes a 5% contingency.

Mayor Shawver requested that staff ensure that representatives be present at future meetings when contracts are to be awarded.

Motion/Second: Shawver/Warren

Motion carried by the following vote:

AYES: 5 (Ramirez, Shawver, Taylor, Van, and Warren)
NOES: None
ABSTAIN: None
ABSENT: None

Motion unanimously carried:

1. The City Council awarded a construction contract for the FY 2021-2022 Citywide Street Resurfacing Project to All American Asphalt, Inc. for the alternate bid amount of \$1,926,726 for the construction of fiber reinforced asphalt concrete (FRAC) overlay; and
2. Authorized the City Attorney to make changes to the draft contract, as deemed necessary; and
3. Authorized the City Manager to bind the City of Stanton and All American Asphalt, Inc. in a contract for the construction; and
4. Declared this project to be categorically exempt under the California Environmental Quality Act, Class 1, Section 15301c; and
5. Authorized the City Manager to approve contract changes, not to exceed 5-percent (\$96,336).

DRAFT

- 10. PUBLIC HEARINGS None.
- 11. UNFINISHED BUSINESS None.
- 12. NEW BUSINESS None.
- 13. ORAL COMMUNICATIONS – PUBLIC None.
- 14. WRITTEN COMMUNICATIONS None.
- 15. MAYOR/CHAIRMAN/COUNCIL/AGENCY/AUTHORITY INITIATED BUSINESS
- 15A. COMMITTEE REPORTS/COUNCIL/AGENCY/AUTHORITY ANNOUNCEMENTS
 - Council Member Warren reported on her attendance at a Neighborhood Watch meeting, which was held within the Crosspointe Village Neighborhood and commended Chief of Police, Captain Cruz Alday on his presentation and community engagement.
 - Ms. Zenia Bobadilla, Community Services Director reported on the City's Annual Easter Egg Hunt and Resource Fair event, which was held on April 16, 2022, at Stanton Central Park.
 - Ms. Zenia Bobadilla, Community Services Director reported on the upcoming Stanton Art Exhibit, Building a Brighter Future event, which is scheduled to be held on May 21, 2022, at Stanton Central Park.
 - Ms. Zenia Bobadilla, Community Services Director reported on the City of Stanton's Beautification Award Program which recognizes Stanton residents and business owners who have demonstrated *Community Pride and Forward Vision* through the exceptional curb appeal of their property and that nominations are open and will be accepted through May 12, 2022.
 - Mayor Shawver reported on the success of the Support Ukraine event that was held in partnership with the Ukrainian Students' Society (USS) and Representative Lou Correa which was held on April 2, 2022.
 - Mayor Shawver reported on the success of the drive thru food and diaper distribution event, which was held on April 16, 2022, at Stanton Park.

DRAFT

15B. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE COUNCIL MEETING

- Council Member Gary Taylor requested to agendize discussion regarding the City's alternative resources to assist in enforcing anti-camping laws within Stanton, ensuring the use of all of the City's available resources to enforce its laws.
- Council Member Warren requested to agendize discussion regarding leading/hosting a meeting between the City and its business owners, working together to improve public safety within Stanton.

15C. COUNCIL/AGENCY/AUTHORITY INITIATED ITEMS FOR A FUTURE STUDY SESSION

None.

16. ITEMS FROM CITY ATTORNEY/AGENCY COUNSEL/AUTHORITY COUNSEL

Mayor Shawver inquired about the City's current shopping cart ordinance and both the City's enforcement process and Orange County Sheriff's Department enforcement process.

17. ITEMS FROM CITY MANAGER/EXECUTIVE DIRECTOR

None.

17A. ORANGE COUNTY SHERIFF'S DEPARTMENT

At this time the Orange County Sheriff's Department will provide the City Council with an update on their current operations.

Captain Cruz Alday provided the City Council with an update on their current operations.

The City Council discussed various concerns regarding public safety and enforcement of various laws.

The City Council and City staff expressed their birthday wishes to Mayor Shawver.

DRAFT

18. **ADJOURNMENT** Motion/Second: Shawver/
Motion carried at 7:37 p.m.

MAYOR/CHAIRMAN

ATTEST:

CITY CLERK/SECRETARY

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: May 10, 2022

SUBJECT: RESOLUTION ADOPTING THE LIST OF PROJECTS FOR FISCAL YEAR 2022-2023 TO BE FUNDED BY SB 1

REPORT IN BRIEF:

The proposed resolution approves a list of projects to be funded by SB 1, The Road Repair and Accountability Act of 2017, for Fiscal Year 2022-23.

RECOMMENDED ACTION:

1. City Council declare that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15378(b)(5) of the State CEQA Guidelines because CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and
2. Adopt Resolution No. 2022-21, entitled:

"RESOLUTION ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2022-23 FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017".

BACKGROUND:

On April 28, 2017, Governor Brown signed SB 1, the Road Repair and Accountability Act of 2017. SB 1 increased per gallon fuel and diesel fuel excise taxes, as well as vehicle registration fees, with revenues deposited into the State Transportation Fund's Road Maintenance and Rehabilitation Account (RMRA). SB 1 is expected to generate over \$5 billion annually for state and local transportation improvements. A percentage of this RMRA funding is apportioned by formula to eligible cities and counties pursuant to the Streets and Highways Code (SHC) Section 2032(h).

Pursuant to SHC Section 2030(a), RMRA funds should be used to address basic road maintenance, rehabilitation, and critical safety needs for local street and road systems. Eligible project categories include:

- Road maintenance and rehabilitation;
- Safety projects;
- Railroad grade separations;
- Traffic control devices; and
- Complete streets components, including active transportation projects, pedestrian and bicycle safety projects, and transit facilities, along with drainage and stormwater capture projects that are in conjunction with any allowable project.

ANALYSIS/JUSTIFICATION:

Pursuant to SHC Section 2034(a), agencies are required to submit, on an annual basis, a list of eligible, proposed projects to the California Transportation Commission (CTC) in order to be eligible for RMRA funding. The list of proposed projects must be adopted by the governing board at a regular public meeting. Each project listed must include a description and location of the project, a proposed schedule for the project's completion, and the estimated useful life of the improvements. For FY 2022-2023, the list of projects is due to the CTC by July 1, 2022.

The Pavement Management Plan identifies the following streets as needing work in FY 2022-2023:

Mill & Overlay Street	From	To
KATELLA AVE WB	Beach Blvd e/s	Dale Ave w/s
CERRITOS AVE	Knott Ave e/s	Beach Blvd w/s
DALE AVE	Cerritos Ave n/s	Katella Ave n/s
DEVONWOOD AVE	Santa Rosalia Ave e/s	Fieldgate St w/s
FULTON WAY	Rutledge Way	End
COLLEGE DR	East End	Western Ave e/s

Performing a mill and overlay on these streets will provide an estimated life span of 15 years.

Upon City Council approval of the proposed Resolution, staff will upload the project list to the required site by July 1, 2022.

FISCAL IMPACT:

The RMRA funds will be provided to cities monthly, with distributions to the City estimated to total \$902,053 in FY 2022/23. The City has included the funding in the draft FY 2022-23 CIP Budget. Combining the City's distribution with the current unexpended funds and accumulated interest, the City's total RMRA fund balance is estimated at \$1,037,690. The City will expend the allocated funding on the specific streets as designated.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the CEQA, this project has been determined to be exempt under Section 15378(b)(5) of the State CEQA Guidelines because CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

LEGAL REVIEW:

The Resolution has been reviewed and approved by the City Attorney's Office.

STRATEGIC PLAN OBJECTIVE(S) ADDRESSED:

1. Provide a safe community.
3. Provide a quality infrastructure.

PUBLIC NOTIFICATION:

Notifications were performed through normal agenda process.

Prepared by:

/s/ Joe Ames

Joe Ames, P.E., T.E.
Public Works Director/City Engineer

Reviewed by:

/s/ Michelle Bannigan

Michelle Bannigan, CPA
Finance Director

Approved by:

/s/ Jarad L. Hildenbrand

Jarad L. Hildenbrand
City Manager

Attachment:

- A. Resolution No. 2022-21

RESOLUTION NO. 2022-21

**RESOLUTION ADOPTING A LIST OF PROJECTS FOR FISCAL YEAR 2022-2023
FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of our City are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City of Stanton must adopt by resolution a list of all projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City of Stanton, will receive an estimated \$902,053 in RMRA funding in Fiscal Year 2022-23 from SB 1; and

WHEREAS, this is the sixth year in which the City of Stanton is receiving SB 1 funding, and will enable the City of Stanton to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City of Stanton has undergone a robust public process to ensure public input into our community's transportation project list; and

WHEREAS, the City of Stanton used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the community's priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City of Stanton maintain and rehabilitate nine major arterials and four local streets throughout the City of Stanton this year and many similar projects into the future; and

WHEREAS, the 2018 California Statewide Local Streets and Roads Needs Assessment found that the City of Stanton streets and roads are in good condition and this revenue will help us increase the overall quality of our road system and over the next decade will bring our streets and roads into an excellent condition; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive benefits for the City of Stanton.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1: The foregoing recitals are true and correct and are hereby incorporated and made an operative part of this Resolution.

SECTION 2: The City Council finds this Resolution is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15378(b)(4), which provides that the creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment are not CEQA projects, and here the Resolution includes additional potential projects to be covered by SB 1 funding. Further, the City Council finds the Resolution would be exempt from CEQA pursuant to Section 15301, which consists of the maintenance or minor alteration of existing public structures involving negligible or no expansion of use, and Section 15302, which consists of the replacement or reconstruction of existing structures and facilities, and the City Council finds that no exceptions under State CEQA Guidelines section 15300.2 apply that might otherwise negate the application of this exemption. Finally, the City Council finds that State CEQA Guidelines Section 15061(b)(3) exempts those activities for which it can be seen with certainty that there is no potential to result in significant environmental effects. The Resolution has no potential to result in physical change to the environment, directly or indirectly.

SECTION 3: The following list of newly proposed project(s) will be funded in-part with fiscal year 2022-2023 Road Maintenance and Rehabilitation Account revenues.

Project Name: FY 22/23 Citywide Street Rehabilitation Project

Project Description: Street arterials and local residential streets will be slurry sealed and/or grinded and overlayed. These streets experience heavy commuter traffic daily.

Estimated Project Schedule: October 2022 – May 2023

Locations And Project Useful Life : 7-15 years

Mill & Overlay Street	From	To
KATELLA AVE WB	Beach Blvd e/s	Dale Ave w/s
CERRITOS AVE	Knott Ave e/s	Beach Blvd w/s
DALE AVE	Cerritos Ave n/s	Katella Ave n/s
DEVONWOOD AVE	Santa Rosalia Ave e/s	Fieldgate St w/s
FULTON WAY	Rutledge Way	End
COLLEGE DR	East End	Western Ave e/s

SECTION 4: The City Manager, for the purpose of administrative necessity in implementing the budget, shall have the authority to transfer monies to the appropriate item, account, program, or fund to cover expenditures which have been approved by the City Council, except where such transfer is expressly prohibited in a resolution or ordinance approved by the City Council.

SECTION 5: This Resolution shall become effective upon the date of its adoption.

PASSED, APPROVED, AND ADOPTED this 10th day of May, 2022.

DAVID J. SHAWVER, MAYOR

APPROVED AS TO FORM:

HONGDAO NGUYEN, CITY ATTORNEY

ATTEST:

I, Patricia A. Vazquez, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2022-21 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on May 10, 2022, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and City Council

DATE: May 10, 2022

**SUBJECT: APPLICATION FOR FUNDS FOR THE ENVIRONMENTAL CLEANUP,
TIER 1 GRANT PROGRAM**

REPORT IN BRIEF:

The Orange County Transportation Authority (OCTA) has issued a call for projects for the Environmental Cleanup Program (ECP), Tier 1 Grant. The City of Stanton is requesting approximately \$56,000 in funds from OCTA to purchase and install catch basin connector pipe screens to keep trash from reaching local waterways.

RECOMMENDED ACTION:

1. City Council declare that the project is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301(c) – Existing highways and streets, sidewalks, gutters, bicycle, and pedestrian trails, and similar facilities; and
2. Adopt Resolution No. 2022-23 authorizing the application of funds for the Environmental Cleanup, Tier 1 Grant Program entitled:

**"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON
AUTHORIZING AN APPLICATION FOR FUNDS FOR THE
ENVIRONMENTAL CLEANUP, TIER 1 GRANT PROGRAM UNDER
ORANGE COUNTY LOCAL TRANSPORTATION ORDINANCE NO. 3
FOR STANTON CATCH BASIN FULL TRASH CAPTURE SYSTEM
INSTALLATIONS – 2022"; and**

3. Authorize the Public Works Director to sign the 2022 Tier 1 Call for Projects Application for Funding.

BACKGROUND:

On March 14, 2022, the Orange County Transportation Authority's (OCTA) Board of Directors authorized the 2022 call for projects for the Measure M2 Comprehensive Transportation Funding Program's Environmental Cleanup Program (ECP) Tier 1 Grant Program, also referred to as Project X.

The M2 ECP Tier 1 is designed to mitigate the more visible forms of pollutants, such as litter and debris that collects on the roadways and in the catch basins prior to being deposited in waterways and the ocean. It consists of funding for the equipment purchase and installation of screens, filters, inserts, and other “street scale” low flow diversion devices for existing catch basin structures.

ANALYSIS/JUSTIFICATION:

Staff has identified approximately 31 catch basins throughout the City for this project. These catches are located in areas around the commercial, industrial, and high density residential neighborhoods that typically generate higher levels of trash and debris. If awarded funding, these catch basins will be retrofitted with connector pipe screens made by G2 Construction, Inc. that will serve to capture trash and debris and prevent them from flowing into local waterways and will allow the City to comply with the Statewide “Trash Amendments.”

As described in the February 22, 2022 agenda report, the City is currently conducting a similar project. In 2021, the City was awarded approximately \$101,780 in grant funding for the installation of connector pipe screens in 109 catch basins throughout the City. That project, also being done by G2 Construction, Inc., is almost complete. City staff plans to return to City Council in June for approval of the Notice of Completion for that project.

FISCAL IMPACT:

None at this time. However, if the grant application for funding is approved by OCTA as submitted, the City will receive approximately \$56,000 in Tier 1 Grant Program funds. This funding amount will be used to purchase and install the catch basin connector pipe screens. The City proposes to use an in-kind match of approximately \$14,000 (20% of the total project cost). This amount is the minimum in-kind match required to be eligible for this grant. Staff will return to City Council with an appropriation request for the matching funds if the City is successful in obtaining the grant. Typically, awards are made by the OCTA Board of Directors in August of each year.

ENVIRONMENTAL IMPACT:

This project will be categorically exempt under the California Environmental Quality Act Section 15301, Class 1 (c) as minor alterations of existing facilities.

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

Notifications and advertisement were performed as prescribed by law.

Prepared by:

Reviewed by:

/s/ Joe Ames

/s/ Michelle Bannigan

Joe Ames, P.E., T.E.
Associate Engineer

Michelle Bannigan, CPA
Finance Director

Approved by:

/s/ Jarad L. Hildenbrand

Jarad L. Hildenbrand
City Manager

Attachment:

A. Resolution No. 2022-23

RESOLUTION NO. 2022-23

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON
AUTHORIZING AN APPLICATION FOR FUNDS FOR THE ENVIRONMENTAL
CLEANUP, TIER 1 GRANT PROGRAM UNDER ORANGE COUNTY LOCAL
TRANSPORTATION ORDINANCE NO. 3 FOR STANTON CATCH BASIN FULL
TRASH CAPTURE SYSTEM INSTALLATIONS – 2022**

WHEREAS, Orange County Local Transportation Ordinance No. 3, dated July 24, 2006, and is known and cited as the Renewed Measure M Transportation Ordinance and Investment Plan makes funds available through the Environmental Cleanup Program to help protect Orange County beaches and waterways from transportation generated pollution (urban runoff) and improve overall water quality; and

WHEREAS, the Environmental Cleanup, Tier 1 Grant Program consists of funding purchases and installation to catch basins with Best Management Practices, such as screens, filters, inserts, and other “street-scale” low flow diversion projects; and

WHEREAS, OCTA has established the procedures and criteria for reviewing proposals; and

WHEREAS, the City of Stanton possesses authority to nominate water quality improvement projects that have a transportation pollution nexus to finance and construct the proposed project; and

WHEREAS, by formal action the City of Stanton authorizes the nomination of Stanton Catch Basin Full Trash Capture System Installations - 2022, including all understanding and assurances contained therein, and authorizes the person identified as the official representative of the City of Stanton to act in connection with the nomination and to provide such additional information as may be required; and

WHEREAS, the City of Stanton will maintain and operate the equipment acquired and installed; and

WHEREAS, the City of Stanton will give OCTA's representatives access to and the right to examine all records, books, papers or documents related to the funded Tier 1 Grant Project; and

WHEREAS, the City of Stanton will cause work on the project to be commenced within a reasonable time after receipt of notification from OCTA and that the project will be carried to completion with reasonable diligence; and

WHEREAS, the City of Stanton will comply where applicable with provisions of the California Environmental Quality Act, the National Environmental Policy Act, the American with Disabilities Act, and any other federal, state, and/or local laws, rules and/or regulations; and

WHEREAS, the City of Stanton must include all projects funded by Net Revenues in the seven-year Capital Improvement Program as part of the Renewed Measure M Ordinance eligibility requirement; and

WHEREAS, the City of Stanton authorizes a formal amendment to the seven-year Capital Improvement Program to add projects approved for funding upon approval from the Orange County Transportation Authority Board of Directors; and

WHEREAS, the City of Stanton will provide a minimum of 20% in matching funds for the Stanton Catch Basin Full Trash Capture System Installations – 2022 as required by the Orange County Comprehensive Transportation Funding Programs Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the City of Stanton hereby authorizes the Director of Public Works, as the official representative of the City of Stanton, to accept funds for the Environmental Cleanup, Tier 1 Grant Program for Stanton Catch Basin Full Trash Capture System Installations – 2022.

BE IT FURTHER RESOLVED that the City of Stanton agrees to fund its share of the project costs (20% of the total project cost) and any additional costs over the identified programmed amount.

ADOPTED, SIGNED AND APPROVED this 10th day of May, 2022.

DAVID J. SHAWVER, MAYOR

APPROVED AS TO FORM:

HONGDAO NGUYEN, CITY ATTORNEY

ATTEST:

I, Patricia A. Vazquez, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2022-23 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on May 10, 2022, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: May 10, 2022

SUBJECT: MARCH 2022 INVESTMENT REPORT

REPORT IN BRIEF:

The Investment Report as of March 31, 2022, has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTIONS:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Receive and file the Investment Report for the month of March 2022.

BACKGROUND:

Changes in the City's cash and investment balances for the month of March are summarized below:

	<u>Beginning Balance</u>	<u>Net Change</u>	<u>Ending Balance</u>
Cash and Investment Accounts (Pooled-All Funds)	\$ 58,765,344.90	\$ (92,334.88)	\$ 58,673,010.02
Cash (Non-Pooled)	4,466,380.36	(13,530.74)	4,452,849.62
Total Cash and Investments	<u>\$ 63,231,725.26</u>	<u>\$ (105,865.62)</u>	<u>\$ 63,125,859.64</u>

Between February 28, 2022, and March 31, 2022, the City's total cash and investments decreased by approximately \$106,000.

The attached reports summarize the City investments and deposit balances as of March 31, 2022. The City's cash and investment balances by fund type are presented in Attachment A. A summary of the City's investment portfolio is included as Attachment B. The detail of the City's investments by type are shown in Attachment C.

ANALYSIS:

The monthly cash and investment report provides a summary of the cash and investment accounts held by the City as of the end of that month. In order to manage its cash and investments, the City combines cash resources from all funds into a single pool consisting of a variety of accounts and securities. The balance in the pooled cash account includes cash and certain liquid investments that are available to meet the City's current cash needs. Cash in excess of the City's current cash needs is invested in interest-bearing investments with various maturities.

Detailed information regarding the securities contained in the City's investment portfolio is provided in Attachments B and C. As of March 31, 2022, City investments consisted of the following:

	Market Value as of March 31, 2022	Average Interest Rate	Percentage of Portfolio Invested by Type	Maximum Percentage of Portfolio Permitted by Investment Policy	In Compliance?
Local Agency Investment Fund (LAIF)	\$ 43,430,340.45	0.37%	75.48%	100.00%	Yes
California Asset Management Program (CAMP)	5,253,867.30	0.25%	9.13%	100.00%	Yes
Negotiable Certificates of Deposit	7,143,630.50	2.47%	12.41%	30.00%	Yes
Municipal Bonds	1,716,694.95	2.25%	2.98%	100.00%	Yes
Total Investments	<u>\$ 57,544,533.20</u>		<u>100.00%</u>		

As of March 31, 2022, the average purchase yield to maturity earned on the City's total investment portfolio was 0.67%, which is above the benchmark LAIF return of 0.37%. The weighted average maturity of the City's was approximately 70 days (approximately 2 months) as of March 31, 2022, which is in compliance with the City's investment policy restriction of 3.5 years.

FISCAL IMPACT:

All deposits and investments have been made in accordance with the City's Fiscal Year 2021-22 Investment Policy. The portfolio will allow the City to meet its expenditure requirements for the next six months. Staff remains confident that the investment portfolio is currently positioned to remain secure and sufficiently liquid.

The City Treasurer controls a \$57.5 million portfolio, with \$8.9 million in investments held in a safekeeping account with Bank of the West.

ENVIRONMENTAL IMPACT:

None.

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

Through the normal agenda posting process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

4. Ensure Fiscal Stability and Efficiency in Governance

Prepared by:

Approved by:

/s/ Michelle Bannigan

/s/ Jarad L. Hildenbrand

Michelle Bannigan, CPA
Finance Director

Jarad L. Hildenbrand
City Manager

Attachments:

- A. Cash and Investment Balances by Fund
- B. Investments Portfolio Summary
- C. Investment Portfolio Detail

**CITY OF STANTON
CASH AND INVESTMENTS REPORT
MONTH ENDED MARCH 31, 2022**

Fund/ Account No.	Fund/Account Name	Beginning Balance	Increases	Decreases	Ending Balance
101-various	General Fund	\$ 21,319,594.80	\$ 5,985,248.74	\$ (5,286,784.33)	\$ 22,018,059.21
102-111101	General Fund (Transactions & Use Tax)	175,817.41	481,849.43	(1,154,693.80)	(497,026.96)
210-111101	Certified Access Specialists (CASP) Program	49,240.33	3,009.60	-	52,249.93
211-111101	Gas Tax Fund	1,175,998.18	74,447.70	(32,939.15)	1,217,506.73
215-111101	Road Maintenance and Rehabilitation act (RMRA) Fund	811,634.87	62,893.11	(7,562.58)	866,965.40
220-111101	Measure M Fund	893,890.47	129,436.28	(63,237.52)	960,089.23
221-111101	Community Development Block Grant-COVID-19 (CDBG-CV) Fund	(47,400.00)	-	-	(47,400.00)
222-111101	Community Development Block Grant (CDBG) Fund	210,849.35	390.25	(1,964.60)	209,275.00
223-111101	Protective Services Fund	-	24,145.51	(24,145.51)	-
224-111101	Lighting Maintenance 1919 Act Fund	438,988.39	16,997.15	(19,158.84)	436,826.70
225-111101	Lighting/Median Maintenance 1972 Act Fund	1,114,887.46	16,671.18	(40,816.08)	1,090,742.56
226-111101	Air Quality Improvement Fund	169,919.20	12,298.00	(1,620.42)	180,596.78
242-111101	Supplemental Law Enforcement Grant Fund (current)	413,981.65	2,959.92	(16,402.90)	400,538.67
250-111101	Families and Communities Together (FaCT) Grant Fund	(4,881.27)	27,626.33	(45,150.81)	(22,405.75)
251-111101	Senior Transportation Fund	55,200.67	9,401.13	(6,005.18)	58,596.62
257-111101	America Rescue Act Plan (ARPA) Fund	3,638,391.55	6,698.18	(181,354.81)	3,463,734.92
261-111101	Street Impact Fees Fund	90,260.73	165.59	(833.59)	89,592.73
262-111101	Traffic Signal Impact Fees Fund	51,553.71	61.09	(55,416.54)	(3,801.74)
263-111101	Community Center Impact Fees Fund	161,856.68	298.48	(1,502.61)	160,652.55
264-111101	Police Services Impact Fees Fund	146,227.51	269.66	(1,357.50)	145,139.67
271-111101	Public Safety Task Force Fund (City Funds)	133,000.00	-	(2,873.00)	130,127.00
280-111101	Stanton Central Park Maintenance Fund	17,030.67	3,428.33	(3,115.00)	17,344.00
285-various	Stanton Housing Authority Fund	12,317,994.91	3,410.00	(90,147.05)	12,231,257.86
305-111101	Capital Projects Fund	278,929.05	109,783.85	(104,294.66)	284,418.24
310-111101	Park and Recreation Facilities Fund	3,726,214.90	6,855.36	(34,510.93)	3,698,559.33
501-111101	Sewer Maintenance Fund	5,647,280.04	192,092.19	(60,472.82)	5,778,899.41
502-111101	Sewer Capital Improvement Fund	8,148.96	6,225.91	(11,507.89)	2,866.98
602-111101	Workers' Compensation Fund	568,337.16	10,433.70	(5,316.36)	573,454.50
603-111101	Liability Risk Management Fund	126,358.05	121,763.87	(122,707.35)	125,414.57
604-111101	Employee Benefits Fund	140,975.30	161,177.04	(78,291.22)	223,861.12
605-111101	Fleet Maintenance Fund	412,925.58	10,220.28	(14,782.22)	408,363.64
801-111101	Expendable Deposits Fund	(38,506.85)	-	-	(38,506.85)
901-111101	North Orange County Collaborative (NOC) Trust Fund	4,560,645.44	-	(103,627.47)	4,457,017.97
Total Pooled Cash and Investments⁽¹⁾		\$ 58,765,344.90	\$ 7,480,257.86	\$ (7,572,592.74)	\$ 58,673,010.02
Less: Investments⁽¹⁾		\$ (55,322,350.16)	\$ (3,001,127.94)	\$ 778,944.90	\$ (57,544,533.20)
Cash - Bank of the West General Checking Account		\$ 3,442,994.74	\$ 4,479,129.92	\$ (6,793,647.84)	\$ 1,128,476.82

**CITY OF STANTON
CASH AND INVESTMENTS REPORT
MONTH ENDED MARCH 31, 2022**

Fund/ Account No.	Fund/Account Name	Beginning Balance	Increases	Decreases	Ending Balance
<u>CASH-NON-POOLED</u>					
101-111103	Payroll Account	\$ -	\$ 365,692.20	\$ (365,692.20)	-
101-111109	Flexible Spending/AFLAC	17,920.22	-	(1,519.74)	16,400.48
101-111505	Petty Cash	600.00	-	-	600.00
604-111404	Cash with Fiscal Agent (PARS) ⁽²⁾	4,447,860.14	-	(12,011.00)	4,435,849.14
	Total Cash-Non-Pooled	<u>\$ 4,466,380.36</u>	<u>\$ 365,692.20</u>	<u>\$ (379,222.94)</u>	<u>\$ 4,452,849.62</u>
<u>INVESTMENTS</u>					
	POOLED ALL FUNDS	<u>\$ 55,322,350.16</u>	<u>\$ 3,001,127.94</u>	<u>\$ (778,944.90)</u>	<u>\$ 57,544,533.20</u>
	Total Investments ⁽³⁾	<u>\$ 55,322,350.16</u>	<u>\$ 3,001,127.94</u>	<u>\$ (778,944.90)</u>	<u>\$ 57,544,533.20</u>
	TOTAL CASH AND INVESTMENTS	<u><u>\$ 63,231,725.26</u></u>	<u><u>\$ 7,845,950.06</u></u>	<u><u>\$ (7,951,815.68)</u></u>	<u><u>\$ 63,125,859.64</u></u>

Notes:

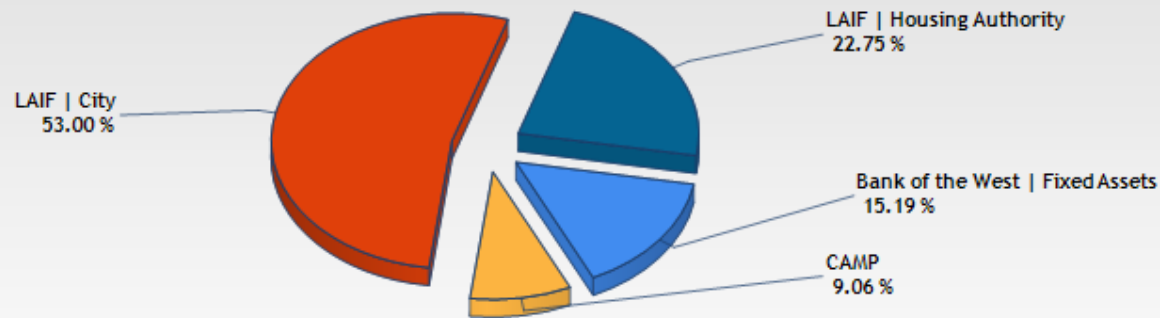
⁽¹⁾ - Pooled cash includes: City's Bank of the West general checking and safekeeping accounts, the City's Local Agency Investment Fund (LAIF) account, the Housing Authority's LAIF account, the California Asset Management Program (CAMP) account, and the Public Agency Retirement Services (PARS) account.

⁽²⁾ - The Public Agency Retirement Services (PARS) account is an irrevocable trust that can be used for pension and other post employment benefits only. This fund is excluded from the compliance requirements set forth in the City's investment policy.

⁽³⁾ - The Portfolio Summary Report and Holdings by Security Type are included in Attachments B and C, respectively.

City of Stanton
Distribution
Group By: Portfolio Name
Average By: Face Amount/Shares
Portfolio / Report Group: All Portfolios
As of: 3/31/2022

Portfolio Holdings Distribution by Portfolio Name



Portfolio Name	Face Amount/Shares	YTM @ Cost	Cost Value	Days To Maturity	% of Portfolio	Market Value	Book Value	Duration To Maturity
Bank of the West Fixed Assets	8,807,000.00	2.423	8,823,816.20	457	15.19	8,860,325.45	8,811,412.94	1.22
CAMP	5,253,867.30	0.250	5,253,867.30	1	9.06	5,253,867.30	5,253,867.30	0.00
LAIF City	30,730,137.82	0.365	30,730,137.82	1	53.00	30,384,532.51	30,730,137.82	0.00
LAIF Housing Authority	13,194,195.96	0.365	13,194,195.96	1	22.75	13,045,807.94	13,194,195.96	0.00
TOTAL / AVERAGE	57,985,201.08	0.667	58,002,017.28	70	100	57,544,533.20	57,989,614.02	0.19

City of Stanton
Portfolio Holdings
Investment Portfolio | by Security Type
Report Format: By Transaction
Group By: Security Type
Average By: Face Amount / Shares
Portfolio / Report Group: All Portfolios
As of 3/31/2022

Description	CUSIP/Ticker	Settlement Date	YTM @ Cost	Face Amount/Shares	Cost Value	Book Value	Market Value	Maturity Date	Days To Maturity	Accrued Interest	% of Portfolio
Local Government Investment Pool											
CAMP LGIP	CAMP3001	2/29/2020	0.250	5,253,867.30	5,253,867.30	5,253,867.30	5,253,867.30	N/A	1		9.06
LAIF City LGIP	LAIFCITY0895	2/29/2020	0.365	30,730,137.82	30,730,137.82	30,730,137.82	30,384,532.51	N/A	1		53.00
LAIF Housing Authority LGIP	LAIFHA0004	2/29/2020	0.365	13,194,195.96	13,194,195.96	13,194,195.96	13,045,807.94	N/A	1		22.75
Sub Total / Average Local Government Investment Pool			0.353	49,178,201.08	49,178,201.08	49,178,201.08	48,684,207.75		1	0.00	84.81
Municipal Bond											
Arvin Community CA 2.5 3/1/2023	043288AK5	8/8/2019	2.350	275,000.00	276,399.75	275,360.43	276,482.25	3/1/2023	335	572.92	0.47
Fort Bragg CA 1.871 8/1/2024	347028JZ6	9/18/2019	1.750	205,000.00	206,150.05	205,552.08	200,002.10	8/1/2024	854	639.26	0.35
Riverside Pension CA 2.5 6/1/2022	769036BB9	6/20/2017	2.251	500,000.00	505,800.00	500,199.00	501,220.00	6/1/2022	62	4,166.67	0.86
Riverside Pension CA 2.5 6/1/2022	769036BB9	7/24/2017	2.401	240,000.00	241,080.00	240,037.77	240,585.60	6/1/2022	62	2,000.00	0.41
Riverside Pension CA 2.75 6/1/2024	769036BD5	8/28/2019	2.030	250,000.00	258,120.00	253,702.79	249,377.50	6/1/2024	793	2,291.67	0.43
Stockton CA 2.5 9/1/2023	861403AU7	5/1/2019	2.600	250,000.00	248,975.00	249,664.16	249,027.50	9/1/2023	519	520.83	0.43
Sub Total / Average Municipal Bond			2.247	1,720,000.00	1,736,524.80	1,724,516.23	1,716,694.95		373	10,191.35	2.97
Negotiable Certificate Of Deposit											
Allegiance Bank TX 2.65 2/14/2023	01748DBB1	4/11/2019	2.650	249,000.00	249,000.00	249,000.00	252,274.35	2/14/2023	320	307.33	0.43
American Eagle Bank IL 2.1 5/23/2022	02554BCN9	6/9/2017	2.100	150,000.00	150,000.00	150,000.00	150,364.50	5/23/2022	53	69.04	0.26
American Express UT 2.35 8/8/2022	02587DV47	8/8/2017	2.350	247,000.00	247,000.00	247,000.00	248,526.46	8/8/2022	130	811.04	0.43
American Express UT 2.4 8/29/2022	02587CFU9	8/29/2017	2.400	247,000.00	247,000.00	247,000.00	248,716.65	8/29/2022	151	487.23	0.43
Bank Hapoalim NY 2.9 3/25/2024	06251AW48	4/24/2019	2.900	250,000.00	250,000.00	250,000.00	253,830.00	3/25/2024	725	119.18	0.43
Bank of New England NH 2.65 5/23/2024	06426KBE7	5/23/2019	2.650	249,000.00	249,000.00	249,000.00	251,417.79	5/23/2024	784	144.62	0.43
Capital One VA 2.3 7/19/2022	14042RGN5	7/19/2017	2.300	247,000.00	247,000.00	247,000.00	248,323.92	7/19/2022	110	1,105.07	0.43
Cornerstone Community Bank CA 2.6 5/17/2024	219240BY3	5/17/2019	2.600	249,000.00	249,000.00	249,000.00	251,176.26	5/17/2024	778	248.32	0.43
EagleBank MD 2.65 4/28/2023	27002YEL6	4/30/2019	2.650	249,000.00	249,000.00	249,000.00	252,426.24	4/28/2023	393	18.08	0.43
Evansville Teachers FCU IN 2.25 7/22/2024	299547AV1	7/22/2019	2.250	249,000.00	249,000.00	249,000.00	248,965.14	7/22/2024	844	138.14	0.43
First Technology FCU CA 3.35 9/27/2023	33715LCJ7	9/27/2018	3.350	240,000.00	240,000.00	240,000.00	245,803.20	9/27/2023	545	88.11	0.41
First Tier Bank NE 1.95 8/23/2024	33766LAJ7	8/23/2019	1.950	249,000.00	249,000.00	249,000.00	247,008.00	8/23/2024	876	106.42	0.43
Goldman Sachs Bank NY 2.35 6/21/2022	38148PKX4	6/21/2017	2.350	247,000.00	247,000.00	247,000.00	248,067.04	6/21/2022	82	1,590.27	0.43
Greenstate FCU IA 1.95 2/28/2023	39573LAF5	8/28/2019	1.950	249,000.00	249,000.00	249,000.00	250,723.08	2/28/2023	334	39.91	0.43

Description	CUSIP/Ticker	Settlement Date	YTM @ Cost	Face Amount/Shares	Cost Value	Book Value	Market Value	Maturity Date	Days To Maturity	Accrued Interest	% of Portfolio
Healthcare Systems FCU VA 2.65 4/25/2024	42228LAD3	4/25/2019	2.650	246,000.00	246,000.00	246,000.00	248,455.08	4/25/2024	756	2,804.06	0.42
Horizon Bank NE 1.7 8/29/2023	44042TBQ6	7/29/2019	2.101	249,000.00	245,090.70	247,647.99	250,879.95	8/29/2023	516	23.19	0.43
I&C Bank of China, NY 2.15 4/12/2022	45581EAC5	8/15/2019	2.104	247,000.00	247,296.40	247,003.66	247,140.79	4/12/2022	12	276.44	0.43
Main Street Bank VA 2.6 4/26/2024	56065GAG3	4/26/2019	2.600	249,000.00	249,000.00	249,000.00	251,243.49	4/26/2024	757	88.68	0.43
McGregor TX 2.3 6/28/2024	32112UDA6	7/12/2019	2.200	249,000.00	250,170.30	249,529.31	250,812.72	6/28/2024	820	47.07	0.43
Merrick Bank UT 2.6 8/23/2023	59013J7P8	4/23/2019	2.600	249,000.00	249,000.00	249,000.00	252,341.58	8/23/2023	510	141.90	0.43
Morgan Stanley NY 3.1 2/7/2024	61760AVJ5	2/7/2019	3.100	246,000.00	246,000.00	246,000.00	250,875.72	2/7/2024	678	1,086.44	0.42
Morgan Stanley UT 3.1 2/7/2024	61690UDW7	2/7/2019	3.100	246,000.00	246,000.00	246,000.00	250,875.72	2/7/2024	678	1,086.44	0.42
Mountain America CU UT 3 3/27/2023	62384RAF3	4/9/2019	2.840	249,000.00	250,494.00	249,372.47	253,205.61	3/27/2023	361	81.86	0.43
Raymond James Bank FL 2 8/23/2024	75472RAE1	8/23/2019	2.000	247,000.00	247,000.00	247,000.00	245,312.99	8/23/2024	876	487.23	0.43
Sallie Mae Bank UT 2.3 8/2/2022	795450B61	8/2/2017	2.300	248,000.00	248,000.00	248,000.00	249,443.36	8/2/2022	124	890.76	0.43
Synchrony Bank UT 2.4 5/19/2022	87165EL96	5/19/2017	2.400	247,000.00	247,000.00	247,000.00	247,654.55	5/19/2022	49	2,143.82	0.43
TIAA FSB FL 2.1 7/29/2022	87270LCM3	7/29/2019	2.100	247,000.00	247,000.00	247,000.00	248,242.41	7/29/2022	120	866.87	0.43
University of Iowa CU IA 3.05 5/15/2023	91435LAG2	4/25/2019	2.919	248,000.00	249,240.00	248,343.28	252,560.72	5/15/2023	410	621.70	0.43
Washington Federal Bank WA 1.95 8/28/2024	938828BN9	8/28/2019	1.950	249,000.00	249,000.00	249,000.00	246,963.18	8/28/2024	881	39.91	0.43
Sub Total / Average Negotiable Certificate Of Deposit			2.466	7,087,000.00	7,087,291.40	7,086,896.71	7,143,630.50		478	15,959.13	12.22
Total / Average			0.667	57,985,201.08	58,002,017.28	57,989,614.02	57,544,533.20		70	26,150.48	100

CITY OF STANTON

REPORT TO THE SUCCESSOR AGENCY TO THE STANTON REDEVELOPMENT AGENCY

TO: Honorable Chair and Members of the Successor Agency

DATE: May 10, 2022

SUBJECT: MARCH 2022 INVESTMENT REPORT (SUCCESSOR AGENCY)

REPORT IN BRIEF:

The Investment Report as of March 31, 2022, has been prepared in accordance with the City's Investment Policy and California Government Code Section 53646.

RECOMMENDED ACTIONS:

1. Successor Agency find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Receive and file the Investment Report for the month of March 2022.

BACKGROUND:

The attached reports summarize the Successor Agency investments and deposit balances as of March 2022. During the month of March, the Successor Agency's total cash and investment balances decreased by approximately \$5,367. The Successor Agency's cash and investment balances by fund are presented in Attachment A. The Successor Agency's investments and deposits are included as Attachment B.

ANALYSIS:

The Successor Agency's share of the City's investment in the State Treasurer's Local Agency Investment Fund (LAIF) continues to be available on demand. The effective yield on LAIF for the month of March 2022 was 0.37%.

The Successor Agency's investments are shown on Attachment B and have a weighted investment yield of 0.37%, which is equal to the benchmark LAIF return of 0.37%, as the entire portfolio (excluding funds held with the bond fiscal agents) represents the Successor Agency's portion of LAIF and Bank of the West funds invested by the City.

With a completely liquid portfolio, the weighted average maturity of the Successor Agency's investments on March 31, 2022, is 1 day. LAIF's average maturity on March 31, 2022, is approximately 310 days.

FISCAL IMPACT:

All deposits and investments have been made in accordance with the City's Fiscal Year 2021-22 Investment Policy.

The portfolio will allow the Successor Agency to meet its expenditure requirements for the next six months.

ENVIRONMENTAL IMPACT:

None

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

Through the agenda posting process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

4. Ensure Fiscal Stability and Efficiency in Governance

Prepared by:

Approved by:

/s/ Michelle Bannigan

/s/ Jarad L. Hildenbrand

Michelle Bannigan, CPA
Finance Director

Jarad L. Hildenbrand
City Manager

Attachments:

- A. Cash and Investment Balances by Fund
- B. Investments and Deposits

**SUCCESSOR AGENCY TO THE STANTON REDEVELOPMENT AGENCY
CASH AND INVESTMENTS REPORT
MONTH ENDED MARCH 31, 2022**

Fund/ Account No.	Fund/Account Name	Beginning Balance	Increases	Decreases	Ending Balance
<u>CASH-POOLED</u>					
712-111101	Redevelopment Obligation Retirement Fund	\$ 2,496,464.77	\$ -	\$ (5,366.67)	\$ 2,491,098.10
	Total Cash-Pooled ⁽¹⁾	\$ 2,496,464.77	\$ -	\$ (5,366.67)	\$ 2,491,098.10
<u>CASH-RESTRICTED (with Fiscal Agent)</u>					
712-111423	2016 Tax Allocation Bonds, Series A and B	\$ 824,739.99	\$ 3.16	\$ -	\$ 824,743.15
712-111425	2016 Tax Allocation Bonds, Series C and D	1,233,634.97	4.73	-	1,233,639.70
712-111426	2020 Tax Allocation Refunding Bonds, Series A	666,802.01	2.56	-	666,804.57
	Total Cash-Restricted (with Fiscal Agent)	\$ 2,725,176.97	\$ 10.45	\$ -	\$ 2,725,187.42
	TOTAL CASH AND INVESTMENTS	\$ 5,221,641.74	\$ 10.45	\$ (5,366.67)	\$ 5,216,285.52

Note:

⁽¹⁾ - Includes the Successor Agency's share of the City's Bank of the West checking account and Local Agency Investment Fund (LAIF).

**SUCCESSOR AGENCY TO THE STANTON REDEVELOPMENT AGENCY
INVESTMENTS AND DEPOSITS
MONTH ENDED MARCH 31, 2022**

Investment Type	Institution	Issuer/ Broker		Date of Maturity	Interest Rate		Cost	Market Value	MV Source
LAIF and BOW General Acct	State of California/ BOW	State of California		On Demand	0.37%	N/A	\$ 2,491,098	\$ 2,491,098	LAIF

Total Cash Investments and Deposits

1	0.37%
---	-------

\$ 2,491,098	\$ 2,491,098
---------------------	---------------------

Weighted Average/eighted Average

Bond Funds Held by Trustees:

Maturity (days) Yield

Investment Type	Institution	Issuer/ Broker	CUSIP Number	Date of Maturity		Interest Rate	Par Value	Cost	Market Value	MV Source
2016 Series A and B										
Debt Service:										
Cash Equivalents	US Bank Money Market	US Bank	9AMMF05B2	On Demand		0.02%	\$ 824,742	\$ 824,742	\$ 824,742	US Bank
Principal:										
Cash Equivalent	US Bank Money Market	US Bank	9AMMF05B2	On Demand		0.02%	1	1	1	US Bank

Total 2016 Series A and B

\$ 824,743 \$ 824,743

Investment Type	Institution	Issuer/ Broker	CUSIP Number	Date of Maturity		Interest Rate	Par Value	Cost	Market Value	MV Source
2016 Series C and D										
Debt Service:										
Cash Equivalent	US Bank Money Market	US Bank	9AMMF05B2	On Demand		0.02%	\$ 1,233,638	\$ 1,233,638	\$ 1,233,638	US Bank
Interest:										
Cash Equivalent	US Bank Money Market	US Bank	9AMMF05B2	On Demand		0.02%	1	1	1	US Bank
Principal:										
Cash Equivalent	US Bank Money Market	US Bank	9AMMF05B2	On Demand		0.02%	1	1	1	US Bank

Total 2016 Series C and D

\$ 1,233,640 \$ 1,233,640

Investment Type	Institution	Issuer/ Broker	CUSIP Number	Date of Maturity		Interest Rate	Par Value	Cost	Market Value	MV Source
2020 Tax Allocation Refunding Bonds										
Special Fund:										
Cash Equivalent	US Bank Money Market	US Bank	9AMMF05B2	On Demand		0.02%	\$ 666,804	\$ 666,804	\$ 666,804	US Bank

Total 2010 Tax Allocation Bonds (Tax-Exempt)

\$ 666,804 \$ 666,804

Total Bond Fund Investments and Deposits (3)

\$ 2,725,187 \$ 2,725,187

TOTAL - ALL CASH AND INVESTMENTS

\$5,216,285 \$5,216,285

Notes:

- (1) - There have been no exceptions to the Investment Policy.
- (2) - The Successor Agency is able to meet its expenditure requirements for the next six months.
- (3) - Restricted Bond Funds are held by the fiscal agent.

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and City Council

DATE: May 10, 2022

SUBJECT: MARCH 2022 GENERAL FUND REVENUE AND EXPENDITURE REPORT; HOUSING AUTHORITY REVENUE AND EXPENDITURE REPORT; AND STATUS OF CAPITAL IMPROVEMENT PROGRAM

REPORT IN BRIEF:

The Revenue and Expenditure Report for the month ended March 31, 2022, has been provided to the City Manager in accordance with Stanton Municipal Code Section 2.20.080 (D) and is being provided to City Council. This report includes information for both the City's General Fund and the Housing Authority Fund. In addition, staff has provided a status of the City's Capital Improvement Projects (CIP) as of March 31, 2022.

RECOMMENDED ACTION:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15378(b)(5) (Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment); and
2. Receive and file the General Fund and Housing Authority Fund's March 2022 Revenue and Expenditure Report and Status of Capital Improvement Projects for the month ended March 31, 2022.

ANALYSIS:

General Fund Revenue and Expenditure Reports

Attachments A and B summarize the General Fund's revenue and expenditure activity through March 31, 2022. The reports include information for the month of March, on a year-to-date basis through March, the current fiscal year's budgeted balance and the year-to-date as a percentage of the budget. In addition, for comparison purposes, the year-to-date amount, final amount, and a percentage of final for the previous fiscal year (through March) is included as well.

As of March 31, total General Fund revenues received to date was approximately \$17.6 million, which represents 61% of the Fiscal Year 2021/22 budgeted amount and is approximately \$1.1 million (6%) higher than the revenues collected for the same period last year (Attachment A, page 2). The primary reason for the increase is because of increased taxes collected during the current year for property tax, transient occupancy tax, sales tax, and transaction and use tax.

Total General Fund expenditures were approximately \$17.6 million through March 31, which represents 65% of the 2021/22 projected expenditures and is approximately \$163,000 (1%) lower than the expenditures incurred for the same period last year (Attachment B, page 2).

Housing Authority Revenue and Expenditure Reports

Attachment D summarizes the Housing Authority Fund's revenue and expenditure activity through March 31, 2022. The report includes information for the activity during the month of March, information on a year-to-date basis through March, the current fiscal year's budgeted balance and the year-to-date as a percentage of the budget. In addition, for comparison purposes, the year-to-date amount, final amount, and a percentage of final for the previous fiscal year (through March) is included as well.

As of March 31, total Housing Authority Fund revenues received to date was approximately \$829,000, which represents 67% of the Fiscal Year 2021/22 budgeted amount and is approximately \$302,000 (57%) more than the revenue collected through the same period last year, due to the sale of the property located at 7455 Katella Avenue and the \$75,000 in deposits the Housing Authority received for the exclusive negotiation agreement related to the Tina-Pacific Development Project.

Total Housing Authority Fund expenditures were approximately \$1.6 million through March 31, which represents 36% of the 2021/22 projected expenditures and is approximately \$1.6 million (50%) lower than the expenditures incurred for the same period last year. During Fiscal Year 2019/20, the Housing Authority made \$2.6 million in payments for Project Homekey.

Status of Capital Improvement Projects (CIP) (Attachment D)

The Fiscal Year 2021/22 CIP budget includes \$3.3 million from the Fiscal Year 2021/22 Adopted Budget, \$822,843 in carryover funding from Fiscal Year 2020/21, and \$7.8 million in other adjustments approved by the City Council since July 2021, for a total amended budget of \$12.0 million as of March 31, 2022. As of March 31, capital project expenditures totaled \$162,830 (1% of the amended budget) with an additional \$1.0 million (9% of the amended budget) under contract (encumbered) for work currently underway, for a total amount spent or encumbered to date of \$1.2 million (10% of the amended budget) as of March 31, 2022.

FISCAL IMPACT:

Per Attachment C, the City's General Fund reserves is expected to be \$23.6 million by June 30, 2022.

Per Attachment E, the City's Housing Authority Fund reserves is expected to be \$12.0 million by June 30, 2022.

ENVIRONMENTAL IMPACT:

None.

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

Through the normal agenda posting process.

STRATEGIC PLAN OBJECTIVE ADDRESSED

4. Ensure Fiscal Stability and Efficiency in Governance

Prepared by:

Approved by:

/s/ Michelle Bannigan

/s/ Jarad L. Hildenbrand

Michelle Bannigan, CPA
Finance Director

Jarad L. Hildenbrand
City Manager

Attachments:

- A. March 2022 General Fund Revenues
- B. March 2022 General Fund Expenditures
- C. General Fund Reserve Balances
- D. March 2022 Housing Authority Revenue and Expenditures
- E. Housing Authority Reserve Balance
- F. Status of Capital Improvement Projects as of March 31, 2022

CITY OF STANTON
March 2022 General Fund Revenues (75% of year)

	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		Percent of Budget	FY 2020/21 Actual	% Change From Prior Year
			Activity During March	Year To Date Actual *			
TAXES							
Property Tax	\$ 7,213,500	\$ 7,586,000	\$ 87,458	\$ 4,160,606	54.85%	\$ 3,740,988	11.22%
Sales and Use Tax	4,810,000	5,117,000	418,877	3,063,387	59.87%	2,778,210	10.26%
Transactions and Use Tax	4,998,000	5,473,000	451,466	3,380,416	61.77%	2,931,243	15.32%
Transient Occupancy Tax	480,000	590,000	46,247	434,043	73.57%	349,258	24.28%
Franchise Fees	1,109,500	1,109,500	129,095	510,344	46.00%	577,273	-11.59%
Business Licenses	160,000	160,000	16,033	140,532	87.83%	130,039	8.07%
Utility Users Tax	1,881,000	1,881,000	149,601	1,380,140	73.37%	1,368,873	0.82%
Tax Increment Pass-thru Payment	338,000	409,000	-	270,516	66.14%	215,950	25.27%
TAXES-TOTAL	20,990,000	22,325,500	1,298,777	13,339,984	59.75%	12,091,834	10.32%
INTERGOVERNMENTAL							
County WDA Shared Revenue	160,000	160,000	-	101,376	63.36%	-	100.00%
Mandated Cost Reimbursement	30,000	30,000	31	31	0.10%	-	100.00%
Motor Vehicle In Lieu	20,000	45,700	-	45,717	100.04%	28,661	37.31%
Public Safety Augmentation Tax	161,075	185,280	20,547	121,002	65.31%	97,021	24.72%
Planning Grants	-	160,000	-	152,434	95.27%	-	100.00%
INTERGOVERNMENTAL-TOTAL	371,075	580,980	20,578	420,560	72.39%	125,682	234.62%
CHARGES FOR SERVICES							
Charges for Services	105,280	171,145	20,523	99,938	58.39%	67,070	49.01%
Information Technology Charges	30,345	30,345	2,529	22,759	75.00%	18,214	24.95%
CHARGES FOR SERVICES-TOTAL	135,625	201,490	23,052	122,697	60.89%	85,284	43.87%
FEES AND PERMITS							
Solid Waste Impact Fees	1,150,000	1,150,000	87,729	743,210	64.63%	657,065	13.11%
Building Permits and Fees	1,300,000	1,300,000	172,629	777,468	59.81%	1,389,693	-44.05%
Planning Permits and Fees	106,250	106,250	4,580	62,685	59.00%	59,733	4.94%
Engineering Permits and Fees	73,300	73,300	11,335	106,376	145.12%	72,294	47.14%
Public Benefit Fee	-	-	-	-	**	551,996	-100.00%
Recycling Fees	93,750	93,750	-	38,815	41.40%	40,245	-3.55%
Other Permits and Fees	267,500	267,500	41,498	234,703	87.74%	335,292	-30.00%
Community Services Fees	46,500	70,500	4,756	57,697	81.84%	26,077	54.80%
FEES AND PERMITS -TOTAL	3,037,300	3,061,300	322,527	2,020,954	66.02%	3,132,395	-35.48%

CITY OF STANTON
March 2022 General Fund Revenues (75% of year)

	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		Percent of Budget	FY 2020/21 Actual	% Change From Prior Year
			Activity During March	Year To Date Actual *			
FINES AND FORFEITURES							
General Fines	600	18,000	55,000	18,339	101.88%	500	3567.80%
Motor Vehicle Fines	120,670	40,000	3,174	27,835	69.59%	87,105	-68.04%
Parking Citations	205,000	205,000	18,099	190,869	93.11%	201,240	-5.15%
DMV Parking Collections	70,300	70,300	4,778	42,706	60.75%	35,371	20.74%
Administrative Citation	15,000	7,500	-	3,940	52.53%	9,875	-60.10%
FINES AND FORFEITURES-TOTAL	411,570	340,800	26,106	283,689	83.24%	334,091	-15.09%
USE OF MONEY AND PROPERTY							
Investment Earnings	185,000	145,000	54,290	125,463	86.53%	194,118	-35.37%
Unrealized Gains (Losses)	-	-	(39,259)	(398,862)	**	(100,552)	-296.67%
Interest on Loan to Landscape District Fund	16,570	16,570	3,627	14,510	87.57%	-	100.00%
Rental Income	28,305	82,855	22,408	75,310	90.89%	10,505	616.90%
USE OF MONEY AND PROPERTY-TOTAL	229,875	244,425	41,066	(183,579)	-75.11%	104,071	-276.40%
MISCELLANEOUS REVENUE							
Miscellaneous Revenue	198,700	313,835	5,689	159,129	50.70%	173,035	-8.04%
MISCELLANEOUS REVENUE-TOTAL	198,700	313,835	5,689	159,129	50.70%	173,035	-8.04%
TRANSFERS IN							
From Gas Tax Fund	205,000	205,000	17,083	153,750	75.00%	97,875	57.09%
From Protective Services Fund	375,000	376,951	24,146	241,843	64.16%	277,150	-12.74%
From Supplemental Law Enforcement Grants Fund	150,000	150,000	12,500	112,500	75.00%	70,193	60.27%
From Housing Authority Fund	-	890,000	-	890,000	100.00%	-	100.00%
TRANSFERS IN-TOTAL	730,000	1,621,951	53,729	1,398,093	86.20%	445,218	68.16%
TOTAL REVENUES AND TRANSFERS IN	\$ 26,104,145	\$ 28,690,281	\$ 1,791,524	\$ 17,561,527	61.21%	\$ 16,491,610	6.49%

* = Actual data is reported through March .

TAXES
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year To Date Actual *			
101	General Fund							
430100	Current Year-Secured	\$ 1,144,000	\$ 1,122,000	\$ 68,083	\$ 701,638	62.53%	705,587	-0.56%
430105	Current Year-Unsecured	32,500	22,000	9,426	27,958	127.08%	26,907	3.91%
430115	Property Tax-Supplemental	23,000	20,000	1,648	12,294	61.47%	11,880	3.48%
430120	Residual Redevelopment Property Tax	1,267,000	1,292,000	-	791,483	61.26%	582,742	35.82%
430121	In-Lieu Vehicle License Fee	4,640,000	5,008,000	-	2,504,005	50.00%	2,274,741	10.08%
430135	Homeowners Tax Relief	1,000	5,000	-	2,480	49.60%	781	217.54%
430140	Property Transfer Tax	106,000	116,000	8,301	120,636	104.00%	137,411	-12.21%
430145	Property Tax-Penalties/Int	-	1,000	-	112	11.20%	939	-88.07%
430200	Sales And Use Tax	4,810,000	5,117,000	418,877	3,063,387	59.87%	2,778,210	10.26%
430300	Transient Occupancy Tax	480,000	590,000	46,247	434,043	73.57%	349,258	24.28%
430405	Franchise Tax/Cable TV	224,500	224,500	-	51,718	23.04%	141,816	-63.53%
430410	Franchise Tax/Electric	214,000	214,000	-	-	0.00%	-	**
430415	Franchise Tax/Gas	58,000	58,000	-	-	0.00%	-	**
430420	Franchise Tax/Refuse	525,000	525,000	40,860	370,391	70.55%	347,612	6.55%
430425	Franchise Tax/Water	88,000	88,000	88,235	88,235	100.27%	87,845	0.44%
430500	Business License Tax	160,000	160,000	16,033	140,532	87.83%	130,039	8.07%
430600	Util User Tax/Electricity	935,500	935,500	86,756	793,145	84.78%	775,815	2.23%
430605	Util User Tax/Telephone	316,000	316,000	16,429	135,544	42.89%	147,122	-7.87%
430610	Util User Tax/Gas	211,000	211,000	28,109	157,641	74.71%	138,215	14.05%
430615	Util User Tax/Water	418,500	418,500	18,307	293,810	70.21%	307,721	-4.52%
440100	AB 1389 Pass Through from RDA	338,000	409,000	-	270,516	66.14%	215,950	25.27%
101	General Fund	15,992,000	16,852,500	847,311	9,959,568	59.10%	9,160,591	8.72%
102	General Fund (Transactions & Use Tax)							
430250	Transactions & Use Tax	4,998,000	5,473,000	451,466	3,380,416	61.77%	2,931,243	15.32%
102	General Fund (Transactions & Use Tax)	4,998,000	5,473,000	451,466	3,380,416	61.77%	2,931,243	15.32%
TAXES - TOTAL		\$ 20,990,000	\$ 22,325,500	\$ 1,298,777	\$ 13,339,984	59.75%	\$ 12,091,834	10.32%

* = Actual data is reported through March .

CHARGES FOR SERVICES
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22		FY 2021/22		FY 2021/22		% of Budget	FY 2020/21	% Change From Prior Year
		Adopted Budget		Amended Budget		Activity During March	Year To Date Actual *		Actual	
101	General Fund									
433100	Charges For Services	\$ 105,280		\$ 171,145		\$ 20,523	\$ 99,938	58.39%	\$ 67,070	49.01%
433136	Information Technology Charges	30,345		30,345		2,529	22,759	75.00%	18,214	19.97%
CHARGES FOR SERVICES - TOTAL		\$ 135,625		\$ 201,490		\$ 23,052	\$ 122,697	60.89%	\$ 85,284	43.87%

* = Actual data is reported through March .

INTERGOVERNMENTAL
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year To Date Actual *			
101	General Fund							
432121	County WDA Shared Revenue	\$ 160,000	\$ 160,000	\$ -	\$ 101,376	63.36%	\$ -	100.00%
432135	Mandated Cost Reimbursement	30,000	30,000	31	31	0.10%	-	100.00%
432150	Motor Vehicle In Lieu	20,000	45,700	-	45,717	100.04%	28,661	37.31%
432180	Public Safety Augmentation Tax	161,075	185,280	20,547	121,002	65.31%	97,021	19.82%
432245	Planning Grants	-	160,000	-	152,434	95.27%	-	100.00%
INTERGOVERNMENTAL - TOTAL		\$ 371,075	\$ 580,980	\$ 20,578	\$ 420,560	72.39%	\$ 125,682	234.62%

* = Actual data is reported through March .

FEES AND PERMITS
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22	FY 2021/22	FY 2021/22			FY 2020/21	% Change From Prior Year
		Adopted Budget	Amended Budget	Activity During March	Year To Date Actual *	% of Budget		
101	General Fund							
431100	Building Plan Check Fees	\$ 70,000	\$ 70,000	\$ 11,176	\$ 171,366	244.81%	\$ 44,406	285.91%
431105	Mechanical Permits	250,000	250,000	36,680	85,570	34.23%	339,020	-74.76%
431110	Building Permits	750,000	750,000	68,826	377,953	50.39%	723,273	-47.74%
431115	Plumbing Permits	80,000	80,000	28,795	55,175	68.97%	79,880	-30.93%
431120	Electrical Permits	150,000	150,000	27,152	87,404	58.27%	203,114	-56.97%
431130	Engineering Plan Check Fees	33,300	33,300	1,620	47,960	144.02%	31,220	53.62%
431135	Public Works Permits	40,000	40,000	9,715	58,416	146.04%	41,074	42.22%
431140	S M I P - Commercial Fees	500	500	1,525	5,207	1041.40%	739	604.60%
431145	S M I P-Residential Permits	1,000	1,000	219	260	26.00%	57	356.14%
431146	SB 1473 Fee	2,500	2,500	1,398	1,968	78.72%	3,044	-35.35%
431160	Solid Waste Impact Fees	1,150,000	1,150,000	87,729	743,210	64.63%	657,065	13.11%
431185	Parking Permits	50,000	50,000	7,500	41,062	82.12%	9,693	323.63%
431190	Towing Franchise Fee	30,000	30,000	1,710	16,020	53.40%	22,040	-27.31%
431194	Public Benefit Fee	-	-	-	-	**	551,996	-100.00%
431195	Other Fees & Permits	15,000	15,000	14,408	31,448	209.65%	23,450	34.11%
431200	Cannabis Business Initial Permit Fee	-	-	-	-	**	143,000	-100.00%
433200	Conditional Use Permit	6,000	6,000	-	17,395	289.92%	-	100.00%
433205	Precise Plan Of Design	15,000	15,000	-	2,100	14.00%	12,300	-82.93%
433210	Variance	2,000	2,000	-	-	0.00%	-	**
433220	Preliminary Plan Review	6,000	6,000	-	11,250	187.50%	1,875	83.33%
433225	Environmental Services	4,400	4,400	-	655	14.89%	5,620	-88.35%
433227	Foreclosure Registration	10,850	10,850	-	5,419	49.94%	9,319	-41.85%
433230	Zoning Entitlements	5,000	5,000	-	-	0.00%	-	**
433235	Land Divisions	10,000	10,000	-	2,500	25.00%	7,765	-67.80%
433240	Special Event Permits	500	500	-	360	72.00%	540	-33.33%
433245	Sign/Ban'R/Gar Sa/Temp Use Per	6,000	6,000	390	4,820	80.33%	2,395	101.25%
433250	Ministerial Services	15,000	15,000	2,890	13,735	91.57%	11,550	18.92%
433260	Landscape Plan Check	1,000	1,000	1,300	2,600	260.00%	975	62.50%

FEES AND PERMITS
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year To Date Actual *			
101	General Fund							
433270	General Plan Maint Surcharge	15,000	15,000	-	1,822	12.15%	14,165	-87.14%
433285	Other Developmental Fees	5,000	5,000	-	389	7.78%	(6,231)	-106.24%
433305	General Recreation Programs	24,000	43,000	3,446	33,689	78.35%	4,139	87.71%
433315	Sports Fields	22,500	27,500	1,310	24,008	87.30%	21,938	8.62%
437115	Recycling Fees	93,750	93,750	-	38,815	41.40%	40,245	-3.55%
430505	New/Moved Bus Lic Appl Rev	40,000	40,000	3,440	23,830	59.58%	25,054	-4.89%
430510	Business Tax Renewal Process	130,000	130,000	13,208	113,191	87.07%	106,387	6.40%
430515	SB 1186	3,000	3,000	(1,910)	1,357	45.23%	1,288	5.36%
FEES AND PERMITS - TOTAL		\$ 3,037,300	\$ 3,061,300	\$ 322,527	\$ 2,020,954	66.02%	\$ 3,132,395	-35.48%

* = Actual data is reported through March .

FINES AND FORFEITURES
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year To Date Actual *			
101	General Fund							
434100	General Fines	\$ 600	\$ 18,000	\$ 55	\$ 18,339	101.88%	\$ 500	3567.80%
434105	Motor Vehicle Fines	120,670	40,000	3,174	27,835	69.59%	87,105	-68.04%
434110	Parking Citations	205,000	205,000	18,099	190,869	93.11%	201,240	-5.15%
434115	DMV Parking Collections	70,300	70,300	4,778	42,706	60.75%	35,371	20.74%
434120	Administrative Citations	15,000	7,500	-	3,940	52.53%	9,875	-60.10%
FINES AND FORFEITURES - TOTAL		\$ 411,570	\$ 340,800	\$ 26,106	\$ 283,689	83.24%	\$ 334,091	-15.09%

* = Actual data is reported through March .

USE OF MONEY AND PROPERTY
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year To Date Actual *			
101	General Fund							
435100	Interest Earned	\$ 185,000	\$ 145,000	\$ 54,290	\$ 125,463	86.53%	\$ 194,118	-35.37%
435110	Unrealized Gains (Losses)	-	-	(39,259)	(398,862)	**	(100,552)	-296.67%
435200	Interest on Loan to Landscape District Fund	16,570	16,570	3,627	14,510	87.57%	-	100.00%
436125	Indoor Facility Rental	-	40,000	17,615	38,985	97.46%	(3,144)	1339.98%
436127	Outdoor Picnic Shelters	7,450	22,000	3,005	18,665	84.84%	-	100.00%
436135	Pac Bell Mobile Svcs-Rent	20,855	20,855	1,788	17,660	84.68%	13,649	29.39%
USE OF MONEY AND PROPERTY - TOTAL		\$ 229,875	\$ 244,425	\$ 41,066	\$ (183,579)	-75.11%	\$ 104,071	-276.40%

MISCELLANEOUS REVENUE
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year To Date Actual *			
101	General Fund							
432256	Grant (non-government agency)	\$ 4,200	\$ 79,535	\$ 903	\$ 106,137	133.45%	\$ 134,008	-20.80%
437100	Sale Of Publications	-	-	(109)	13	**	4	225.00%
437105	Firework Services	475	475	-	-	0.00%	-	**
437125	Donations	-	800	-	800	100.00%	850	-6.25%
437135	Expense Reimbursement	-	39,000	316	39,924	102.37%	7,500	81.21%
437137	Loan Repayment from Landscape Maintenance District	164,025	164,025	-	-	0.00%	-	**
437195	Other Revenue	30,000	30,000	4,579	12,255	40.85%	30,673	-60.05%
MISCELLANEOUS REVENUE - TOTAL		\$ 198,700	\$ 313,835	\$ 5,689	\$ 159,129	50.70%	\$ 173,035	-8.04%

* = Actual data is reported through March .

TRANSFERS IN
March 2022 General Fund Revenues (75% of year)

Acct. No.	Description	FY 2021/22		FY 2021/22		FY 2021/22		% of Budget	FY 2020/21	% Change From Prior Year
		Adopted Budget		Amended Budget		Activity During March	Year To Date Actual *			
101	General Fund									
439211	Transfer From Gas Tax Fund	\$ 205,000		\$ 205,000		\$ 17,083	\$ 153,750	75.00%	\$ 97,875	36.34%
439223	Transfer From Protective Services Fund	375,000		376,951		24,146	241,843	64.16%	277,150	-14.60%
439242	Transfer Fr Supp Law Enf Grant	150,000		150,000		12,500	112,500	75.00%	70,193	37.61%
439285	Transfer From Housing Authority	-		890,000		-	890,000	100.00%	-	100.00%
	TRANSFERS IN - TOTAL	\$ 730,000		\$ 1,621,951		\$ 53,729	\$ 1,398,093	86.20%	\$ 445,218	68.16%

City of Stanton
March 2022 General Fund Expenditures (75% of year)

Division		FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		Percent of Budget	FY 2020/21 Actual	% Change from Prior Year
				Activity During March	Year to Date Actual *			
No.	Description							
1100	City Council	\$ 116,710	\$ 116,710	\$ 9,374	\$ 94,090	80.62%	\$ 84,262	11.66%
1200	City Attorney	302,000	302,000	139	138,828	45.97%	124,954	11.10%
1300	City Manager	473,195	485,395	53,154	371,566	76.55%	309,734	19.96%
1400	City Clerk	190,515	190,515	18,747	136,663	71.73%	131,862	3.64%
1410	Personnel/Risk Management	176,885	184,185	15,326	122,996	66.78%	98,891	24.38%
1510	Information Technology	524,980	534,598	25,829	366,193	68.50%	384,966	-4.88%
	Administration	1,784,285	1,813,403	122,569	1,230,336	67.85%	1,134,669	8.43%
1500	Finance	862,565	890,691	90,662	610,765	68.57%	589,623	3.59%
1600	Non-Dept (excludes Transfers)	48,000	48,000	446,000	892	1.86%	1,620	-44.94%
	Finance	910,565	938,691	91,108	611,657	65.16%	591,243	3.45%
1520	Emergency Preparedness	5,000	68,466	2,812	44,419	64.88%	16,880	62.00%
2100	Law Enforcement	12,197,850	12,092,544	1,020,290	9,062,549	74.94%	8,432,954	6.95%
2200	Fire Protection	5,166,860	5,174,360	-	2,587,332	50.00%	3,701,395	-30.10%
2230	Contractual Ambulance Svcs	2,500	2,500	200	600	24.00%	1,486	-59.62%
2400	Animal Control Services	191,390	192,390	-	143,546	74.61%	136,710	4.76%
2500	Public Safety-Other	110,175	110,175	10,670	89,392	81.14%	93,512	-4.41%
4300	Parking Control	250,890	250,890	27,621	191,980	76.52%	165,544	15.97%
6200	Code Enforcement	519,870	519,870	55,640	370,773	71.32%	334,064	10.99%
	Public Safety	18,444,535	18,479,195	1,117,233	12,490,591	67.59%	12,882,545	-3.04%
3000	Public Works Administration	507,575	512,568	51,456	348,402	67.97%	335,156	3.95%
3100	Engineering	145,390	173,110	7,360	56,012	32.36%	99,126	-43.49%
3200	Public Facilities	436,340	472,320	36,517	302,045	63.95%	248,307	21.64%
3300	Crossing Guard	43,165	43,165	6,001	26,632	61.70%	4,141	84.45%
3400	Parks Maintenance	412,680	455,180	23,610	269,314	59.17%	252,630	6.60%
3500	Street Maintenance	498,980	389,980	40,226	271,568	69.64%	291,548	-6.85%
3600	Storm Drains	115,860	115,860	3,921	79,198	68.36%	78,743	0.58%
6300	Graffiti Abatement	101,900	106,900	6,584	35,169	32.90%	66,652	-47.23%
	Public Works	2,261,890	2,269,083	175,675	1,388,340	61.19%	1,376,303	0.87%

* = Actual data is reported through March.

City of Stanton
March 2022 General Fund Expenditures (75% of year)

Division No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		Percent of Budget	FY 2020/21 Actual	% Change from Prior Year
				Activity During March	Year to Date Actual *			
4000	Community Development Administration	313,625	313,625	25,426	213,071	67.94%	113,255	88.13%
4100	Planning	344,590	651,812	53,553	367,979	56.45%	347,174	5.99%
4200	Building Regulation	784,255	787,455	8,978	287,834	36.55%	583,697	-50.69%
4400	Business Relations	37,800	37,800	-	570	1.51%	17,419	-96.73%
	Community Development	1,480,270	1,790,692	87,957	869,454	48.55%	1,061,545	-18.10%
5000	Public Information Office ⁽¹⁾	120,600	122,150	3,918	70,010	57.31%	852	98.78%
5100	Community Services Administration	509,015	583,165	45,905	431,990	74.08%	461,873	-6.47%
5200	Community Center Operations	170,530	170,530	8,214	61,323	35.96%	3,292	1762.79%
5300	Park Operations	224,470	224,470	25,346	161,263	71.84%	114,255	41.14%
5400	Senior Citizen Programs	61,515	61,815	4,771	37,239	60.24%	31,026	20.03%
5500	Recreation Programs ⁽¹⁾	48,900	63,100	3,173	40,705	64.51%	7,541	81.47%
	Community Services	1,135,030	1,225,230	91,327	802,530	65.50%	618,839	29.68%
	Transfer to Liability/Risk Mgmt. Fund	-	131,330	121,530	121,530	92.54%	-	100.00%
	Transfer to FACT Grant	17,100	17,100	3,254	10,379	60.70%	12,563	-21.04%
	Transfer to Senior Transportation Fund	10,565	10,565	1,029	6,646	62.91%	2,732	143.27%
	Transfer to SCP Maintenance	41,140	57,540	3,428	30,855	53.62%	44,627	-44.63%
	Transfer to Capital Projects Fund	-	104,000	-	-	0.00%	-	**
	Transfers to Other Funds	68,805	320,535	129,241	169,410	52.85%	59,922	182.72%
	TOTAL EXPENDITURES	\$ 26,085,380	\$ 26,836,829	\$ 1,815,110	\$ 17,562,318	65.44%	\$ 17,725,066	-0.92%

(1) - New division in the Fiscal Year 2021/22 Adopted Budget.

* = Actual data is reported through March.

Administration - Vazquez
March 2022 General Fund Expenditures (75% of year)

		FY 2021/22						
		FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	Activity During March	Year to Date Actual *	% of Budget	FY 2020/21 Actual	% Change From Prior Year
Acct. No.	Description							
101	General Fund							
1100	City Council							
501105	Salaries-Elected	\$ 52,200	\$ 52,200	\$ 5,985	\$ 40,129	76.88%	\$ 36,660	9.46%
502120	Medicare/Fica	740	740	87	582	78.65%	531	9.60%
502130	Other Benefit Charges	770	770	90	667	86.62%	296	125.34%
602100	Special Dept Expense	10,000	10,000	127	6,628	66.28%	3,100	113.81%
602110	Office Expense	2,000	2,000	85	585	29.25%	510	14.71%
602115	Postage	-	-	-	3	**	16	-81.25%
607100	Membership/Dues	36,585	36,585	-	34,504	94.31%	36,489	-5.44%
607110	Travel/Conference/Meetings	11,000	11,000	3,000	8,073	73.39%	3,125	61.29%
612115	Liability Insurance Charge	3,415	3,415	-	2,919	85.48%	3,535	-21.10%
1100	City Council Total	116,710	116,710	9,374	94,090	80.62%	84,262	11.66%
1200	City Attorney							
608105	Professional Services	302,000	302,000	139	138,828	45.97%	124,954	11.10%
1200	City Attorney Total	302,000	302,000	139	138,828	45.97%	124,954	11.10%
1300	City Manager							
501110	Salaries-Regular	269,710	276,250	34,923	214,792	77.75%	175,368	22.48%
501115	Salaries-Overtime	-	-	-	149	**	20	86.58%
502100	Retirement	79,735	80,250	8,730	53,412	66.56%	42,810	24.77%
502105	Workers Comp Insurance	6,250	6,250	691	4,253	68.05%	-	100.00%
502110	Health/Life Insurance	25,545	26,335	3,565	26,489	100.58%	15,003	76.56%
502111	Medical In-Lieu Pay	2,100	2,100	-	425	20.24%	1,319	-210.35%
502115	Unemployment Insurance	525	525	-	362	68.95%	480	-24.58%
502120	Medicare/Fica	3,580	3,695	501	3,086	83.52%	2,542	21.40%
502130	Other Benefit Charges	1,730	1,770	307	1,890	106.78%	88	95.34%
602110	Office Expense	1,200	5,400	198	3,675	68.06%	4,021	-8.60%
602115	Postage	250	250	-	2	0.80%	19	-850.00%
607100	Membership/Dues	800	800	140	1,066	133.25%	400	62.48%

* = Actual data is reported through March.

Administration - Vazquez
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
1300	City Manager, Continued							
607110	Travel/Conference/Meetings	5,600	5,600	41	1,955	34.91%	374	80.87%
608105	Professional Services	48,000	48,000	4,000	36,000	75.00%	36,265	-0.74%
612105	Vehicle Replacement Charge	700	700	58	525	75.00%	533	-1.52%
612115	Liability Insurance Charge	27,470	27,470	-	23,485	85.49%	29,602	-26.05%
702100	Office Furniture	-	-	-	-	**	890	-100.00%
1300	City Manager Total	473,195	485,395	53,154	371,566	76.55%	309,734	19.96%
1400	City Clerk							
501110	Salaries-Regular	110,905	110,905	12,337	79,353	71.55%	73,258	8.32%
501115	Salaries-Overtime	-	-	-	224	**	163	37.42%
502100	Retirement	34,480	34,480	4,153	26,587	77.11%	23,414	13.55%
502105	Workers Comp Insurance	1,985	1,985	244	1,571	79.14%	-	100.00%
502110	Health/Life Insurance	19,080	19,080	1,557	13,123	68.78%	12,089	8.55%
502115	Unemployment Insurance	330	330	-	177	53.64%	248	-28.63%
502120	Medicare/Fica	1,550	1,550	174	1,111	71.68%	1,011	9.89%
502130	Other Benefit Charges	965	965	109	698	72.33%	37	94.70%
602110	Office Expense	2,250	2,250	48	1,601	71.16%	366	77.14%
602115	Postage	500	500	77	345	69.00%	414	-20.00%
602120	Books/Periodicals	100	100	-	66	66.00%	60	10.00%
607100	Membership/Dues	1,130	1,130	-	415	36.73%	520	-25.30%
607110	Travel/Conference/Meetings	750	750	-	-	0.00%	-	**
607115	Training	2,500	2,500	-	70	2.80%	-	100.00%
608105	Professional Services	6,000	6,000	-	4,040	67.33%	3,047	32.59%
608140	Elections	360	360	-	820	227.78%	9,575	-91.44%
612105	Vehicle Replacement Charge	580	580	48	435	75.00%	439	-0.92%
612115	Liability Insurance Charge	7,050	7,050	-	6,027	85.49%	7,221	-19.81%
1400	City Clerk Total	190,515	190,515	18,747	136,663	71.73%	131,862	3.64%

* = Actual data is reported through March.

Administration - Vazquez
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
1510	Information Technology							
501110	Salaries-Regular	81,120	81,120	8,617	59,420	73.25%	50,928	16.67%
501115	Salaries-Overtime	10,000	10,000	539	4,183	41.83%	6,461	-35.26%
502100	Retirement Charges	22,940	22,940	2,900	19,198	83.69%	16,306	17.74%
502105	Workers Comp Insurance	1,320	1,320	171	1,177	89.17%	-	100.00%
502110	Health/Life Insurance	19,550	19,550	1,315	11,041	56.48%	10,184	8.42%
502115	Unemployment Insurance	300	300	-	161	53.67%	224	-28.13%
502120	Medicare/Fica	1,080	1,080	123	844	78.15%	760	11.05%
502130	Other Benefit Charges	680	680	76	523	76.91%	25	1992.00%
602140	Materials & Supplies	15,000	15,000	3,385	9,558	63.72%	4,804	98.96%
603105	Equipment Maintenance	25,000	25,000	379	21,374	85.50%	16,316	23.66%
604100	Communications	97,900	97,900	6,788	61,227	62.54%	41,684	31.92%
608100	Contractual Services	244,925	248,425	1,536	171,953	69.22%	110,701	55.33%
608145	Information Technology	-	-	-	-	**	32,244	-100.00%
612115	Liability Insurance Charge	5,165	5,165	-	4,416	85.50%	-	100.00%
701050	Computer Software	-	6,118	-	1,118	18.27%	41,617	-97.31%
701105	Equipment-General	-	-	-	-	**	52,712	-100.00%
1510	Information Technology Total	524,980	534,598	25,829	366,193	68.50%	384,966	-4.88%
TOTAL ADMINISTRATION-VAZQUEZ		\$ 1,607,400	\$ 1,629,218	\$ 107,243	\$ 1,107,340	67.97%	\$ 1,035,778	6.91%

* = Actual data is reported through March.

Administration - Guzman
March 2022 General Fund Expenditures (75% of year)

		FY 2021/22							
		FY 2021/22	FY 2021/22					FY 2020/21	% Change
Acct. No.	Description	Adopted	Amended	Activity During	Year to Date			Actual	From Prior
		Budget	Budget	March	Actual *	% of Budget			Year
101	General Fund								
1410	Personnel/Risk Management								
501110	Salaries-Regular	\$ 91,820	\$ 96,240	\$ 10,375	\$ 67,909	70.56%	\$ 58,609	15.87%	
501115	Salaries-Overtime	-	-	-	244	**	-	100.00%	
502100	Retirement	18,940	19,305	2,425	15,611	80.87%	13,071	19.43%	
502105	Workers Comp Insurance	1,590	1,590	205	1,345	84.59%	-	100.00%	
502110	Health/Life Insurance	16,075	16,335	1,326	10,230	62.63%	9,334	9.60%	
502111	Medical In-Lieu Pay	-	-	-	500	**	303	65.02%	
502115	Unemployment Insurance	300	300	-	161	53.67%	224	-28.13%	
502120	Medicare/FICA	1,285	1,390	146	977	70.29%	853	14.54%	
502130	Other Benefit Charges	800	850	91	598	70.35%	29	1962.07%	
602110	Office Expense	1,400	1,400	-	33	2.36%	227	-85.46%	
602115	Postage	200	200	10	110	55.00%	93	15.45%	
607100	Membership/Dues	725	725	-	475	65.52%	500	-5.26%	
607110	Travel/Conference/Meetings	2,000	2,000	-	350	17.50%	-	100.00%	
607115	Training	6,000	6,000	-	(140)	-2.33%	3,709	-103.77%	
607120	Education Reimbursement Program	10,000	10,000	-	625	6.25%	-	100.00%	
608105	Professional Services	10,000	12,100	-	6,273	51.84%	7,429	-15.56%	
608125	Advertising/ Business Dev't	1,800	1,800	697	3,239	179.94%	772	319.56%	
609125	Employee/Volunteer Recognition	7,500	7,500	-	9,005	120.07%	3,277	174.79%	
612105	Vehicle Replacement Charge	610	610	51	458	75.08%	461	-0.66%	
612115	Liability Insurance Charge	5,840	5,840	-	4,993	85.50%	-	100.00%	
TOTAL ADMINISTRATION-GUZMAN		\$ 176,885	\$ 184,185	\$ 15,326	\$ 122,996	66.78%	\$ 98,891	24.38%	

* = Actual data is reported through March.

Finance-Bannigan
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
101	General Fund							
1500	Finance							
501110	Salaries-Regular	\$ 466,220	\$ 469,790	\$ 54,781	\$ 333,280	70.94%	\$ 296,237	12.50%
501115	Salaries-Overtime	500	500	-	129	25.80%	133	-3.10%
501120	Salaries-Part Time	42,415	38,575	2,579	29,499	76.47%	36,200	-18.51%
502100	Retirement	112,590	112,860	14,368	88,864	78.74%	75,731	17.34%
502105	Workers Comp Insurance	8,960	8,960	1,136	7,183	80.17%	-	100.00%
502110	Health/Life Insurance	53,520	53,520	4,093	34,193	63.89%	30,537	11.97%
502111	Medical In-Lieu Pay	4,920	4,920	458	4,450	90.45%	1,516	65.93%
502115	Unemployment Insurance	1,935	1,935	60	932	48.17%	2,183	-57.31%
502120	Medicare/FICA	7,120	7,120	712	4,518	63.46%	4,161	8.58%
502130	Other Benefit Charges	4,470	4,470	483	2,948	65.95%	669	77.31%
602110	Office Expense	8,000	8,000	1,393	2,496	31.20%	1,755	42.22%
602115	Postage	5,000	5,000	688	3,209	64.18%	2,271	29.23%
602120	Books/Periodicals	415	415	-	112	26.99%	-	100.00%
607100	Membership/Dues	795	795	-	302	37.99%	1,062	-251.66%
607110	Travel/Conference/Meetings	4,200	4,200	75	2,028	48.29%	450	77.81%
607115	Training	1,700	1,700	20	430	25.29%	645	-33.33%
608105	Professional Services	88,035	114,161	6,339	56,989	49.92%	49,332	13.44%
608107	Financial Services	17,600	17,600	3,375	10,044	57.07%	12,436	-19.23%
608130	Temporary Help	-	-	-	-	**	35,287	-100.00%
611116	Payment to Other Agencies	-	-	-	587	**	470	24.89%
612105	Vehicle Replacement Charge	1,220	1,220	102	915	75.00%	926	-1.20%
612115	Liability Insurance Charge	32,350	32,350	-	27,657	85.49%	37,622	-36.03%
701100	Equipment-Office	-	2,000	-	-	0.00%	-	**
702100	Furniture-Office	600	600	-	-	0.00%	-	**
1500	Finance Total	862,565	890,691	90,662	610,765	68.57%	589,623	3.59%

* = Actual data is reported through March.

Finance-Bannigan
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
1600	Non-Departmental							
602100	Special Dept Expense	3,000	3,000	446	892	29.73%	-	100.00%
602110	Office Expense	-	-	-	-	**	1,620	-100.00%
611105	Revenue Sharing-City of Anaheim	40,000	40,000	-	-	0.00%	-	**
611116	Payment to Other Agencies	5,000	5,000	-	-	0.00%	-	**
1600	Non-Departmental Total	48,000	48,000	446	892	1.86%	1,620	-44.94%
TOTAL FINANCE		\$ 910,565	\$ 938,691	\$ 91,108	\$ 611,657	65.16%	\$ 591,243	3.45%

* = Actual data is reported through March.

Public Safety-Wren
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
101	General Fund							
1520	Emergency Services							
602140	Materials & Supplies	\$ 5,000	\$ 5,000	\$ -	\$ 55	1.10%	\$ 16,704	-4060.73%
608105	Professional Services	-	52,796	2,812	44,364	84.03%	-	100.00%
701105	Equipment-General	-	-	-	-	**	176	-100.00%
1520	Emergency Services	5,000	68,466	2,812	44,419	64.88%	16,880	62.00%
2100	Law Enforcement							
602100	Special Dept Expense	3,000	3,000	-	-	0.00%	678	-100.00%
602110	Office Expense	1,500	1,500	633	2,099	139.93%	1,119	46.69%
602145	Gas/Oil/Lube	3,000	3,000	154	542	18.07%	822	-51.66%
603125	Vehicle Maintenance	-	-	-	-	**	4,490	-100.00%
604100	Communications	36,030	36,030	-	23,021	63.89%	26,512	-13.17%
608100	Contractual Services	18,350	18,350	-	12,232	66.66%	13,824	-11.52%
608160	O.C.S.D. Contract	8,629,270	8,174,004	373,497	5,967,416	73.00%	3,737,965	59.64%
612105	Vehicle Replacement Charge	8,700	8,700	725	6,525	75.00%	6,615	-1.38%
702100	Furniture-Office	-	-	-	-	**	108	-100.00%
2100	Law Enforcement Total	8,699,850	8,244,584	375,009	6,011,835	72.92%	3,792,133	36.92%
2200	Fire Protection							
602100	Special Department Expense	40,800	40,800	-	20,557	50.38%	19,600	4.66%
608185	O.C.F.A. Contract	3,626,060	3,276,060	(357,500)	1,497,786	45.72%	2,782,637	-85.78%
2200	Fire Protection Total	3,666,860	3,316,860	(357,500)	1,518,343	45.78%	2,802,237	-84.56%
2230	Ambulance Services							
608190	Contractual Ambulance Svcs	2,500	2,500	200	600	24.00%	1,486	-59.62%
2230	Ambulance Services Total	2,500	2,500	200	600	24.00%	1,486	-59.62%
2400	Animal Control Services							
608170	Animal Control Services	191,390	192,390	-	143,546	74.61%	136,710	4.76%
2400	Animal Control Services Total	191,390	192,390	-	143,546	74.61%	136,710	4.76%

* = Actual data is reported through March.

Public Safety-Wren
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
2500	Public Safety-Other							
501110	Salaries-Regular	58,390	58,390	6,172	43,496	74.49%	42,098	3.32%
501120	Salaries-Part Time	-	-	-	-	**	4,445	-100.00%
502100	Retirement Charges	11,765	11,765	1,508	9,419	80.06%	10,239	-8.01%
502105	Workers Comp Insurance	945	945	122	769	81.38%	-	100.00%
502110	Health/Life Insurance	705	705	36	297	42.13%	1,917	-84.51%
502111	Medical In-Lieu Pay	2,100	2,100	-	1,138	54.19%	525	53.87%
502115	Unemployment Insurance	105	105	-	56	53.33%	78	-39.29%
502120	Medicare/FICA	785	785	89	579	73.76%	691	-16.21%
502130	Other Benefit Charges	375	375	54	342	91.20%	85	75.15%
602100	Special Department Expense	-	-	-	100	**	-	100.00%
602110	Office Expense	1,200	1,200	181	941	78.42%	771	22.05%
602115	Postage	250	250	-	1	0.40%	101	-99.01%
602130	Clothing	-	-	2,508	2,508	**	-	100.00%
602135	Safety Equipment	-	-	-	876	**	-	100.00%
602140	Materials & Supplies	-	-	-	64	**	-	100.00%
607115	Training	700	700	-	41	5.86%	-	100.00%
608100	Contractual Services	4,680	4,680	-	4,678	99.96%	4,678	0.00%
612115	Liability Insurance Charge	28,175	28,175	-	24,087	85.49%	27,884	-15.76%
2500	Public Safety-Other Total	110,175	110,175	10,670	89,392	81.14%	93,512	-4.41%
4300	Parking Control							
501110	Salaries-Regular	142,590	142,590	15,874	101,851	71.43%	94,255	8.06%
502115	Salaries-Overtime	-	-	-	33	**	-	100.00%
501120	Salaries-Part Time	12,350	12,350	1,512	10,094	81.73%	8,933	13.00%
502100	Retirement	36,055	36,055	4,791	30,594	84.85%	27,459	11.42%
502105	Workers Comp Insurance	2,735	2,735	344	2,217	81.06%	-	100.00%
502110	Health/Life Insurance	14,050	14,050	1,123	9,430	67.12%	8,731	8.01%
502111	Medical In-Lieu Pay	4,140	4,140	270	2,918	70.48%	1,035	64.53%

* = Actual data is reported through March.

Public Safety-Wren
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
4300	Parking Control, Continued							
502115	Unemployment Insurance	705	705	28	378	53.62%	512	-35.45%
502120	Medicare/FICA	2,220	2,220	254	1,650	74.32%	1,519	8.62%
502130	Other Benefit Charges	1,445	1,445	140	901	62.35%	176	80.47%
602110	Office Expense	6,500	6,500	-	5,302	81.57%	154	97.10%
602115	Postage	500	500	18	159	31.80%	116	27.04%
602130	Clothing	4,500	4,500	-	410	9.11%	-	100.00%
604100	Communications	1,000	1,000	55	364	36.40%	655	-79.95%
608105	Professional Services	15,000	15,000	2,620	20,354	135.69%	19,303	5.16%
612105	Vehicle Replacement Charge	7,100	7,100	592	5,325	75.00%	2,696	49.37%
4300	Parking Control Total	250,890	250,890	27,621	191,980	76.52%	165,544	15.97%
6200	Code Enforcement							
501110	Salaries-Regular	330,660	330,660	36,790	234,610	70.95%	205,861	13.97%
502115	Salaries-Overtime	-	-	-	14	**	-	100.00%
501120	Salaries-Part Time	12,350	12,350	1,512	10,094	81.73%	8,549	18.07%
502100	Retirement	82,925	82,925	10,376	66,029	79.62%	56,840	16.17%
502105	Workers Comp Insurance	6,050	6,050	758	4,845	80.08%	-	100.00%
502110	Health/Life Insurance	40,430	40,430	3,555	30,030	74.28%	25,845	16.19%
502111	Medical In-Lieu Pay	4,560	4,560	130	2,795	61.29%	1,140	59.21%
502115	Unemployment Insurance	1,290	1,290	28	692	53.64%	949	-37.14%
502120	Medicare/FICA	4,835	4,835	549	3,519	72.78%	3,081	14.22%
502130	Other Benefit Charges	3,010	3,010	325	2,070	68.77%	226	89.08%
602110	Office Expense	1,500	1,500	-	-	0.00%	332	-100.00%
602115	Postage	1,000	1,000	109	452	45.20%	515	-13.94%
602160	Code Enforcement Equipment	8,000	8,000	-	3,074	38.43%	-	100.00%
603105	Equipment Maintenance	1,000	1,000	-	-	0.00%	-	**
604100	Communications	800	800	-	-	0.00%	624	-100.00%
607100	Membership/Dues	800	800	-	380	47.50%	475	-25.00%

* = Actual data is reported through March.

Public Safety-Wren
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
6200	Code Enforcement, Continued							
607105	Mileage Reimbursement	100	100	-	-	0.00%	-	**
607110	Travel/Conference/Meetings	1,500	1,500	-	-	0.00%	-	**
607115	Training	1,000	1,000	-	250	25.00%	71	71.60%
608100	Contractual Services	4,000	4,000	315	2,520	63.00%	2,520	0.00%
608105	Professional Services	5,000	5,000	438	2,604	52.08%	3,309	-27.07%
608180	Prosecution/Code Enforcement	-	-	-	-	**	19,542	-100.00%
612105	Vehicle Replacement Charge	9,060	9,060	755	6,795	75.00%	4,185	38.41%
6200	Code Enforcement Total	519,870	519,870	55,640	370,773	71.32%	334,064	10.99%
101	GENERAL FUND TOTAL	\$ 13,446,535	\$ 12,773,735	\$ 114,452	\$ 8,370,888	65.53%	\$ 7,342,566	14.00%
102	General Fund (Transactions & Use Tax)							
2100	Law Enforcement							
608160	O.C.S.D. Contract	3,498,000	3,847,960	645,281	3,050,714	79.28%	4,640,821	-34.26%
2100	Law Enforcement Total	3,498,000	3,847,960	645,281	3,050,714	79.28%	4,640,821	-34.26%
2200	Fire Protection							
608185	O.C.F.A. Contract	1,500,000	1,857,500	357,500	1,068,989	57.55%	899,158	18.89%
2200	Fire Protection Total	1,500,000	1,857,500	357,500	1,068,989	57.55%	899,158	18.89%
102	TRANSACTIONS AND USE TAX TOTAL	\$ 4,998,000	\$ 5,705,460	\$ 1,002,781	\$ 4,119,703	72.21%	\$ 5,539,979	-25.64%
	TOTAL PUBLIC SAFETY	\$ 18,444,535	\$ 18,479,195	\$ 1,117,233	\$ 12,490,591	67.59%	\$ 12,882,545	-3.04%

* = Actual data is reported through March.

Public Works - Ames
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22					FY 2020/21 Actual	% Change From Prior Year
		FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	Activity During March	Year to Date Actual *	% of Budget		
101	General Fund							
3000	Public Works Administration							
501110	Salaries-Regular	\$ 318,785	\$ 309,526	\$ 35,984	\$ 203,578	65.77%	\$ 199,894	1.84%
501120	Salaries-Part Time	16,710	16,710	2,068	12,088	72.34%	9,883	22.31%
502100	Retirement Charges	68,410	68,654	8,713	49,215	71.69%	45,429	8.33%
502105	Workers Comp Insurance	5,820	6,037	753	4,270	70.73%	-	100.00%
502110	Health/Life Insurance	50,580	42,270	2,522	19,931	47.15%	29,539	-32.53%
502111	Medical In-Lieu Pay	600	5,575	500	3,900	69.96%	452	762.83%
502115	Unemployment Insurance	1,200	1,200	48	793	66.08%	779	1.80%
502120	Medicare/FICA	4,575	4,307	550	3,126	72.58%	3,012	3.78%
502130	Other Benefit Charges	2,680	2,594	318	1,798	69.31%	242	86.54%
607110	Travel/Conference/Meetings	-	1,000	-	552	55.20%	-	100.00%
608130	Temporary Help	-	16,480	-	16,480	100.00%	-	100.00%
612115	Liability Insurance Charge	38,215	38,215	-	32,671	85.49%	45,926	-40.57%
3000	Public Works Administration Total	507,575	512,568	51,456	348,402	67.97%	335,156	3.95%
3100	Engineering							
501110	Salaries-Regular	39,040	42,670	5,323	26,641	62.43%	34,700	-23.22%
501115	Salaries-Overtime	-	-	-	-	**	981	-100.00%
502100	Retirement	8,525	10,740	1,242	5,629	52.41%	7,867	-28.45%
502105	Workers Comp Insurance	715	965	105	528	54.72%	-	100.00%
502110	Health/Life Insurance	8,920	9,730	508	2,656	27.30%	8,226	-67.71%
502115	Unemployment Insurance	135	195	-	161	82.56%	146	9.32%
502120	Medicare/FICA	565	610	77	382	62.62%	482	-26.18%
502130	Other Benefit Charges	360	420	47	234	55.71%	17	92.74%
602110	Office Expense	2,100	2,100	-	76	3.62%	-	100.00%
602115	Postage	-	-	1	15	**	378	-96.03%
602140	Materials & Supplies	2,500	2,500	-	634	25.36%	281	125.62%

* = Actual data is reported through March.

Public Works - Ames
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
3100	Engineering, Continued							
607100	Membership/Dues	1,850	1,850	-	900	48.65%	653	27.44%
607110	Travel/Conference/Meetings	1,300	1,300	-	111	8.54%	-	100.00%
607115	Training	1,000	1,000	-	-	0.00%	-	**
608105	Professional Services	-	20,000	-	-	**	3,026	-100.00%
608110	Engineering Services	44,400	47,650	-	15,987	33.55%	27,197	-41.22%
608120	Plan Checking Services	33,300	30,700	-	1,548	5.04%	14,654	-89.44%
612105	Vehicle Replacement Charge	680	680	57	510	75.00%	518	-1.57%
3100	Engineering Total	145,390	173,110	7,360	56,012	32.36%	99,126	-43.49%
3200	Public Facilities							
501110	Salaries-Regular	21,950	21,950	6,670	44,868	204.41%	16,521	171.58%
501115	Salaries-Overtime	300	300	434	924	308.00%	84	90.91%
502100	Retirement	5,185	5,185	1,556	10,470	201.93%	3,747	179.42%
502105	Workers Comp Insurance	425	425	132	888	208.94%	-	100.00%
502110	Health/Life Insurance	4,820	4,820	669	5,716	118.59%	3,085	85.28%
502115	Unemployment Insurance	150	150	5	228	152.00%	111	51.32%
502120	Medicare/FICA	305	305	103	664	217.70%	239	177.82%
502130	Other Benefit Charges	200	200	59	395	197.50%	8	4837.50%
602100	Special Dept Expense	7,885	7,885	134	1,131	14.34%	3,104	-63.56%
602110	Office Expense	2,100	2,100	-	-	0.00%	54	-100.00%
602130	Clothing	3,500	3,500	(87)	1,629	46.54%	3,064	-46.83%
602135	Safety Equipment	500	500	-	107	21.40%	563	-80.99%
602140	Materials & Supplies	8,000	8,000	263	2,572	32.15%	3,732	-31.08%
603110	Building Maintenance	123,240	123,240	6,980	53,611	43.50%	53,592	0.04%
604100	Communications	35,000	35,000	523	4,005	11.44%	3,746	6.91%
604105	Utilities	140,000	140,000	10,727	107,614	76.87%	101,755	5.44%
608100	Contractual Services	65,000	100,980	8,044	50,493	50.00%	38,297	31.85%
611110	O.C. Sanitation District User Fee	14,120	14,120	-	13,985	99.04%	13,822	1.17%

* = Actual data is reported through March.

Public Works - Ames
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
3200	Public Facilities, Continued							
612105	Vehicle Replacement Charge	3,660	3,660	305	2,745	75.00%	2,783	-1.38%
3200	Public Facilities Total	436,340	472,320	36,517	302,045	63.95%	248,307	21.64%
3300	Crossing Guard							
608175	Crossing Guard Services	43,165	43,165	6,001	26,632	61.70%	4,141	84.45%
3300	Crossing Guard Total	43,165	43,165	6,001	26,632	61.70%	4,141	84.45%
3400	Parks Maintenance							
501110	Salaries-Regular	75,595	75,595	7,295	50,623	66.97%	42,849	18.14%
501115	Salaries-Overtime	2,500	2,500	299	2,567	102.68%	1,563	64.24%
502100	Retirement	15,705	15,705	1,693	11,768	74.93%	9,654	21.90%
502105	Workers Comp Insurance	1,320	1,320	144	1,002	75.91%	-	100.00%
502110	Health/Life Insurance	11,420	11,420	658	7,861	68.84%	6,499	20.96%
502111	Medical In-Lieu Pay	840	840	70	612	72.86%	210	65.69%
502115	Unemployment Insurance	405	405	2	231	57.04%	270	-16.88%
502120	Medicare/Fica	1,060	1,060	111	780	73.58%	649	20.18%
502130	Other Benefit Charges	680	680	64	445	65.44%	21	95.28%
602100	Special Dept Expense	5,000	5,000	-	595	11.90%	463	28.51%
603105	Equipment Maintenance	15,000	15,000	-	8,817	58.78%	7,887	11.79%
604105	Utilities	176,000	176,000	12,253	112,856	64.12%	109,929	2.59%
605100	Land Lease	3,000	20,500	-	5,834	28.46%	5,161	13.04%
608100	Contractual Services	99,700	124,700	650	61,982	49.70%	64,089	-3.29%
612105	Vehicle Replacement Charge	4,455	4,455	371	3,341	74.99%	3,386	-1.33%
3400	Parks Maintenance Total	412,680	455,180	23,610	269,314	59.17%	252,630	6.60%
3500	Street Maintenance							
501110	Salaries-Regular	106,230	106,230	13,390	73,597	69.28%	67,322	9.32%
501115	Salaries-Overtime	4,000	4,000	362	3,334	83.35%	1,885	76.87%
502100	Retirement	23,180	23,180	3,118	17,033	73.48%	15,241	11.76%
502105	Workers Comp Insurance	1,930	1,930	265	1,457	75.49%	-	100.00%

* = Actual data is reported through March.

Public Works - Ames
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
3500	Street Maintenance, Continued							
502110	Health/Life Insurance	16,000	16,000	1,687	11,959	74.74%	9,968	19.97%
502111	Medical In-Lieu Pay	2,310	2,310	193	1,684	72.90%	577	65.74%
502115	Unemployment Insurance	615	615	7	391	63.58%	441	-12.79%
502120	Medicare/FICA	1,515	1,515	202	1,139	75.18%	1,015	12.22%
502130	Other Benefit Charges	970	970	118	648	66.80%	34	94.75%
602100	Special Dept Expense	3,000	3,000	-	-	0.00%	-	**
602125	Small Tools	4,000	4,000	548	548	13.70%	921	-40.50%
602140	Materials & Supplies	65,000	45,000	3,596	19,542	43.43%	41,242	-52.62%
603105	Equipment Maintenance	2,000	2,000	161	1,161	58.05%	-	100.00%
608100	Contractual Services	190,000	161,000	12,656	121,602	75.53%	145,492	-16.42%
612105	Vehicle Replacement Charge	18,230	18,230	1,519	13,673	75.00%	7,410	45.81%
710190	Pavement Maintenance	60,000	-	2,404	3,800	**	-	100.00%
3500	Street Maintenance Total	498,980	389,980	40,226	271,568	69.64%	291,548	-6.85%
3600	Storm Drain Maintenance							
608155	Storm Water Monitor Program	115,860	115,860	3,921	79,198	68.36%	78,743	0.58%
3600	Storm Drain Maintenance Total	115,860	115,860	3,921	79,198	68.36%	78,743	0.58%
6300	Graffiti Abatement							
501110	Salaries-Regular	38,570	38,570	1,292	6,301	16.34%	27,845	-341.91%
501115	Salaries-Overtime	8,000	8,000	636	1,526	19.08%	5,181	-239.52%
502100	Retirement Charges	8,935	8,935	297	1,444	16.16%	6,502	-350.28%
502105	Workers Comp Insurance	735	735	26	125	17.01%	-	100.00%
502110	Health/Life Insurance	8,215	8,215	257	1,485	18.08%	5,627	-278.92%
502115	Unemployment Insurance	255	255	3	57	22.35%	214	-275.44%
502120	Medicare/FICA	540	540	28	113	20.93%	477	-322.12%
502130	Other Benefit Charges	350	350	11	55	15.71%	15	72.73%
602140	Materials & Supplies	15,000	20,000	2,884	12,712	63.56%	9,471	34.22%
603105	Equipment Maintenance	7,500	7,500	-	1,001	13.35%	831	20.46%

* = Actual data is reported through March.

Public Works - Ames
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
6300	Graffiti Abatement, Continued							
612105	Vehicle Replacement Charge	13,800	13,800	1,150	10,350	75.00%	10,489	-1.34%
6300	Graffiti Abatement Total	101,900	106,900	6,584	35,169	32.90%	66,652	100.00%
	TOTAL PUBLIC WORKS	\$ 2,261,890	\$ 2,269,083	\$ 175,675	\$ 1,388,340	61.19%	\$ 1,376,303	0.87%

* = Actual data is reported through March.

Community Development-Lilley
March 2022 General Fund Expenditures (75% of year)

		FY 2021/22						
		FY 2021/22	FY 2021/22					% Change
Acct. No.	Description	Adopted	Amended	Activity	Year to Date	% of	FY 2020/21	% Change
		Budget	Budget	During March	Actual *	Budget	Actual	From Prior
								Year
101	General Fund							
4000	Community Development Administration							
501110	Salaries-Regular	\$ 177,760	\$ 177,760	\$ 18,873	\$ 121,475	68.34%	\$ 52,920	129.54%
501115	Salaries-Overtime	-	-	110	297	**	51	82.83%
502100	Retirement Charges	52,005	52,005	4,557	28,924	55.62%	13,582	112.96%
502105	Workers Comp Insurance	4,280	4,280	374	2,405	56.19%	-	100.00%
502110	Health/Life Insurance	17,810	17,810	985	9,229	51.82%	5,917	55.97%
502115	Unemployment Insurance	345	345	-	185	53.62%	261	-29.12%
502120	Medicare/FICA	2,315	2,315	269	1,728	74.64%	741	133.20%
502130	Other Benefit Charges	1,145	1,145	166	1,069	93.36%	26	97.57%
602110	Office Expense	1,000	1,000	92	1,020	102.00%	925	10.27%
602120	Books/Periodicals	1,200	1,200	-	178	14.83%	337	-89.33%
607100	Membership/Dues	1,600	1,600	-	969	60.56%	-	100.00%
607110	Travel/Conference/Meetings	-	-	-	22	**	-	100.00%
607115	Training	1,200	1,200	-	289	24.08%	-	100.00%
612115	Liability Insurance Charge	52,965	52,965	-	45,281	85.49%	38,261	15.50%
702100	Office Furniture	-	-	-	-	**	234	-100.00%
4000	Community Development Administration Total	313,625	313,625	25,426	213,071	67.94%	113,255	88.13%
4100	Planning							
501110	Salaries-Regular	207,355	236,220	18,039	145,936	61.78%	172,503	-15.40%
501115	Salaries-Overtime	1,200	1,200	172	867	72.25%	1,139	-23.88%
501125	Salaries-Appointed	9,000	9,000	1,038	6,922	76.91%	5,348	29.43%
502100	Retirement	65,640	72,870	4,216	33,643	46.17%	38,134	-11.78%
502105	Workers Comp Insurance	5,655	6,315	357	2,890	45.76%	-	100.00%
502110	Health/Life Insurance	29,995	33,190	1,458	16,532	49.81%	20,961	-21.13%
502115	Unemployment Insurance	900	1,050	-	349	33.24%	1,072	-67.44%
502120	Medicare/FICA	3,140	3,545	279	2,226	62.79%	2,545	-12.53%
502130	Other Benefit Charges	2,095	2,415	159	1,284	53.17%	86	93.30%

Page 18 of 25

* = Actual data is reported through March.

Community Development-Lilley
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
4100	Planning, Continued							
602110	Office Expense	-	-	-	49	**	(471)	1061.22%
602115	Postage	750	750	101	247	32.93%	578	-134.01%
602140	Materials & Supplies	1,000	1,000	-	-	0.00%	-	**
607100	Membership/Dues	2,500	2,500	-	721	28.84%	470	34.81%
607110	Travel/Conference/Meetings	8,200	8,200	-	114	1.39%	155	-26.45%
607115	Training	1,550	1,550	-	-	0.00%	-	**
608100	Contractual Services	4,000	4,000	-	1,706	42.65%	350	79.48%
608105	Professional Services	-	261,087	27,683	148,725	56.96%	94,180	36.68%
608135	Microfilming	1,000	1,000	-	-	0.00%	-	**
612105	Vehicle Replacement Charge	610	610	51	458	75.08%	461	-0.66%
4100	Planning Total	344,590	646,502	53,553	362,669	56.10%	337,864	7.34%
4200	Building Regulation							
501110	Salaries-Regular	50,370	52,900	6,394	36,773	69.51%	45,123	-18.50%
502100	Retirement	14,085	14,310	1,494	8,593	60.05%	9,868	-12.92%
502105	Workers Comp Insurance	1,130	1,130	127	728	64.42%	-	100.00%
502110	Health/Life Insurance	9,760	10,175	783	6,405	62.95%	6,493	-1.36%
502111	Medical In-Lieu Pay	-	-	30	271	**	-	100.00%
502115	Unemployment Insurance	300	300	-	265	88.33%	274	-3.28%
502120	Medicare/FICA	730	760	93	537	70.66%	637	-15.70%
502130	Other Benefit Charges	480	480	56	324	67.50%	23	92.90%
602110	Office Expense	200	200	-	83	41.50%	114	-27.19%
602115	Postage	700	700	1,000	14	2.00%	103	-86.41%
602120	Books/Periodicals	500	500	-	-	0.00%	-	**
607100	Membership/Dues	250	250	-	-	0.00%	-	**
607110	Travel/Conference/Meetings	500	500	-	-	0.00%	-	**
607115	Training	1,000	1,000	-	-	0.00%	350	-100.00%
608115	Inspection Services	700,000	700,000	-	233,479	33.35%	519,516	-55.06%

* = Actual data is reported through March.

Community Development-Lilley
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *			
4200	Building Regulation, Continued							
608135	Microfilming	2,000	2,000	-	-	0.00%	-	**
611116	Payment to Other Agencies	2,250	2,250	-	362	16.09%	1,196	-69.73%
4200	Building Regulation Total	784,255	787,455	8,978	287,834	36.55%	583,697	-50.69%
4400	Business Relations							
607100	Membership/Dues	2,000	2,000	-	570	28.50%	-	100.00%
607115	Training	2,500	2,500	-	-	0.00%	-	**
608100	Contractual Services	2,250	2,250	-	-	0.00%	17,000	-100.00%
608105	Professional Services	15,000	15,000	-	-	0.00%	-	**
608145	Information Technology	3,750	3,750	-	-	0.00%	400	-100.00%
609100	Special Events	12,300	12,300	-	-	0.00%	-	**
610210	Business Relations Programs	-	-	-	-	**	19	-100.00%
4400	Business Relations	37,800	37,800	-	570	1.51%	17,419	-96.73%
101	GENERAL FUND TOTAL	\$ 1,480,270	\$ 1,785,382	\$ 87,957	\$ 864,144	48.40%	\$ 1,052,235	-17.88%
102	General Fund (Transactions & Use Tax)							
4100	Planning							
608105	Professional Services	-	5,310	-	5,310	100.00%	9,310	-42.96%
102	TRANSACTIONS AND USE TAX TOTAL	\$ -	\$ 5,310	\$ -	\$ 5,310	100.00%	\$ 9,310	-42.96%
	TOTAL COMMUNITY DEVELOPMENT	\$ 1,480,270	\$ 1,790,692	\$ 87,957	\$ 869,454	48.55%	\$ 1,061,545	-18.10%

* = Actual data is reported through March.

Community Service - Bobadilla
March 2022 General Fund Expenditures (75% of year)

		FY 2021/22							
		FY 2021/22	FY 2021/22	Activity			FY 2020/21	% Change	
Acct. No.	Description	Adopted	Amended	During	Year to Date	% of Budget	Actual	From Prior	
		Budget	Budget	March	Actual *			Year	
101	General Fund								
5000	Public Information Office								
501110	Salaries-Regular	\$ 82,975	\$ 76,410	\$ 2,559	\$ 47,901	62.69%	\$ -	100.00%	
502100	Retirement Charges	18,765	18,055	598	11,085	61.40%	-	100.00%	
502105	Workers Comp Insurance	1,575	1,575	51	948	60.19%	-	100.00%	
502110	Health/Life Insurance	12,445	11,225	208	6,777	60.37%	-	100.00%	
502115	Unemployment Insurance	375	375	-	174	46.40%	-	100.00%	
502120	Medicare/FICA	1,190	1,070	37	694	64.86%	-	100.00%	
502130	Other Benefit Charges	775	690	23	422	61.16%	-	100.00%	
602113	Social Media	2,500	2,500	67	1,382	55.28%	852	38.35%	
607100	Membership/Dues	-	250	-	252	100.80%	-	100.00%	
608105	Professional Services	-	10,000	375	375	3.75%	-	100.00%	
5000	Public Information Office	120,600	122,150	3,918	70,010	57.31%	852	98.78%	
5100	Community Services Administration								
501110	Salaries-Regular	279,875	283,185	31,106	195,086	68.89%	253,220	-22.96%	
501120	Salaries-Part Time	1,840	1,840	144,000	2,314	125.76%	33,982	-93.19%	
502100	Retirement	65,905	66,180	8,120	50,949	76.99%	62,571	-18.57%	
502105	Workers Comp Insurance	4,940	4,940	619	3,909	79.13%	-	100.00%	
502110	Health/Life Insurance	29,000	29,195	2,338	19,666	67.36%	30,657	-35.85%	
502111	Medical In-Lieu Pay	6,000	6,000	500	4,625	77.08%	2,250	51.35%	
502115	Unemployment Insurance	900	900	3	453	50.33%	1,551	-70.79%	
502120	Medicare/FICA	3,890	3,970	442	2,793	70.35%	4,094	-31.78%	
502130	Other Benefit Charges	2,245	2,285	274	1,718	75.19%	616	64.14%	
602100	Special Dept Expense	18,950	87,550	1,126	75,875	86.66%	3,695	1953.45%	
602110	Office Expense	3,185	3,185	146	2,049	64.33%	743	175.77%	
602115	Postage	500	500	7	375	75.00%	3,222	-759.20%	
603110	Building Maintenance	10,485	7,785	2,403	3,978	51.10%	225	94.34%	
607100	Membership/Dues	1,160	910	-	892	98.02%	-	100.00%	

* = Actual data is reported through March.

Community Service - Bobadilla
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *			
5100	Community Services Administration, Continued							
607115	Training	1,500	900	-	295	32.78%	60	79.66%
609100	Special Events	11,500	16,700	(1,977)	10,436	62.49%	3,484	66.62%
609125	Employee/Volunteer Recognition	-	-	-	-	**	223	-100.00%
612105	Vehicle Replacement Charge	7,845	7,845	654	5,884	75.00%	5,100	13.32%
612115	Liability Insurance Charge	59,295	59,295	-	50,693	85.49%	53,636	-5.81%
701105	Equipment-General	-	-	-	-	**	2,544	-100.00%
5100	Community Services Administration Total	509,015	583,165	45,905	431,990	74.08%	461,873	-6.47%
5200	Community Center Operations							
501110	Salaries-Regular	34,750	34,750	3,069	19,359	55.71%	-	100.00%
501115	Salaries-Overtime	-	-	-	164	**	-	100.00%
501120	Salaries-Part Time	92,150	92,150	2,969	22,498	24.41%	-	100.00%
502100	Retirement	14,905	14,905	747	5,066	33.99%	-	100.00%
502105	Workers Comp Insurance	2,260	2,260	120	829	36.68%	-	100.00%
502110	Health/Life Insurance	6,130	6,130	341	2,887	47.10%	-	100.00%
502111	Medical In-Lieu Pay	2,700	2,700	250	2,125	78.70%	-	100.00%
502115	Unemployment Insurance	1,500	1,500	74	305	20.33%	-	100.00%
502120	Medicare/FICA	1,855	1,855	91	640	34.50%	-	100.00%
502130	Other Benefit Charges	1,370	1,370	28	182	13.28%	-	100.00%
602100	Special Dept Expense	4,820	5,170	63	2,789	53.95%	-	100.00%
602110	Office Expense	1,000	1,000	-	451	45.10%	65	85.59%
603110	Building Maintenance	6,695	6,345	429	3,732	58.82%	2,927	27.50%
612105	Vehicle Replacement Charge	395	395	33	296	74.94%	300	-1.35%
5200	Community Center Operations	170,530	170,530	8,214	61,323	35.96%	3,292	94.63%
5300	Park Operations							
501110	Salaries-Regular	76,300	76,300	7,997	50,910	66.72%	39,868	27.70%
501115	Salaries-Overtime	-	-	-	1,741	**	-	100.00%
501120	Salaries-Part Time	102,715	102,715	12,937	79,466	77.37%	55,294	43.72%

* = Actual data is reported through March.

Community Service - Bobadilla
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
5300	Park Operations, Continued							
502100	Retirement	15,310	15,310	1,869	11,898	77.71%	9,052	31.44%
502105	Workers Comp Insurance	3,540	3,540	414	2,581	72.91%	-	100.00%
502110	Health/Life Insurance	11,275	11,275	818	6,893	61.14%	5,549	24.22%
502111	Medical In-Lieu Pay	2,000	2,000	100	1,050	52.50%	463	55.90%
502115	Unemployment Insurance	2,025	2,025	307	1,507	74.42%	1,205	25.06%
502120	Medicare/FICA	2,545	2,545	309	1,934	75.99%	1,397	38.44%
502130	Other Benefit Charges	2,260	2,260	77	488	21.59%	816	-67.21%
602100	Special Dept Expense	5,500	5,500	474	2,627	47.76%	217	91.74%
602110	Office Expense	1,000	1,000	44	168	16.80%	394	-57.36%
5300	Park Operations	224,470	224,470	25,346	161,263	71.84%	114,255	41.14%
5400	Senior Citizens Programs							
501110	Salaries-Regular	18,040	18,040	1,781	12,706	70.43%	5,433	133.87%
501115	Salaries-Overtime	-	-	-	74	**	-	100.00%
501120	Salaries-Part Time	31,995	31,995	2,049	16,726	52.28%	21,851	-23.45%
502100	Retirement	3,470	3,470	416	2,969	85.56%	1,234	140.60%
502105	Workers Comp Insurance	880	880	76	583	66.25%	-	100.00%
502110	Health/Life Insurance	2,890	2,890	196	1,847	63.91%	849	117.55%
502111	Medical In-Lieu Pay	1,050	1,050	100	900	85.71%	300	66.67%
502115	Unemployment Insurance	600	600	49	158	26.33%	255	-38.04%
502120	Medicare/FICA	725	725	57	441	60.83%	406	8.62%
502130	Other Benefit Charges	665	665	17	119	17.89%	317	-166.39%
609200	Senior Citizen Program	1,200	1,500	30,000	716	47.73%	381	46.79%
5400	Senior Citizens Programs	61,515	61,815	4,771	37,239	60.24%	31,026	20.03%
5500	Recreation Programs							
602115	Postage	9,000	9,000	3,173	9,389	104.32%	-	100.00%
602150	Recreation Brochure Mailing	23,100	23,100	-	15,478	67.00%	7,541	51.28%

* = Actual data is reported through March.

Community Service - Bobadilla
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22		% of Budget	FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *			
5500	Recreation Programs, Continued							
608150	Contractual Recreation Program	16,800	31,000	-	15,838	51.09%	-	100.00%
5500	Recreation Programs	48,900	63,100	3,173	40,705	64.51%	7,541	81.47%
	TOTAL COMMUNITY SERVICES	\$ 1,135,030	\$ 1,225,230	\$ 91,327	\$ 802,530	65.50%	\$ 618,839	29.68%

* = Actual data is reported through March.

Transfers to Other Funds-Bannigan
March 2022 General Fund Expenditures (75% of year)

Acct. No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
101	General Fund							
1600	Non-Departmental							
800263	Transfer to Liability/Risk Mgmt. Fund	\$ -	\$ 131,330	\$ 121,530	\$ 121,530	92.54%	\$ -	100.00%
800250	Transfer to FACT Grant	17,100	17,100	3,254	10,379	60.70%	12,563	-21.04%
800251	Transfer to Senior Transportation Fund	10,565	10,565	1,029	6,646	62.91%	2,732	143.27%
800280	Transfer to SCP Maintenance Fund	41,140	57,540	3,428	30,855	53.62%	44,627	-44.63%
800305	Transfer to Capital Projects Fund	-	104,000	-	-	0.00%	-	**
	TOTAL TRANSFERS OUT	\$ 68,805	\$ 320,535	\$ 129,241	\$ 169,410	52.85%	\$ 59,922	182.72%

* = Actual data is reported through March.

ATTACHMENT C

Click here to return to the agenda.

General Fund - Fund Balance Status

	General Fund (101)	Measure GG Transaction & Use Tax Fund (102)	Total
<u>Reserves as of June 30, 2021:</u>			
Capital Improvement (A)	\$ 5,000,000		\$ 5,000,000
Economic Uncertainty (B)	5,217,000		5,217,000
Emergency Disaster Continuity (C)	2,609,000		2,609,000
Equipment and Maintenance (A)	150,000		150,000
Technology Equipment (A)	150,000		150,000
Subtotal	13,126,000	-	13,126,000
Available Fund Balance (unreserved)	8,224,334	369,100	8,593,434
Total Fund Balance (Reserves & Available Fund Balance) as of June 30, 2021	21,350,334	369,100	21,719,434
Estimated increase (decrease) of fund balance during Fiscal Year 2021-22	2,222,551	(369,100)	1,853,451
Total Projected Fund Balance (Reserves & Available Fund Balance) as of June 30, 2022	\$ 23,572,885	\$ -	\$ 23,572,885

Notes:

(A) - Flat amounts per Reserve Policy adopted on June 22, 2021 (City Resolution No. 2021-23).

(B) - Amount is equal to 20% of Fiscal Year 2021/22 operating expenditures budgeted in General Fund per Reserve Policy adopted on June 22, 2021 (City Resolution No. 2021-23).

(C) - Amount is equal to 10% of Fiscal Year 2021/22 operating expenditures budgeted in General Fund per Reserve Policy adopted on June 22, 2021 (City Resolution No. 2021-23).

HOUSING AUTHORITY FUND (#285)
March 2022 Revenues and Expenditures (75% of year)

Account No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual *	% Change From Prior Year	
				Activity During March	Year to Date Actual *	% of Budget			
REVENUES									
435100	Interest	\$ 150,000	\$ 50,000	\$ 10,397	\$ 26,014	52.03%	\$ 70,948	-172.73%	
435110	Unrealized Gains/Losses	-	-	(57,937)	(149,481)	**	(48,853)	67.32%	
436140	Tina Way/Pacific Ave. Property Rent	500,000	500,000	1,410	268,565	53.71%	293,869	-8.61%	
437135	Expense Reimbursement	2,000	2,000	2,000	2,000	100.00%	1,171	70.79%	
437145	Sale Of Assets	-	682,000	-	681,902	99.99%	210,100	69.19%	
TOTAL REVENUES		\$ 652,000	\$ 1,234,000	\$ (44,130)	\$ 829,000	67.18%	\$ 527,235	57.24%	
ESTIMATED EXPENDITURES AND OTHER USES									
Salaries and Benefits									
501110	Salaries-Regular	259,540	143,180	14,893	95,145	66.45%	130,883	-27.31%	
501115	Salaries-Overtime	5,000	-	139	407	**	409	-0.49%	
501120	Salaries-Part-Time	2,230	2,020	136	1,552	76.83%	1,568	-1.02%	
502100	Retirement	71,340	46,215	3,859	24,600	53.23%	30,043	-18.12%	
502105	Workers' Compensation	4,500	2,390	298	1,915	80.13%	-	100.00%	
502110	Health/Life Insurance	36,455	16,770	1,179	9,817	58.54%	14,964	-34.40%	
502111	Medical in Lieu	480	480	43	475	98.96%	180	62.11%	
502115	Unemployment Insurance	1,035	435	3	203	46.67%	1,084	-81.27%	
502120	Medicare/FICA	3,675	1,985	206	1,318	66.40%	1,841	-39.68%	
502130	Other Benefits	2,205	1,125	131	838	74.49%	89	89.38%	
608130	Temporary Help	-	-	-	-	**	1,851	-100.00%	
Total-Salaries and Benefits		386,460	214,600	20,887	136,270	63.50%	182,912	-25.50%	
Maintenance and Operations									
602100	Special Department Expense	-	-	-	-	**	3,961	-100.00%	
602110	Office Expense	1,000	1,000	-	147	14.70%	-	100.00%	
602115	Postage	500	500	-	14	2.80%	208	-93.27%	
602140	Materials and Supplies	5,000	5,000	12	603	12.06%	-	100.00%	
602145	Gas/Oil/Lube	-	-	-	20	**	-	100.00%	
603120	Minor Repairs	15,000	15,000	-	-	0.00%	8,614	-100.00%	

Page 1 of 2

HOUSING AUTHORITY FUND (#285)
March 2022 Revenues and Expenditures (75% of year)

Account No.	Description	FY 2021/22 Adopted Budget	FY 2021/22 Amended Budget	FY 2021/22			FY 2020/21 Actual *	% Change From Prior Year
				Activity During March	Year to Date Actual *	% of Budget		
Maintenance and Operations , Continued								
604105	Utilities	50,000	50,000	-	32,995	65.99%	41,623	-26.15%
607100	Membership Dues	5,300	5,300	-	-	0.00%	4,630	-100.00%
607110	Travel/Conference/Meetings	1,000	1,000	-	-	0.00%	-	**
607115	Training	2,500	2,500	-	-	0.00%	-	**
608100	Contractual Services	-	2,765,440	2,231	317,990	11.50%	607,712	-91.11%
608105	Professional Services	437,000	410,000	480	121,856	29.72%	162,218	-33.12%
610135	Relocation Assistance	40,000	40,000	3,455	34,428	86.07%	71,632	-108.06%
610230	Navigation Center (North SPA)	30,000	30,000	-	-	0.00%	-	**
611110	O.C. Sanitation User Fee	21,400	21,400	-	20,837	97.37%	23,652	-13.51%
Total-Maintenance and Operations		608,700	3,347,140	6,178	528,890	15.80%	924,250	-42.78%
Allocated Charges								
612105	Vehicle Replacement Charge	10,075	10,075	840	7,556	75.00%	2,303	69.52%
612115	Liability Insurance Charge	16,190	16,190	-	13,841	85.49%	-	100.00%
612140	Information Technology Charge	24,075	24,075	2,006	18,056	75.00%	13,283	26.43%
614205	Admin Overhead	40,100	20,850	2,300	15,063	72.24%	22,617	-33.40%
Total-Allocated Charges		90,440	71,190	5,146	54,516	76.58%	38,203	42.70%
Capital Outlay								
760100	Demolition/Condemnation	-	-	-	-	**	96,075	-100.00%
790100	Land Acquisition	-	-	-	-	**	1,961,438	-100.00%
Total-Capital Outlay		-	-	-	-	**	2,057,513	-100.00%
Transfers to Other Funds								
800101	Transfer to General Fund	-	890,000	-	890,000	100.00%	-	100.00%
Total-Transfers to Other Funds		-	890,000	-	890,000	100.00%	-	100.00%
TOTAL EXPENDITURES		\$ 1,085,600	\$ 4,522,930	\$ 32,211	\$ 1,609,676	35.59%	\$ 3,202,878	-49.74%
REVENUES OVER (UNDER) EXPENDITURES		\$ (433,600)	\$ (3,288,930)	\$ (76,341)	\$ (780,676)		\$ (2,675,643)	

* = Actual data is reported through March.

Housing Authority Fund (Fund 285) - Fund Balance Status

Available Fund Balance as of June 30, 2021	\$ 13,007,781
Estimated increase (decrease) of fund balance during Fiscal Year 2021-22	<u>(957,990)</u>
Projected Available Fund Balance as of June 30, 2022	<u><u>\$ 12,049,791</u></u>

CITY OF STANTON
FY 2021/22
STATUS OF CAPITAL IMPROVEMENT PROJECTS (CIP)
JULY 1, 2021 THROUGH MARCH 31, 2022

Task Code	Description	Adopted Budget 2021/22	FY 2020/21 Budget Carryover	Other Budget Adjustments	Amended Budget 2021/22	YTD Actual 2021/22	Encumbrances	% Spent (Includes Encumbrances)	Remaining Budget
Street Projects									
2021-105	Traffic Signal Improvements - Fiscal Year 2020/21	\$ -	\$ 200,740	\$ -	\$ 200,740	\$ 109,784	\$ -	54.7%	\$ 90,956
2022-101	Citywide Street Rehabilitation - Fiscal Year 2021/22	2,075,000	49,253	-	2,124,253	52,533	7,220	2.8%	2,064,500
2022-102	Citywide Street Sign Replacement	150,000	-	-	150,000	513	-	0.3%	149,487
2022-103	Catch Basin Full Trash Capture Installations	-	-	127,225	127,225	-	114,500	90.0%	12,725
Total Street Projects		\$ 2,225,000	\$ 249,993	\$ 127,225	\$ 2,602,218	\$ 162,830	\$ 121,720	10.9%	\$ 2,317,668
Parks Projects									
2021-201	Park Master Plan	\$ -	\$ 100,870	\$ -	\$ 100,870	\$ -	\$ -	0.0%	\$ 100,870
2021-202	Hollenbeck Rubber Replacement	-	200,735	(200,735)	-	-	-	**	-
2021-203	Premier Park Play Equipment and Rubber	-	200,735	(200,735)	-	-	-	**	-
2021-204	Harry Dotson Rubber	-	70,510	(70,510)	-	-	-	**	-
2021-205	Dog Park (design)	50,000	-	164,000	214,000	-	193,962	90.6%	20,038
2022-201	Family Resource Center Improvements	425,000	-	-	425,000	-	57,600	13.6%	367,400
2022-202	Rehabilitate Building at Dotson Park	141,000	-	(141,000)	-	-	-	**	-
2022-203	Orangewood Parkette (design)	-	-	109,100	109,100	-	89,060	81.6%	20,040
2022-204	Norm Ross Sports Park	-	-	7,691,060	7,691,060	-	-	0.0%	7,691,060
2022-205	Replace Shade Structure at Stanton Central Park	-	-	60,000	60,000	-	-	0.0%	60,000
2022-206	Premier Park Renovation (design only)	-	-	150,000	150,000	-	-	0.0%	150,000
Total Parks Projects		\$ 616,000	\$ 572,850	\$ 7,561,180	\$ 8,750,030	\$ -	\$ 340,622	3.9%	\$ 8,409,408
Sewer									
2022-301	Sewer Master Plan Update	\$ 500,000	\$ -	\$ 50,000	\$ 550,000	\$ -	\$ 499,265	90.8%	\$ 50,735
Total Sewer		\$ 500,000	\$ -	\$ 50,000	\$ 550,000	\$ -	\$ 499,265	90.8%	\$ 50,735
Facilities									
2022-605	Sheriff's Substation Flooring Replacement	\$ -	\$ -	\$ 60,000	\$ 60,000	\$ -	\$ 50,002	83.3%	\$ 9,998
Total Facilities		\$ -	\$ -	\$ 60,000	\$ 60,000	\$ -	\$ 50,002	83.3%	\$ 9,998
GRAND TOTAL		\$ 3,341,000	\$ 822,843	\$ 7,798,405	\$ 11,962,248	\$ 162,830	\$ 1,011,609	9.8%	\$ 10,787,809
Funding Source									
101	General Fund	\$ -	\$ -	\$ 104,000	\$ 104,000	\$ -	\$ -	0.0%	\$ 104,000
211	Gas Tax Fund	381,431	-	(78,555)	302,876	513	22,900	7.7%	279,463
215	RMRA Fund	1,060,640	49,253	-	1,109,893	-	-	0.0%	1,109,893

CITY OF STANTON
FY 2021/22
STATUS OF CAPITAL IMPROVEMENT PROJECTS (CIP)
JULY 1, 2021 THROUGH MARCH 31, 2022

Task Code	Description	Adopted Budget 2021/22	FY 2020/21 Budget Carryover	Other Budget Adjustments	Amended Budget 2021/22	YTD Actual 2021/22	Encumbrances	% Spent (Includes Encumbrances)	Remaining Budget
220	Measure M Turnback Fund	750,000	174,740	(29,109)	895,631	107,208	98,820	23.0%	689,603
222	CDBG Grant Fund	350,000	-	-	350,000	-	-	0.0%	350,000
227	Other Grants Fund	-	-	7,792,840	7,792,840	-	-	0.0%	7,792,840
257	ARPA Fund	-	-	60,000	60,000	-	50,002	83.3%	9,998
262	Traffic Signal Impact Fees Fund	-	26,000	29,109	55,109	55,109	-	100.0%	-
263	Community Center Impact Fees Fund	141,000	-	(141,000)	-	-	-	**	-
305	Capital Projects Fund (Reserves)	32,929	-	60,000	92,929	-	-	0.0%	92,929
310	Park In-Lieu Fund	125,000	572,850	(48,880)	648,970	-	340,622	52.5%	308,348
501	Sewer Maintenance Fund	500,000	-	50,000	550,000	-	499,265	90.8%	50,735
GRAND TOTAL		\$ 3,341,000	\$ 822,843	\$ 7,798,405	\$ 11,962,248	\$ 162,830	\$ 1,011,609	9.8%	\$ 10,787,809

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: May 10, 2022

**SUBJECT: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON
AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY
INVESTMENT FUND**

REPORT IN BRIEF:

The existing resolution authorizing deposits and withdrawals of monies in LAIF, required by Section 16429.1 of the Government Code, needs to be updated to include the Finance Director.

RECOMMENDED ACTION:

1. City Council find that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(4) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly, or indirectly); and
2. Adopt Resolution No. 2022-20, entitled:

**"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON,
CALIFORNIA, AUTHORIZING THE INVESTMENT OF MONIES IN THE LOCAL
AGENCY INVESTMENT FUND."**

BACKGROUND:

The Local Agency Investment Fund (LAIF), and investment pool run by the California State Treasurer, requires a Council-approved resolution authorizing the individuals who are entitles to make investments and make withdrawals from the LAIF accounts. Only those authorized by resolution make changes to the LAIF account.

ANALYSIS/JUSTIFICATION:

In accordance with City Council Resolution No. 2019-43, there are two positions currently authorized to deposit and withdraw LAIF monies on behalf of the City of Stanton. Those

positions are the City Manager, and the City Clerk. Staff recommends the Finance Director be added as the third position to the resolution to be responsible for the day-to-day LAIF business. Currently, the Finance Director needs to seek assistance from either the City Manager or City Clerk when LAIF transactions need to be made. Common practice (and improved efficiency) is that the Finance Director would have the authority to execute these transactions on behalf of the City (and the City Manager and City Clerk would be utilized in a backup capacity). The City's Accounting Manager is responsible for reconciling the City's LAIF account activity monthly. Currently, any withdrawals from the City's LAIF account requires a form to be prepared by the Finance Director and approved by the City Manager before the withdrawal is executed. This practice would continue; therefore, the Accounting Manager would expect to see an authorization form signed by the City Manager whenever withdrawals from the City's LAIF account are posted to the City's account.

FISCAL IMPACT:

No foreseeable fiscal impact expected.

ENVIRONMENTAL IMPACT:

Not applicable.

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

Through the normal agenda process.

Prepared by:

Approved by:

/s/ Michelle Bannigan

/s/ Jarad L. Hildenbrand

Michelle Bannigan, Finance Director

Jarad L. Hildenbrand, City Manager

Attachment:

A. Resolution No. 2022-20

Click here to return to the agenda.

RESOLUTION NO. 2022-20**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, AUTHORIZING THE INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND**

WHEREAS, The Local Agency Investment Fund is established in the State Treasury under Government Code section 16429.1 et. seq. for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the City Council hereby finds that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein is in the best interests of the City of Stanton; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

That the City Council hereby authorizes the deposit and withdrawal of Stanton monies in the Local Agency Investment Fund in the State Treasury in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein; and

BE IT FURTHER RESOLVED, AS FOLLOWS:

SECTION 1. The following Stanton officers holding the title(s) specified herein below **or their successors in office** are each hereby authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund and may execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution and the transactions contemplated hereby:

Michelle Bannigan, CPA
Finance Director

Jarad L. Hildenbrand
City Manager

Patricia A. Vazquez
City Clerk

SECTION 2. This resolution shall remain in full force and effect until rescinded by the Stanton City Council by resolution and a copy of the resolution rescinding this resolution is filed with the State Treasurer's Office.

ADOPTED, SIGNED AND APPROVED this 10th day of May, 2022.

DAVID J. SHAWVER, MAYOR

APPROVED AS TO FORM:

HONGDAO NGUYEN, CITY ATTORNEY

ATTEST:

I, Patricia A. Vazquez, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2022-20 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on May 10, 2022, and that the same was adopted, signed, and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK

CITY OF STANTON

REPORT TO STANTON HOUSING AUTHORITY

TO: Honorable Chair and Members of the Board

DATE: May 10, 2022

SUBJECT: RESOLUTION OF THE STANTON HOUSING AUTHORITY OF THE CITY OF STANTON AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND

REPORT IN BRIEF:

The existing resolution authorizing deposits and withdrawals of monies in LAIF, required by Section 16429.1 of the Government Code, needs to be updated to include the Finance Director.

RECOMMENDED ACTION:

1. Stanton Housing Authority finds that this item is not subject to California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(4) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly, or indirectly); and
2. Adopt Resolution No. SHA 2022-01, entitled:

"A RESOLUTION OF THE STANTON HOUSING AUTHORITY OF THE CITY OF STANTON, CALIFORNIA, AUTHORIZING THE INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND."

BACKGROUND:

The Local Agency Investment Fund (LAIF), and investment pool run by the California State Treasurer, requires a Board-approved resolution authorizing the individuals who are entitles to make investments and make withdrawals from the LAIF accounts. Only those authorized by resolution make changes to the LAIF account.

ANALYSIS/JUSTIFICATION:

In accordance with Stanton Housing Authority Resolution No. 2016-40, there are three positions currently authorized to deposit and withdraw LAIF monies on behalf of the Housing Authority. Those positions are the: Administrative Services Director, Executive Director, and the Authority Secretary. The title for the Administrative Services Director was reclassified to "Finance Director" in 2019. Staff recommends the resolution is modified to reflect this position title change.

FISCAL IMPACT:

No foreseeable fiscal impact expected.

ENVIRONMENTAL IMPACT:

Not applicable.

LEGAL REVIEW:

None.

PUBLIC NOTIFICATION:

Through the normal agenda process.

Prepared by:

Approved by:

/s/ Michelle Bannigan

/s/ Jarad L. Hildenbrand

Michelle Bannigan, Finance Director

Jarad L. Hildenbrand, Executive Director

Attachment:

A. Resolution No. SHA-2022-01

RESOLUTION NO. SHA 2022-01**A RESOLUTION OF THE STANTON HOUSING AUTHORITY OF THE CITY OF STANTON, CALIFORNIA, AUTHORIZING THE INVESTMENT OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND**

WHEREAS, The Local Agency Investment Fund is established in the State Treasury under Government Code section 16429.1 et. seq. for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the Board of the Housing Authority hereby finds that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein is in the best interests of the Stanton Housing Authority.

NOW, THEREFORE, THE STANTON HOUSING AUTHORITY OF THE CITY OF STANTON DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

That the Stanton Housing Authority Board hereby authorizes the deposit and withdrawal of Stanton Housing Authority monies in the Local Agency Investment Fund in the State Treasury in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein; and

BE IT FURTHER RESOLVED, AS FOLLOWS:

Section 1. The following Stanton Housing Authority officers holding the title(s) specified herein below **or their successors in office** are each hereby authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund and may execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution and the transactions contemplated hereby:

Michelle Bannigan, CPA
Finance Director

Jarad L. Hildenbrand
Executive Director

Patricia A. Vazquez
Authority Secretary

Section 2. This resolution shall remain in full force and effect until rescinded by the Stanton Housing Authority Board by resolution and a copy of the resolution rescinding this resolution is filed with the State Treasurer's Office.

ADOPTED, SIGNED AND APPROVED this 10th day of May, 2022.

DAVID J. SHAWVER, CHAIRMAN

APPROVED AS TO FORM:

HONGDAO NGUYEN, AUTHORITY COUNSEL

ATTEST:

I, PATRICIA A. VAZQUEZ, Authority Secretary of the Stanton Housing Authority, City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. SHA 2022-01 has been duly signed by the Chairman and attested by the Authority Secretary, all at a regular meeting of the Housing Authority held on May 10, 2022, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, AUTHORITY SECRETARY

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: May 10, 2022

SUBJECT: AMENDMENT TO AGREEMENT FOR THE STANTON FAMILY RESOURCE CENTER UNDER THE COUNTY OF ORANGE FAMILIES AND COMMUNITIES TOGETHER (FaCT) PROGRAM

REPORT IN BRIEF:

The attached First Amendment to the Agreement for Family Resource Center Services would increase the overall amount of annual funding from \$300,000 per year to \$370,800.

RECOMMENDED ACTION:

1. City Council declare that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3); and
2. Approve the First Amendment to the Agreement for Family Resource Center Services with the County of Orange Social Services Agency; and
3. Authorize the City Manager to bind the City of Stanton and the County of Orange Social Services Agency in an amended agreement to provide Family Resource Center services.

BACKGROUND:

On July 1, 2020, the City entered into an agreement with County of Orange Social Services Agency to provide Family Resource Center (FRC) services for families residing in Orange County. Services include, but are not limited to comprehensive case management team, counseling, family support/case management services, parenting education, domestic violence prevention and treatment, and information and referral in support of addressing protective factors to strengthen Orange County families and their children.

The City's original proposal was awarded \$300,000 per year for the initial three-year grant cycle (July 1, 2020 – June 30, 2023), with the ability to apply for two one-year extensions to continue funding through June 2025. The County of Orange Social Services Agency is now proposing an amendment that would award the Stanton FRC \$370,800 for the final year of the grant cycle. This would also be the total annual amount for the two one-year funding extensions should we be awarded.

Of the additional funding, \$20,800 has been earmarked specifically for Emergency Assistance items for families and is funded by the County's American Rescue Plan Act (ARPA) funds.

ANALYSIS/JUSTIFICATION:

With the approval of the amendment, the City, as lead fiscal agent, will receive \$370,800 per year. These funds continue to assist with off-setting costs associated with the delivery of social and human service programs at the Stanton Family Resource Center, allowing us to increase maximum hourly rates and direct services budgets while partially funding a job creation program. A portion of these funds are distributed to partner agencies facilitating programs and services at the Stanton FRC.

FISCAL IMPACT:

Per our current contract, the City receives \$300,000 per year through the upcoming Fiscal Year 2022-2023. Accepting this amendment will increase the amount received for FY22-23 to \$370,800. This would also be the total annual amount for the two one-year funding extensions should we be awarded. The County limits expenditure categories, therefore, a transfer from the General Fund is necessary to subsidize the resources available to the community. The general funds needed to supplement FRC activities will be included in the upcoming Fiscal Year 2022-23 budget proposal.

ENVIRONMENTAL IMPACT:

None. This item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(5) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

LEGAL REVIEW:

The City Attorney's Office has reviewed the attached Amendment.

STRATEGIC PLAN OBJECTIVE(S) ADDRESSED:

5. Provide a high quality of life.

PUBLIC NOTIFICATION:

Through the normal agenda process.

Prepared By:

/s/ Ashley Cain

Ashley Cain
Community Services Manager

Approved as to Form By:

/s/ HongDao Nguyen

HongDao Nguyen
City Attorney

Reviewed By:

/s/ Zenia Bobadilla

Zenia Bobadilla
Community Services Director

Approved By:

/s/ Jarad L. Hildenbrand

Jarad L. Hildenbrand
City Manager

Attachment(s):

- A. Professional Services Agreement (with the County of Orange Social Services Agency) for the Provision of Family Resource Center Services
- B. First Amendment to the Agreement for Family Resource Center Services

1 AGREEMENT
2 BETWEEN
3 COUNTY OF ORANGE
4 AND
5 CITY OF STANTON
6 AND
7 FRIENDLY CENTER, INC.
8 AND
9 INTERVAL HOUSE

10 FOR THE PROVISION OF FAMILY RESOURCE CENTER SERVICES
11

12 This AGREEMENT, entered into this 1st day of July, 2020, which date is particularized
13 for purpose of reference only, is by and between the COUNTY OF ORANGE, hereinafter referred
14 to as "COUNTY," and City of Stanton, a California municipal agency; Friendly Center, Inc., a
15 California non-profit corporation; and Interval House, a California non-profit corporation,
16 hereinafter collectively referred to as "STANTON FAMILY RESOURCE CENTER" or
17 "CONTRACTOR." City of Stanton, Friendly Center, Inc., and Interval House, may each also be
18 referred to as "Contractor Partner Agencies." This Agreement shall be administered by the County
19 of Orange Social Services Agency Director or designee, hereinafter referred to as
20 "ADMINISTRATOR."

21
22 WITNESSETH:

23 WHEREAS, COUNTY desires to contract with CONTRACTOR for the provision of
24 Family Resource Center Services in Orange County; and

25 WHEREAS, such services are authorized and provided pursuant to the Adoptions and Safe
26 Families Act of 1997 (Public Law 105-89), California Welfare and Institutions Code Sections
27 16600-16605, All County Letter (ACL) No. 01-20, ACL No. 03-12, ACL No. 14.12, and the Child
28 and Family Services Improvement and Innovation Act; and

1 WHEREAS, CONTRACTOR agrees to render such services on the terms and conditions
2 hereinafter set forth:

3 ACCORDINGLY, THE PARTIES AGREED AS FOLLOWS:

4 ///

5 ///

6 ///

7 ///

8 ///

9 ///

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

TABLE OF CONTENTS

1.	TERM	5
2.	ALTERATION OF TERMS	5
3.	STATUS OF CONTRACTOR	5
4.	DESCRIPTION OF SERVICES	5
5.	LICENSES AND STANDARDS	6
6.	DELEGATION AND ASSIGNMENT/CHANGE OF OWNERSHIP	7
7.	SUBCONTRACTS	7
8.	FORM OF BUSINESS ORGANIZATION/NAME CHANGE	9
9.	NON-DISCRIMINATION	10
10.	NOTICES	13
11.	NOTICE OF DELAYS	13
12.	INDEMNIFICATION	14
13.	INSURANCE	14
14.	NOTIFICATION OF LITIGATION, INCIDENTS, CLAIMS, OR SUITS	18
15.	CONFLICT OF INTEREST	19
16.	ANTI-PROSELYTISM PROVISION	19
17.	SUPPLANTING GOVERNMENT FUNDS	19
18.	EQUIPMENT	20
19.	BREACH SANCTIONS	21
20.	DESIGNATED LEAD AGENCY	22
21.	PAYMENTS	23
22.	OVERPAYMENTS	25
23.	OUTSTANDING DEBT	26
24.	FINAL REPORT	26
25.	INDEPENDENT AUDIT	26
26.	RECORDS, INSPECTIONS, AND AUDITS	27
27.	PERSONNEL DISCLOSURE	29
28.	EMPLOYMENT ELIGIBILITY VERIFICATION	31
29.	CHILD AND DEPENDENT ADULT/ELDER ABUSE REPORTING	31
30.	NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW	32
31.	CONFIDENTIALITY	32
32.	SECURITY	33
33.	COPYRIGHT ACCESS	35
34.	WAIVER	35
35.	SERVICES DURING EMERGENCY AND/OR DISASTER	35
36.	PUBLICITY, LITERATURE, ADVERTISEMENTS AND SOCIAL MEDIA	36
37.	REPORTS	37
38.	ENERGY EFFICIENCY STANDARDS	37
39.	ENVIRONMENTAL PROTECTION STANDARDS	37
40.	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	38
41.	POLITICAL ACTIVITY	39
42.	TERMINATION PROVISIONS	39
43.	GOVERNING LAW AND VENUE	41
44.	SIGNATURE IN COUNTERPARTS	41

Exhibit A

1.	POPULATION TO BE SERVED	1
2.	DEFINITIONS.....	2
3.	HOURS OF OPERATION	3
4.	FRC GENERAL REQUIREMENTS AND RESPONSILIBITES	3
5.	SERVICES.....	5
6.	ADDITIONAL CONTRACTOR RESPONSIBILITIES	14
7.	FACILITIES	16
8.	DATA ENTRY AND DATA SUBMISSION REQUIREMENTS	17
9.	REPORTS.....	19
10.	GOALS AND OUTCOME OBJECTIVES	19
11.	UTILIZATION REVIEW.....	20
12.	SUSTAINABILITY.....	20
13.	MEETINGS AND TRAININGS	21
14.	BUDGET	22
15.	STAFF	23

1. TERM

The term of this Agreement shall commence on July 1, 2020, and terminate on June 30, 2023, unless earlier terminated pursuant to the provisions of Paragraph 42 of this Agreement; however, CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term, including, but not limited to, obligations with respect to indemnification, audits, reporting, and accounting.

2. ALTERATION OF TERMS

2.1 This Agreement, including any Exhibit(s) attached hereto and incorporated by reference, fully expresses all understandings of the parties and is the total Agreement between the parties as to the subject matter of this Agreement. No addition to, or alteration of, the terms of this Agreement, whether written or verbal, are valid or binding unless made in the form of a written amendment to this Agreement which is formally approved and executed by both parties.

2.2 The various headings, numbers, and organization herein are for the purpose of convenience only and shall not limit or otherwise affect the Agreement.

3. STATUS OF CONTRACTOR

3.1 CONTRACTOR is, and shall at all times be deemed to be, an independent contractor, and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR or any of CONTRACTOR's agents or employees. CONTRACTOR assumes exclusively the responsibility for the acts of its employees or agents as they relate to services to be provided during the course and scope of their employment.

3.2 CONTRACTOR, its agents, and employees shall not be entitled to any rights and/or privileges of COUNTY employees, and shall not be considered in any manner to be COUNTY employees.

4. DESCRIPTION OF SERVICES

4.1 CONTRACTOR agrees to provide those services, facilities, equipment, and supplies, as described in Exhibit A to the Agreement between County of Orange and Stanton

1 Family Resource Center (FRC), for the Provision of Family Resource Center Services, attached
2 hereto and incorporated herein by reference. CONTRACTOR shall operate continuously
3 throughout the term of this Agreement with the number and type of staff described and as required
4 for provision of services hereunder.

5 4.2 Subject to thirty (30) days advance written notice, ADMINISTRATOR may require
6 changes in staffing allocations to reflect current workload demands or service needs as long as
7 COUNTY's maximum obligation, as set forth in this Agreement, is not exceeded.

8 4.3 Upon the request of ADMINISTRATOR, CONTRACTOR shall send appropriate
9 staff to attend an orientation session and subsequent training sessions given by COUNTY.

10 5. LICENSES AND STANDARDS

11 5.1 CONTRACTOR warrants that it and its personnel, described in Paragraph 27 of
12 this Agreement, who are subject to individual registration and/or licensing requirements, have all
13 necessary licenses and permits required by the laws of the United States, State of California
14 (hereinafter referred to as "State"), County of Orange, and all other appropriate governmental
15 agencies to perform the services described in this Agreement, and agrees to maintain, and require
16 its personnel to maintain, these licenses and permits in effect for the duration of this Agreement.
17 Further, CONTRACTOR warrants that its employees shall conduct themselves in compliance with
18 such laws and licensure requirements, including, without limitation, compliance with laws
19 applicable to sexual harassment and ethical behavior. CONTRACTOR must notify
20 ADMINISTRATOR within one (1) business day of any change in license or permit status (e.g.,
21 becoming expired, inactive, etc.).

22 5.2 In the performance of this Agreement, CONTRACTOR shall comply with all
23 applicable provisions of the California Welfare and Institutions Code (WIC); Title 45 of the Code
24 of Federal Regulations (CFR); implementing regulations under 2 CFR Part 200, Uniform
25 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Title
26 48 CFR Section 31.2; and all applicable laws and regulations of the United States, State of
27 California, County of Orange, and County of Orange Social Services Agency, and all
28 administrative regulations, rules, and policies adopted thereunder, as each and all may now exist

1 or be hereafter amended.

2 5.2.1 For federally funded Agreements in the amount of \$25,000 or more,
3 CONTRACTOR certifies that its officers and/or principals are not debarred or suspended from
4 federal financial assistance programs and/or activities.

5 5.3 CONTRACTOR shall cooperate with the California Department of Social Services
6 (CDSS) on the implementation, monitoring, and evaluation of the State's Child Abuse and Neglect
7 Prevention and Intervention Program, and shall comply, to the mutual satisfaction of COUNTY
8 and CDSS, with any and all reporting and evaluation requirements established by CDSS.

9 6. DELEGATION AND ASSIGNMENT/CHANGE OF OWNERSHIP

10 6.1 Delegation and Assignment

11 6.1.1 In the performance of this Agreement, CONTRACTOR may neither
12 delegate its duties or obligations nor assign its rights, either in whole or in part, without the prior
13 written consent of COUNTY. Any attempted delegation or assignment without prior written
14 consent shall be void. The transfer of assets in excess of ten percent (10%) of the total assets of
15 CONTRACTOR, or any change in the corporate structure, the governing body, or the management
16 of CONTRACTOR, which occurs as a result of such transfer, shall be deemed an assignment of
17 benefits under the terms of this Agreement requiring COUNTY approval.

18 6.1.2 COUNTY reserves the right to immediately terminate the Agreement in the
19 event COUNTY determines that the assignee is not qualified or otherwise acceptable to COUNTY
20 for the provision of services under the Agreement.

21 6.2 Change of Ownership

22 CONTRACTOR agrees that if there is a change or transfer in ownership of
23 CONTRACTOR's business prior to completion of this Agreement, and COUNTY agrees to an
24 assignment of the Agreement, the new owners shall be required, under the terms of sale or other
25 instruments of transfer, to assume CONTRACTOR's duties and obligations contained in this
26 Agreement and complete them to the satisfaction of COUNTY.

27 7. SUBCONTRACTS

28 7.1 CONTRACTOR shall not subcontract for services under this Agreement without

1 the prior written consent of ADMINISTRATOR. If ADMINISTRATOR consents in writing to a
2 subcontract, in no event shall the subcontract alter, in any way, any legal responsibility of
3 CONTRACTOR to COUNTY. All subcontracts must be in writing and copies of same shall be
4 provided to ADMINISTRATOR. CONTRACTOR shall include in each subcontract any provision
5 ADMINISTRATOR may require.

6 7.1.1 Subcontracts of \$50,000 or less

7 7.1.1.1 CONTRACTOR shall develop a standard form Purchase Order,
8 subject to prior written approval of ADMINISTRATOR, to be utilized for the purchase of services
9 by CONTRACTOR when the cumulative total cost of the services to be provided by any
10 organization is anticipated to be fifty thousand dollars (\$50,000) or less during the term of this
11 Agreement. The basis for costs incurred by any such Purchase Order(s) shall be the actual cost of
12 providing services or the usual and customary charges established by the organization(s) providing
13 the services.

14 7.1.2 Subcontracts in excess of \$50,000

15 7.1.2.1 CONTRACTOR shall develop and submit for approval to
16 ADMINISTRATOR a system for the procurement of subcontracts with any organization in which
17 the total cumulative cost of services provided by any single organization is anticipated to exceed
18 fifty thousand dollars (\$50,000) during the term of this Agreement. CONTRACTOR's proposed
19 procurement system shall take into consideration such factors as: degree of price competition;
20 pricing policies and techniques; experience and quality of service; methods of evaluating
21 subcontractor responsibility; relationship of subcontractor to CONTRACTOR; and planning,
22 award, and post-award management of subcontracts, including internal audit procedures and
23 monitoring of subcontractor's performance until completion of services.

24 7.1.2.2 Upon ADMINISTRATOR's approval of CONTRACTOR's
25 proposed procurement system, CONTRACTOR shall comply with such procurement system in
26 obtaining subcontracts with a total cost in excess of fifty thousand dollars (\$50,000) during the
27 term of this Agreement. In addition, CONTRACTOR shall obtain ADMINISTRATOR's written
28 consent prior to entering into a subcontract with any organization when the total cumulative cost

1 of services to be provided by that organization is anticipated to exceed fifty thousand dollars
2 (\$50,000) during the term of this Agreement.

3 7.1.2.3 CONTRACTOR and its subcontractor(s) shall establish and
4 maintain accurate and complete financial records related to services provided under the terms of
5 this Agreement. Such records may be subject to the satisfaction of ADMINISTRATOR, and to
6 the examination and audit by ADMINISTRATOR or designee, for a period of five (5) years, or
7 until any pending audit is completed.

8 8. FORM OF BUSINESS ORGANIZATION/NAME CHANGE

9 8.1 Form of Business Organization

10 Upon the request of ADMINISTRATOR, CONTRACTOR shall prepare and
11 submit, within thirty (30) days thereafter, an affidavit executed by persons satisfactory to
12 ADMINISTRATOR, containing, but not limited to, the following information:

13 8.1.1 The form of CONTRACTOR's business organization, i.e., proprietorship,
14 partnership, corporation, etc.

15 8.1.2 A detailed statement indicating the relationship of CONTRACTOR, by way
16 of ownership or otherwise, to any parent organization or individual.

17 8.1.3 A detailed statement indicating the relationship of CONTRACTOR to any
18 subsidiary business organization or to any individual who may be providing services, supplies,
19 material, or equipment to CONTRACTOR or in any manner does business with CONTRACTOR
20 under this Agreement.

21 8.2 Change in Form of Business Organization

22 If, during the term of this Agreement, the form of CONTRACTOR's business
23 organization changes, or the ownership of CONTRACTOR changes, or when changes occur
24 between CONTRACTOR and other businesses that could impact services provided through this
25 Agreement, CONTRACTOR shall promptly notify ADMINISTRATOR, in writing, detailing such
26 changes. A change in the form of business organization may, at COUNTY's sole discretion, be
27 treated as an attempted assignment of rights or delegation of duties of this Agreement.

28 ///

1 8.3 Name Change

2 CONTRACTOR must notify COUNTY, in writing, of any change in
3 CONTRACTOR's status with respect to name changes that do not require an assignment of the
4 Agreement. While CONTRACTOR is required to provide name change information without
5 prompting from the COUNTY, CONTRACTOR must also provide an update to COUNTY of its
6 status upon request by COUNTY.

7 9. NON-DISCRIMINATION

8 9.1 In the performance of this Agreement, CONTRACTOR agrees that it shall not
9 engage nor employ any unlawful discriminatory practices in the admission of clients, provision of
10 services or benefits, assignment of accommodations, treatment, evaluation, employment of
11 personnel, or in any other respect, on the basis of race, religious creed, color, national origin,
12 ancestry, physical disability, mental disability, medical condition, genetic information, marital
13 status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran
14 status, or any other protected group, in accordance with the requirements of all applicable federal
15 or State laws.

16 9.2 CONTRACTOR shall furnish any and all information requested by
17 ADMINISTRATOR and shall permit ADMINISTRATOR access, during business hours, to
18 books, records, and accounts in order to ascertain CONTRACTOR's compliance with Paragraph
19 9 et seq.

20 9.3 Non-Discrimination in Employment

21 9.3.1 CONTRACTOR shall comply with Executive Order 11246, entitled "Equal
22 Employment Opportunity," as amended by Executive Order 11375, and as supplemented in
23 Department of Labor regulations (Title 41 CFR Part 60).

24 9.3.2 All solicitations or advertisements for employees placed by or on behalf of
25 CONTRACTOR shall state that all qualified applicants will receive consideration for employment
26 without regard to race, religious creed, color, national origin, ancestry, physical disability, mental
27 disability, medical condition, genetic information, marital status, sex, gender, gender identity,
28 gender expression, age, sexual orientation, military and veteran status, or any other protected

1 group, in accordance with the requirements of all applicable federal or State laws. Notices
2 describing the provisions of the equal opportunity clause shall be posted in a conspicuous place
3 for employees and job applicants.

4 9.3.3 CONTRACTOR shall refer any and all employees desirous of filing a
5 formal discrimination complaint to:

6 California Department of Fair Employment

7 2218 Kausen Drive, Suite 100

8 Elk Grove, CA 95758

9 Telephone: (800) 884-1684

10 (800) 700-2320 (TTY)

11 9.4 Non-Discrimination in Service Delivery

12 9.4.1 CONTRACTOR shall comply with Titles VI and VII of the Civil Rights
13 Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age
14 Discrimination Act of 1975, as amended; the Food Stamp Act of 1977, as amended, and in
15 particular 7 CFR section 272.6; Title II of the Americans with Disabilities Act of 1990, as
16 amended; California Civil Code Section 51 et seq., as amended; California Government Code
17 (CGC) Sections 11135-11139.5, as amended; CGC Section 12940 (c), (h), (i), and (j); CGC
18 Section 4450; Title 22, California Code of Regulations (CCR) Sections 98000-98413; the
19 Dymally-Alatorre Bilingual Services Act (CGC Section 7290-7299.8); Section 1808 of the
20 Removal of Barriers to Interethnic Adoption Act of 1996; and other applicable federal and State
21 laws, as well as their implementing regulations (including Title 45 CFR Parts 80, 84, and 91; Title
22 7 CFR Part 15; and Title 28 CFR Part 42), and any other law pertaining to Equal Employment
23 Opportunity, Affirmative Action, and Nondiscrimination, as each may now exist or be hereafter
24 amended. CONTRACTOR shall not implement any administrative methods or procedures which
25 would have a discriminatory effect or which would violate the CDSS Manual of Policies and
26 Procedures (MPP) Division 21, Chapter 21-100. If there are any violations of this Paragraph,
27 CDSS shall have the right to invoke fiscal sanctions or other legal remedies in accordance with
28 WIC Section 10605, or CGC Sections 11135-11139.5, or any other laws, or the issue may be

referred to the appropriate federal agency for further compliance action and enforcement of Subparagraph 9.4 et seq.

9.4.2 CONTRACTOR shall provide any and all clients desirous of filing a formal complaint any and all information as appropriate:

9.4.2.1 Pamphlet: "Your Rights Under California Welfare Programs"
(PUB 13)

9.4.2.2 Discrimination Complaint Form

9.4.2.3 Civil Rights Contacts:

County Civil Rights Contact:

Orange County Social Services Agency

Program Integrity

Attn: Civil Rights Coordinator

P.O. Box 22001

Santa Ana, CA 92702-2001

Telephone: (714) 438-8877

State Civil Rights Contact:

California Department of Social Services

Civil Rights Bureau

P.O. Box 944243, M.S. 15-70

Sacramento, CA 94244-2430

Federal Civil Rights Contact:

U.S. Department of Health and Human Services

Office of Civil Rights

50 U.N. Plaza, Room 322

San Francisco, CA 94102

9.4.3 The following websites provide Civil Rights information, publications and/or forms:

///

9.4.3.1 <http://www.cdss.ca.gov/cdssweb/entres/forms/English/PUB470.pdf> (*Pub 470 - Your rights Under Adult Protective Services*)

9.4.3.2 <http://www.cdss.ca.gov/inforesources/Civil-Rights/Your-Rights-Under-California-Welfare-Program> (*Pub 13 – Your Rights Under California Welfare Programs*)

9.4.3.3 <http://ssa.ocgov.com/about/services/contact/complaints/comply>
(*SSA Contractor and Vendor Compliance page*)

10. NOTICES

10.1 All notices, requests, claims, correspondence, reports, statements authorized or required by this Agreement, and/or other communications shall be addressed as follows:

COUNTY: County of Orange Social Services Agency
Contracts and Procurement Services
500 N. State College Blvd, Suite 100
Orange, CA 92868

CONTRACTOR: Stanton Family Resource Center
c/o City of Stanton
7800 Katella Avenue
Stanton, CA 90680

10.2 All notices shall be deemed effective when in writing and deposited in the United States mail, first class, postage prepaid and addressed as above. Any communications, including notices, requests, claims, correspondence, reports, and/or statements authorized or required by this Agreement addressed in any other fashion shall be deemed not given. The parties each may designate by written notice from time to time, in the manner aforesaid, any change in the address to which notices must be sent.

11. NOTICE OF DELAYS

Except as otherwise provided under this Agreement, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within one (1) business day, give notice thereof, including all relevant

1 information with respect thereto, to the other party.

2 12. INDEMNIFICATION

3 12.1 CONTRACTOR agrees to indemnify, defend with counsel approved in writing by
4 COUNTY, and hold U.S. Department of Health and Human Services, the State, COUNTY, and
5 their elected and appointed officials, officers, employees, agents, and those special districts and
6 agencies which COUNTY's Board of Supervisors acts as the governing Board ("COUNTY
7 INDEMNITEES") harmless from any claims, demands, or liability of any kind or nature,
8 including, but not limited to, personal injury or property damage arising from or related to the
9 services, products, or other performance provided by CONTRACTOR pursuant to this Agreement.
10 If judgment is entered against CONTRACTOR and COUNTY by a court of competent jurisdiction
11 because of the concurrent active negligence of COUNTY or COUNTY INDEMNITEES,
12 CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court.
13 Neither party shall request a jury apportionment.

14 13. INSURANCE

15 13.1 Prior to the provision of services under this Agreement, CONTRACTOR agrees to
16 purchase all required insurance at CONTRACTOR's expense, including all endorsements required
17 herein, necessary to satisfy COUNTY that the insurance provisions of this Agreement have been
18 complied with. CONTRACTOR agrees to keep such insurance coverage, Certificates of Insurance
19 and endorsements on deposit with ADMINISTRATOR during the entire term of this Agreement.
20 In addition, all subcontractors performing work on behalf of CONTRACTOR pursuant to this
21 Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for
22 CONTRACTOR.

23 13.2 CONTRACTOR shall ensure that all subcontractors performing work on behalf of
24 CONTRACTOR pursuant to this Agreement shall be covered under CONTRACTOR's insurance
25 as an Additional Insured or maintain insurance subject to the same terms and conditions as set
26 forth herein for CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if
27 subcontractors have less than the level of coverage required by COUNTY from CONTRACTOR
28 under this Agreement. It is the obligation of CONTRACTOR to provide notice of the insurance

1 requirements to every subcontractor and to receive proof of insurance prior to allowing any
2 subcontractor to begin work. Such proof of insurance must be maintained by CONTRACTOR
3 through the entirety of this Agreement for inspection by COUNTY representative(s) at any
4 reasonable time.

5 13.3 All self-insured retentions (SIRs) shall be clearly stated on the Certificate of
6 Insurance. Any self-insured retention (SIR) in an amount in excess of fifty thousand dollars
7 (\$50,000) shall specifically be approved by the COUNTY's Risk Manager, or designee, upon
8 review of CONTRACTOR's current audited financial report. If CONTRACTOR's SIR is
9 approved, CONTRACTOR, in addition to, and without limitation of, any other indemnity
10 provision(s) in the Agreement, agrees to all of the following:

11 13.3.1 In addition to the duty to indemnify and hold COUNTY harmless against
12 any and all liability, claim, demand or suit resulting from CONTRACTOR's, its agent's,
13 employee's or subcontractor's performance of this Agreement, CONTRACTOR shall defend
14 COUNTY at its sole cost and expense with counsel approved by Board of Supervisors against
15 same; and

16 13.3.2 CONTRACTOR's duty to defend, as stated above, shall be absolute and
17 irrespective of any duty to indemnify or hold harmless; and

18 13.3.3 The provisions of California Civil Code Section 2860 shall apply to any
19 and all actions to which the duty to defend stated above applies, and CONTRACTOR's SIR
20 provisions shall be interpreted as though CONTRACTOR was an insurer and COUNTY was the
21 insured.

22 13.4 If CONTRACTOR fails to maintain insurance acceptable to COUNTY for the full
23 term of this Agreement, COUNTY may terminate this Agreement.

24 13.5 Qualified Insurer

25 13.5.1 The policy or policies of insurance must be issued by an insurer with a
26 minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as
27 determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United
28 States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business

1 in the state of California (California Admitted Carrier).

2 13.6 If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the
3 CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of
4 the company's performance and financial ratings.

5 13.7 The policy or policies of insurance maintained by CONTRACTOR shall provide
6 the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>	<u>Responsible Contractor Partner Agencies</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate	City of Stanton (City), Friendly Center, Inc. (FC), Interval House (IH)
Automobile Liability, including coverage for owned, non-owned, and hired vehicles	\$1,000,000 per occurrence	City, FC, IH
Workers' Compensation	Statutory	City, FC, IH
Employer's Liability Insurance	\$1,000,000 per occurrence	City, FC, IH
Professional Liability Insurance	\$1,000,000 per claims made \$1,000,000 aggregate	City
Sexual Misconduct Liability	\$1,000,000 per occurrence	City, FC, IH

19 13.8 Required Coverage Forms

20 13.8.1 Commercial General Liability coverage shall be written on Insurance
21 Services Office (ISO) form CG 00 01 or a substitute form providing liability coverage at least as
22 broad.

23 13.8.2 Business Auto Liability coverage shall be written on ISO form CA 00 01,
24 CA 00 05, CA 0012, CA 00 20 or a substitute form providing coverage at least as broad.

25 13.9 Required Endorsements

26 13.9.1 Commercial General Liability policy shall contain the following
27 endorsements, which shall accompany the Certificate of Insurance:
28

1 13.9.1.1 An Additional Insured endorsement using ISO form CG 20 26
2 04 13, or a form at least as broad, naming the County of Orange, its elected and appointed officials,
3 officers, agents and employees, as Additional Insureds or provide blanket coverage, which will
4 state AS REQUIRED BY WRITTEN CONTRACT.

5 13.9.1.2 A primary non-contributing endorsement using ISO form CG 20
6 01 04 13, or a form at least as broad, evidencing that CONTRACTOR's insurance is primary and
7 any insurance or self-insurance maintained by the County of Orange shall be excess and non-
8 contributing.

9 13.10 The Workers' Compensation policy shall contain a waiver of subrogation
10 endorsement waiving all rights of subrogation against the County of Orange, its elected and
11 appointed officials, officers, agents and employees or provide blanket coverage, which will state
12 AS REQUIRED BY WRITTEN CONTRACT.

13 13.11 All insurance policies required by this Agreement shall waive all rights of
14 subrogation against the County of Orange, its elected and appointed officials, officers, agents and
15 employees when acting within the scope of their appointment or employment.

16 13.12 CONTRACTOR shall notify COUNTY in writing within thirty (30) days of any
17 policy cancellation and ten (10) days for non-payment of premium and provide a copy of the
18 cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute
19 a material breach of the contract, upon which the COUNTY may suspend or terminate this
20 Agreement.

21 13.13 If CONTRACTOR's Professional Liability policy is a "claims made" policy,
22 CONTRACTOR shall agree to maintain Professional Liability coverage for two (2) years
23 following completion of this Agreement.

24 13.14 The Commercial General Liability policy shall contain a severability of interests
25 clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

26 13.15 Insurance certificates should be mailed to COUNTY at the address indicated in
27 Paragraph 10 of this Agreement.

28 13.16 If CONTRACTOR fails to provide the insurance certificates and endorsements

1 within seven (7) days of notification by CEO/County Procurement Office or ADMINISTRATOR,
2 award may be made to the next qualified proponent.

3 13.17 COUNTY expressly retains the right to require CONTRACTOR to increase or
4 decrease insurance of any of the above insurance types throughout the term of this Agreement.
5 Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as
6 appropriate to adequately protect COUNTY.

7 13.18 COUNTY shall notify CONTRACTOR in writing of changes in the insurance
8 requirements. If CONTRACTOR does not deposit copies of acceptable certificates of insurance
9 and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of
10 such notice, this Agreement may be in breach without further notice to CONTRACTOR, and
11 COUNTY shall be entitled to all legal remedies.

12 13.19 The procuring of such required policy or policies of insurance shall not be construed
13 to limit CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and
14 requirements of this Agreement, nor act in any way to reduce the policy coverage and limits
15 available from the insurer.

16 14. NOTIFICATION OF LITIGATION, INCIDENTS, CLAIMS, OR SUITS

17 CONTRACTOR shall report to COUNTY, in writing within twenty-four (24) hours of
18 occurrence, the following:

19 14.1 Any instance in which CONTRACTOR becomes a party to any litigation against
20 COUNTY, or a party to litigation that may reasonably affect CONTRACTOR's performance
21 under this Agreement. While CONTRACTOR is required to provide this information without
22 prompting from COUNTY, any time there is a change to CONTRACTOR's litigation status,
23 CONTRACTOR must also provide an update to COUNTY whenever requested by COUNTY.

24 14.2 Any accident or incident relating to services performed under this Agreement that
25 involves injury or property damage which may result in the filing of a claim or lawsuit against
26 CONTRACTOR and/or COUNTY.

27 14.3 Any third party claim or lawsuit filed against CONTRACTOR arising from or
28 relating to services performed by CONTRACTOR under this Agreement.

1 14.4 Any injury to an employee of CONTRACTOR that occurs on COUNTY property.

2 14.5 Any loss, disappearance, destruction, misuse or theft of any kind whatsoever of
3 COUNTY property, monies or securities entrusted to CONTRACTOR under the term of this
4 Agreement.

5 14.6 Any Notice of Contract Breach, or equivalent, received from any entity for whom
6 CONTRACTOR is providing the same or similar services, under a written agreement, regardless
7 of service location or jurisdiction.

8 15. CONFLICT OF INTEREST

9 15.1 CONTRACTOR shall exercise reasonable care and diligence to prevent any actions
10 or conditions that could result in a conflict with COUNTY interests. In addition to the
11 CONTRACTOR, this obligation shall apply to, CONTRACTOR's employees, agents, and
12 subcontractors associated with the provision of goods and services provided under this Agreement.
13 The CONTRACTOR's efforts shall include, but not be limited to, establishing rules and
14 procedures preventing its employees, agents, and subcontractors from providing or offering gifts,
15 entertainment, payments, loans, or other considerations which could be deemed to influence or
16 appear to influence COUNTY staff or elected officers in the performance of their duties.

17 15.2 CONTRACTOR shall notify COUNTY, in writing, of any potential conflicts of
18 interest between CONTRACTOR and COUNTY that may arise prior to, or during the period of,
19 Agreement performance. While CONTRACTOR will be required to provide this information
20 without prompting from COUNTY any time there is a change regarding conflict of interest,
21 CONTRACTOR must also provide an update to COUNTY whenever requested by COUNTY.

22 16. ANTI-PROSELYTISM PROVISION

23 No funds provided directly to institutions or organizations to provide services and
24 administer programs under Title 42 United States Code (USC) Section 604a(a)(1)(A) shall be
25 expended for sectarian worship, instruction, or proselytization, except as otherwise permitted by
26 law.

27 17. SUPPLANTING GOVERNMENT FUNDS

28 CONTRACTOR shall not supplant any federal, State, or COUNTY funds intended for the

1 purposes of this Agreement with any funds made available under this Agreement.
2 CONTRACTOR shall not claim reimbursement from COUNTY for, or apply sums received from
3 COUNTY with respect to, that portion of its obligations which have been paid by another source
4 of revenue. CONTRACTOR agrees that it shall not use funds received pursuant to this Agreement,
5 either directly or indirectly, as a contribution or compensation for purposes of obtaining federal,
6 State, or COUNTY funds under any federal, State, or COUNTY program without prior written
7 approval of ADMINISTRATOR.

8 18. EQUIPMENT

9 18.1 All items purchased with funds provided under this Agreement, or which are
10 furnished to CONTRACTOR by COUNTY, which have a single unit cost of at least five thousand
11 dollars (\$5,000), including sales tax, shall be considered Capital Equipment. Title to all Capital
12 Equipment shall, upon purchase, vest and remain in COUNTY. The use of such items of Capital
13 Equipment is limited to the performance of this Agreement. Upon the termination of this
14 Agreement, CONTRACTOR shall immediately return any items of Capital Equipment to
15 COUNTY or its representatives, or dispose of them in accordance with the directions of
16 ADMINISTRATOR.

17 CONTRACTOR further agrees to the following:

18 18.1.1 To maintain all items of Capital Equipment in good working order and
19 condition, normal wear and tear excepted.

20 18.1.2 To label all items of Capital Equipment, do periodic inventories as required
21 by ADMINISTRATOR, and to maintain an inventory list showing where and how the Capital
22 Equipment is being used, in accordance with procedures developed by ADMINISTRATOR. All
23 such lists shall be submitted to ADMINISTRATOR within ten (10) days of any request therefore.

24 18.1.3 To report in writing to ADMINISTRATOR immediately after discovery,
25 the loss or theft of any items of Capital Equipment. For stolen items, the local law enforcement
26 agency must be contacted and a copy of the police report submitted to ADMINISTRATOR.

27 18.1.4 To purchase a policy or policies of insurance covering loss or damage to
28 any and all Capital Equipment purchased under this Agreement, in the amount of the full

1 replacement value thereof, providing protection against the classification of fire, extended
2 coverage, vandalism, malicious mischief, and special extended perils (all risks) covering the
3 parties' interests as they appear.

4 18.2 The purchase of any Capital Equipment by CONTRACTOR shall be requested in
5 writing, shall require the prior written approval of ADMINISTRATOR, and shall fulfill the
6 provisions of this Agreement which are appropriate and directly related to CONTRACTOR's
7 service or activity under the terms of this Agreement. COUNTY may refuse reimbursement for
8 any costs resulting from Capital Equipment purchased which are incurred by CONTRACTOR, if
9 prior written approval has not been obtained from ADMINISTRATOR.

10 18.3 Computer Equipment

11 No computers and/or personal electronic devices, such as tablets and laptop
12 computers, or any component thereof, may be purchased with funds provided under this
13 Agreement, regardless of purchase price, without prior written approval of ADMINISTRATOR.
14 Any such purchase shall be in accordance with specifications provided by ADMINISTRATOR,
15 be subject to the same inventory control conditions specified in Subparagraphs 18.1.1 to 18.1.4,
16 and, at the sole discretion of ADMINISTRATOR, become the property of COUNTY upon
17 termination of this Agreement.

18 19. BREACH SANCTIONS

19 19.1 Failure by CONTRACTOR to comply with any of the provisions, covenants, or
20 conditions of this Agreement shall be a material breach of this Agreement. In such event,
21 ADMINISTRATOR may, and in addition to immediate termination and any other remedies
22 available at law, in equity, or otherwise specified in this Agreement:

23 19.1.1 Afford CONTRACTOR a time period within which to cure the breach,
24 which period shall be established by ADMINISTRATOR; and/or

25 19.1.2 Discontinue reimbursement to CONTRACTOR for and during the period
26 in which CONTRACTOR is in breach, which reimbursement shall not be entitled to later recovery;
27 and/or

28 19.1.3 Offset against any monies billed by CONTRACTOR but yet unpaid by

COUNTY those monies disallowed pursuant to Subparagraph 19.1.2 above.

19.2 ADMINISTRATOR will give CONTRACTOR written notice of any action pursuant to this Paragraph, which notice shall be deemed served on the date of mailing.

20. DESIGNATED LEAD AGENCY

20.1 Each of the Contractor Partner Agencies agrees that the City of Stanton (City) shall serve as the designated lead agent on behalf of the CONTRACTOR, with authority to present claims to COUNTY on behalf of each of the Contractor Partner Agencies for services delivered by each of them pursuant to this Agreement. As designated lead agent, the City shall receive the claims from each of the other Contractor Partner Agencies on a monthly basis and shall submit these claims, along with its own monthly claim, pursuant to Paragraph 21 herein. Claims submitted to COUNTY by the designated lead agent shall clearly identify the services that were performed by Contractor Partner Agencies. Any and all payments to be made by COUNTY pursuant to this Agreement shall be made payable to the designated lead agent. The designated lead agent shall thereafter disburse payment as appropriate to the Contractor Partner Agencies. Each of the Contractor Partner Agencies agrees that COUNTY's disbursement of payment to the designated lead agent shall satisfy COUNTY's payment obligation under this Agreement.

20.2 As the designated lead agent, the City shall also be responsible for activities that include, but are not limited to, the following:

20.2.1 Oversight of FRC services;

20.2.2 Employment and supervision of the FRC Coordinator;

20.2.3 Employment and/or oversight of the Information and Referral Specialist;

20.2.4 Employment and/or oversight of the Community Engagement Coordinator;

20.2.5 Establishing and facilitating a monthly FRC meeting with Contractor Partner Agencies and ensuring meetings minutes are documented;

20.2.6 Coordinating weekly Case Management Team (CMT) meetings;

20.2.7 Collecting and maintaining all invoice documentation;

20.2.8 Overseeing the collection, maintenance, and management of all FRC data, including outcome measurements;

1 20.2.9 Maintaining the integrity of the Families and Communities Together
2 (FaCT) database and other reports, as necessary;

3 20.2.10 Generating monthly reports (i.e., Service Grids) and other reports as
4 requested, in accordance with Paragraph 37 of this Agreement and Paragraph 9 of Exhibit A for
5 submission to COUNTY;

6 20.2.11 Overseeing and submitting to the COUNTY budget/contract modification
7 requests on behalf of the FRC;

8 20.2.12 Reimbursing FaCT-funded Contractor Partner Agencies for FaCT-funded
9 services rendered prior to invoicing COUNTY;

10 20.2.13 Producing, distributing, and maintaining a current, monthly FaCT FRC
11 event/activity calendar as directed by ADMINISTRATOR;

12 20.2.14 Coordinating FRC sustainability efforts referenced in Paragraph 12 of
13 Exhibit A;

14 20.2.15 Ensuring FaCT funded partner organization(s) and/or subcontractor(s) are
15 current on required documentation (e.g., insurance certificates, copies of resumes/applications,
16 independent audits);

17 20.2.16 Ensuring all non-FaCT funded partner agency(ies) have a current
18 agreement with the FRC and provide copies of agreements to COUNTY upon request;

19 20.2.17 Facilitating collaborative activities, services, and programs to ensure
20 effective service delivery;

21 20.2.18 Submitting Special Incident Reports to the COUNTY; and

22 20.2.19 Attending required FaCT meetings and mandatory trainings.

23 21. PAYMENTS

24 21.1 Maximum Contractual Obligation

25 The maximum obligation of COUNTY under this Agreement shall not exceed the
26 amount of \$900,000, or actual allowable costs, whichever is less. The estimated annual amount
27 for each twelve (12) month period is as follows:

28 21.1.1 Year One: \$300,000 for July 1, 2020 through June 30, 2021;

1 21.1.2 Year Two: \$300,000 for July 1, 2021 through June 30, 2022; and

2 21.1.3 Year Three: \$300,000 for July 1, 2022 through June 30, 2023.

3 21.2 Allowable Costs

4 During the term of this Agreement, COUNTY shall pay CONTRACTOR monthly
5 in arrears, for actual allowable costs incurred and paid by CONTRACTOR pursuant to this
6 Agreement, as defined in Title 2 CFR Part 200, or as approved by ADMINISTRATOR. However,
7 COUNTY, in its sole discretion, may pay CONTRACTOR for anticipated allowable costs that will
8 be incurred by CONTRACTOR for June 2021, during the month of such anticipated expenditure.

9 21.3 Claims

10 21.3.1 CONTRACTOR shall submit monthly claims to be received by
11 ADMINISTRATOR no later than the twentieth (20th) calendar day of the month for expenses
12 incurred in the preceding month. In the event the twentieth (20th) calendar day falls on a weekend
13 or COUNTY holiday, CONTRACTOR shall submit the claim the next business day. COUNTY
14 holidays include New Year's Day, Martin Luther King Jr. Day, President Lincoln's Birthday,
15 Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day,
16 Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day.

17 21.3.2 All claims must be submitted on a form approved by ADMINISTRATOR.
18 ADMINISTRATOR may require CONTRACTOR to submit supporting source documents with
19 the monthly claim, including, inter alia, a monthly statement of services, general ledgers,
20 supporting journals, time sheets, invoices, canceled checks, receipts, and receiving records, some
21 of which may be required to be copied. Source documents that CONTRACTOR must submit shall
22 be determined by ADMINISTRATOR and/or COUNTY's Auditor-Controller. CONTRACTOR
23 shall retain all financial records in accordance with Paragraph 26 of this Agreement.

24 21.3.3 Payments should be released by COUNTY within a reasonable time period
25 of approximately thirty (30) days after receipt of a correctly completed claim form and required
26 supporting documentation.

27 21.3.4 Year-End and Final Claims

28 21.3.4.1 CONTRACTOR shall submit a final claim for each COUNTY

1 fiscal year, July 1 through June 30, covered under the term of this Agreement, as stated in
2 Paragraph 1 of this Agreement, by no later than August 30th of each corresponding COUNTY
3 fiscal year. Claims received after August 30th of each corresponding COUNTY fiscal year may,
4 at ADMINISTRATOR's sole discretion, not be reimbursed. ADMINISTRATOR may modify the
5 date upon which the final claim per each COUNTY fiscal year must be received, upon written
6 notice to CONTRACTOR.

7 21.3.4.2 The basis for final settlement shall be the actual allowable costs
8 as defined in Title 45 CFR and 2 CFR, Part 200, incurred and paid by CONTRACTOR pursuant
9 to this Agreement; limited, however, to the maximum obligation of COUNTY. In the event that
10 any overpayment has been made, COUNTY may offset the amount of the overpayment against
11 the final payment. In the event overpayment exceeds the final payment, CONTRACTOR shall
12 pay COUNTY all such sums within five (5) business days of notice from COUNTY. Nothing
13 herein shall be construed as limiting the remedies of COUNTY in the event an overpayment has
14 been made.

15 22. OVERPAYMENTS

16 Any payment(s) made by COUNTY to CONTRACTOR in excess of that to which
17 CONTRACTOR is entitled under this Agreement shall be repaid to COUNTY, in accordance with
18 any applicable regulations and/or policies in effect during the term of this Agreement, or as
19 established by COUNTY procedure. Any overpayments made by COUNTY which result from a
20 payment by any other funding source shall be repaid, at the discretion of ADMINISTRATOR, to
21 COUNTY or the funding source. Unless earlier repaid, CONTRACTOR shall make repayment
22 within thirty (30) days after the date of the final audit findings report and prior to any
23 administrative appeal process. In the event an overpayment owing by CONTRACTOR is collected
24 from COUNTY by the funding source, then CONTRACTOR shall reimburse COUNTY within
25 thirty (30) days thereafter and prior to any administrative appeal process. CONTRACTOR agrees
26 to pay all costs incurred by COUNTY necessary to enforce the provisions set forth in this
27 Paragraph.

28 ///

1 23. OUTSTANDING DEBT

2 CONTRACTOR shall have no outstanding debt with COUNTY, or shall be in the process
3 of resolving outstanding debt to ADMINISTRATOR's satisfaction, prior to entering into and
4 during the term of this Agreement.

5 24. FINAL REPORT

6 CONTRACTOR shall complete and submit to ADMINISTRATOR a final report within
7 sixty (60) days after the termination of this Agreement, which shall summarize the activities and
8 services provided by CONTRACTOR during the term of this Agreement. CONTRACTOR and
9 ADMINISTRATOR may mutually agree to modify the date upon which the final report must be
10 submitted. Any agreement must be in writing.

11 25. INDEPENDENT AUDIT

12 25.1 CONTRACTOR shall employ a licensed certified public accountant who shall
13 prepare and file with ADMINISTRATOR an annual organization-wide audit of related
14 expenditures during the term of this Agreement in compliance with 31 USC 7501 – 7507, as well
15 as its implementing regulations under 2 CFR Part 200, Uniform Administrative Requirements,
16 Cost Principles and Audit Requirements for Federal Awards. If CONTRACTOR is not subject to
17 the aforementioned regulations for any year covered during the term of this Agreement,
18 CONTRACTOR shall provide ADMINISTRATOR an Independent Auditor's Report of
19 CONTRACTOR's financial statements. The audit must be performed in accordance with
20 generally accepted government auditing standards. CONTRACTOR shall cooperate with
21 COUNTY, State, and/or federal agencies to ensure that corrective action is taken within six (6)
22 months after issuance of all audit reports with regard to audit exceptions.

23 25.2 It is mutually understood that CONTRACTOR's yearly fiscal cycle covers July 1
24 through June 30. CONTRACTOR shall provide ADMINISTRATOR copies of organization-wide
25 audits for each of the fiscal cycles corresponding with the term of this Agreement.
26 CONTRACTOR shall provide each audit within fourteen (14) calendar days of CONTRACTOR's
27 receipt. Failure of CONTRACTOR to comply with this Paragraph shall be sufficient cause for
28 ADMINISTRATOR to deny payment under this or any subsequent Agreement with

1 CONTRACTOR until such time as the required audit(s) are provided to ADMINISTRATOR.
2 ADMINISTRATOR may modify CONTRACTOR's audit submission deadline upon notice to
3 CONTRACTOR.

4 26. RECORDS, INSPECTIONS, AND AUDITS

5 26.1 Financial Records

6 26.1.1 CONTRACTOR shall prepare and maintain accurate and complete
7 financial records. Financial records shall be retained by CONTRACTOR for a minimum of five
8 (5) years from the date of final payment under this Agreement, or until all pending COUNTY,
9 State, and federal audits are completed, whichever is later.

10 26.1.2 CONTRACTOR shall establish and maintain reasonable accounting,
11 internal control, and financial reporting standards in conformity with generally accepted
12 accounting principles established by the American Institute of Certified Public Accountants and
13 to the satisfaction of ADMINISTRATOR.

14 26.2 Client Records

15 26.2.1 CONTRACTOR shall prepare and maintain accurate and complete records
16 of clients served and dates and type of services provided under the terms of this Agreement in a
17 form acceptable to ADMINISTRATOR.

18 26.2.2 CONTRACTOR shall keep all COUNTY data provided to CONTRACTOR
19 during the term(s) of this Agreement for a minimum of five (5) years from the date of final payment
20 under this Agreement, or until all pending COUNTY, State, and federal audits are completed,
21 whichever is later. These records shall be stored in Orange County, unless CONTRACTOR
22 requests and COUNTY provides written approval for the right to store the records in another
23 county. Notwithstanding anything to the contrary, upon termination of this Agreement,
24 CONTRACTOR shall relinquish control with respect to COUNTY data to COUNTY in
25 accordance with Subparagraph 42.2 of this Agreement.

26 26.2.3 COUNTY may refuse payment for a claim if client records are determined
27 by COUNTY to be incomplete or inaccurate. In the event client records are determined to be
28 incomplete or inaccurate after payment has been made, COUNTY may treat such payment as an

1 overpayment within the provisions of this Agreement.

2 26.3 Public Records

3 To the extent permissible under the law, all records, including, but not limited to,
4 reports, audits, notices, claims, statements, and correspondence, required by this Agreement, may
5 be subject to public disclosure. COUNTY will not be liable for any such disclosure.

6 26.4 Inspections and Audits

7 26.4.1 The U.S. Department of Health and Human Services, Comptroller General
8 of the United States, Director of CDSS, State Auditor-General, ADMINISTRATOR, COUNTY's
9 Auditor-Controller and Internal Audit Department, or any of their authorized representatives, shall
10 have access to any books, documents, papers, and records, including medical records, of
11 CONTRACTOR which any of them may determine to be pertinent to this Agreement. Further, all
12 the above mentioned persons have the right at all reasonable times to inspect or otherwise evaluate
13 the work performed or being performed under this Agreement and the premises in which it is being
14 performed.

15 26.4.2 CONTRACTOR shall make its books and records available within the
16 borders of Orange County within ten (10) days of receipt of written demand by
17 ADMINISTRATOR.

18 26.4.3 In the event CONTRACTOR does not make available its books and
19 financial records within the borders of Orange County, CONTRACTOR agrees to pay all
20 necessary and reasonable expenses incurred by COUNTY, or COUNTY's designee, necessary to
21 obtain CONTRACTOR's books and records.

22 26.4.4 CONTRACTOR shall pay to COUNTY the full amount of COUNTY's
23 liability to the State or Federal Government or any agency thereof resulting from any
24 disallowances or other audit exceptions to the extent that such liability is attributable to
25 CONTRACTOR's failure to perform under this Agreement.

26 26.5 Evaluation Studies

27 CONTRACTOR shall participate, as requested by COUNTY, in research and/or
28 evaluative studies designed to show the effectiveness and/or efficiency of CONTRACTOR's

1 services or provide information about CONTRACTOR's project.

2 27. PERSONNEL DISCLOSURE

3 27.1 This Paragraph 27 applies to all of CONTRACTOR's personnel providing services
4 through this Agreement, paid and unpaid, including those identified in Paragraph 15 of Exhibit A
5 (hereinafter referred to as "Personnel").

6 27.2 CONTRACTOR shall make available to ADMINISTRATOR a current list of all
7 Personnel providing services hereunder, including résumés and job applications. Changes to the
8 list will be immediately provided to ADMINISTRATOR, in writing, along with a copy of a résumé
9 and/or job application. The list shall include:

10 27.2.1 Names and dates of birth of all Personnel by title, whose direct services are
11 required to provide the programs described herein;

12 27.2.2 A brief description of the functions of each position and the hours each
13 person works each week, or for part-time Personnel, each day or month, as appropriate;

14 27.2.3 The professional degree, if applicable, and experience required for each
15 position; and

16 27.2.4 The language skill, if applicable, for all Personnel.

17 27.3 Where authorized by law, and in a manner consistent with California Government
18 Code §12952, CONTRACTOR shall require prospective Personnel to provide detailed
19 information regarding the conviction of a crime, by any court, for offenses other than minor traffic
20 offenses. Information discovered subsequent to the hiring or promotion of any prospective
21 Personnel shall be cause for termination from the performance of services under this Agreement.

22 27.4 Where authorized by law, CONTRACTOR shall conduct, at no cost to COUNTY,
23 a clearance on the following public websites of the names and dates of birth for all Personnel who
24 will have direct, interactive contact with clients served through this Agreement: U.S. Department
25 of Justice National Sex Offender Website (www.nsopw.gov) and Megan's Law Sex Offender
26 Registry (www.meganslaw.ca.gov).

27 27.5 Where authorized by law, CONTRACTOR shall conduct, at no cost to COUNTY,
28 a criminal record background check on all Personnel who will have direct, interactive contact with

1 clients served through this Agreement. Background checks conducted through the California
2 Department of Justice shall include a check of the California Central Child Abuse Index, when
3 applicable. Candidates will satisfy background checks consistent with this Paragraph and their
4 performance of services under this Agreement.

5 27.6 CONTRACTOR shall ensure that clearances and background checks described in
6 Subparagraphs 27.4 and 27.5 are completed prior to CONTRACTOR's Personnel providing
7 services under this Agreement.

8 27.7 In the event a record is revealed through the processes described in Subparagraphs
9 27.4 and 27.5, COUNTY will be available to consult with CONTRACTOR on appropriateness of
10 Personnel providing services through this Agreement.

11 27.8 CONTRACTOR warrants that all Personnel assigned by CONTRACTOR to
12 provide services under this Agreement have satisfactory past work records and/or reference checks
13 indicating their ability to perform the required duties and accept the kind of responsibility
14 anticipated under this Agreement. CONTRACTOR shall maintain records of background
15 investigations and reference checks undertaken and coordinated by CONTRACTOR for Personnel
16 assigned to provide services under this Agreement, for a minimum of five (5) years from the date
17 of final payment under this Agreement, or until all pending COUNTY, State, and federal audits
18 are completed, whichever is later, in compliance with all applicable laws.

19 27.9 CONTRACTOR shall immediately notify ADMINISTRATOR concerning the
20 arrest and/or subsequent conviction, for offenses, other than minor traffic offenses, of any
21 Personnel performing services under this Agreement, when such information becomes known to
22 CONTRACTOR. ADMINISTRATOR may determine whether such Personnel may continue to
23 provide services under this Agreement and shall provide notice of such determination to
24 CONTRACTOR in writing. CONTRACTOR's failure to comply with ADMINISTRATOR's
25 decision shall be deemed a material breach of this Agreement, pursuant to Paragraph 19 above.

26 27.10 COUNTY has the right to approve or disapprove all of CONTRACTOR's
27 Personnel performing work hereunder, and any proposed changes in CONTRACTOR's Personnel.

28 27.11 COUNTY shall have the right to require CONTRACTOR to remove any Personnel

1 from the performance of services under this Agreement. At the request of COUNTY,
2 CONTRACTOR shall immediately replace said Personnel.

3 27.12 CONTRACTOR shall notify COUNTY immediately when Personnel is terminated
4 for cause from working on this Agreement.

5 27.13 Disqualification, if any, of CONTRACTOR Personnel, pursuant to this Paragraph
6 27 shall not relieve CONTRACTOR of its obligation to complete all work in accordance with the
7 terms and conditions of this Agreement.

8 28. EMPLOYMENT ELIGIBILITY VERIFICATION

9 As applicable, CONTRACTOR warrants that it fully complies with all federal and State
10 statutes and regulations regarding the employment of aliens and others, and that all its employees
11 performing work under this Agreement meet the citizenship or alien status requirement set forth
12 in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing
13 work hereunder, all verification and other documentation of employment eligibility status required
14 by federal or State statutes and regulations, including, but not limited to, the Immigration Reform
15 and Control Act of 1986, Title 8 USC Section 1324 et seq., as they currently exist and as they may
16 be hereafter amended. CONTRACTOR shall retain all such documentation for all covered
17 employees for the period prescribed by the law. CONTRACTOR shall indemnify, defend with
18 counsel approved in writing by COUNTY, and hold harmless, COUNTY, and its agents, officers
19 and employees from employer sanctions and any other liability which may be assessed against
20 CONTRACTOR or COUNTY or both in connection with any alleged violation of any federal or
21 State statutes or regulations pertaining to the eligibility for employment of any persons performing
22 work under this Agreement.

23 29. CHILD AND DEPENDENT ADULT/ELDER ABUSE REPORTING

24 CONTRACTOR shall establish a procedure acceptable to ADMINISTRATOR to ensure
25 that all employees, agents, subcontractors, and all other individuals performing services under this
26 Agreement report child abuse or neglect to one of the agencies specified in Penal Code Section
27 11165.9 and dependent adult or elder abuse as defined in Section 15610.07 of the WIC to one of
28 the agencies specified in WIC Section 15630. CONTRACTOR shall require such employees,

agents, subcontractors, and all other individuals performing services under this Agreement to sign a statement acknowledging the child abuse reporting requirements set forth in Sections 11166 and 11166.05 of the Penal Code and the dependent adult and elder abuse reporting requirements, as set forth in Section 15630 of the WIC, and shall comply with the provisions of these code sections, as they now exist or as they may hereafter be amended.

30. NOTICE TO EMPLOYEES REGARDING THE SAFELY SURRENDERED BABY LAW

CONTRACTOR shall notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Orange County, and where and how to safely surrender a baby. The fact sheet is available on the Internet at www.babysafe.ca.gov for printing purposes. The information shall be posted in all reception areas where clients are served.

31. CONFIDENTIALITY

31.1 CONTRACTOR agrees to maintain the confidentiality of its records pursuant to WIC Sections 827 and 10850-10853, the CDSS MPP, Division 19-000, and all other provisions of law, and regulations promulgated thereunder relating to privacy and confidentiality, as each may now exist or be hereafter amended.

31.2 All records and information concerning any and all persons referred to CONTRACTOR by COUNTY or COUNTY's designee shall be considered and kept confidential by CONTRACTOR and CONTRACTOR's employees, agents, subcontractors, and all other individuals performing services under this Agreement. CONTRACTOR shall require all of its employees, agents, subcontractors, and all other individuals performing services under this Agreement to sign an agreement with CONTRACTOR before commencing the provision of any such services, agreeing to maintain confidentiality pursuant to State and federal law and the terms of this Agreement.

31.3 CONTRACTOR shall inform all of its employees, agents, subcontractors, and all other individuals performing services under this Agreement of this provision and that any person violating the provisions of said California state law may be guilty of a crime.

31.4 CONTRACTOR agrees that any and all subcontracts entered into shall be subject

1 to the confidentiality requirements of this Agreement.

2 31.5 CONTRACTOR agrees to maintain the confidentiality of its records with respect
3 to Juvenile Court matters, in accordance with WIC Section 827, all applicable statutes, caselaw,
4 and Orange County Juvenile Court Policy regarding Confidentiality, as it now exists or may
5 hereafter be amended.

6 31.5.1 No access, disclosure, or release of information regarding a child who is the
7 subject of Juvenile Court proceedings shall be permitted except as authorized. If authorization is
8 in doubt, no such information shall be released without the written approval of a Judge of the
9 Juvenile Court.

10 31.5.2 CONTRACTOR must receive prior written approval of the Juvenile Court
11 before allowing any child to be interviewed, photographed, or recorded by any publication or
12 organization, or to appear on any radio, television, or internet broadcast or make any other public
13 appearance. Such approval shall be requested through child's Social Worker.

14 32. SECURITY

15 32.1 Security Requirements

16 32.1.1 CONTRACTOR agrees to maintain the confidentiality of all COUNTY and
17 COUNTY-related records and information pursuant to all statutory laws relating to privacy and
18 confidentiality that currently exists or exists at any time during the term of this Agreement.
19 CONTRACTOR represents and warrants that it has implemented and will maintain during the
20 term of this Agreement administrative, physical, and technical safeguards to reasonably protect
21 private and confidential client information, to protect against anticipated threats to the security or
22 integrity of COUNTY data, and to protect against unauthorized physical or electronic access to or
23 use of COUNTY data. Such safeguards and controls shall include at a minimum:

24 32.1.1.1 Storage of confidential paper files that ensures records are
25 secured, handled, transported, and destroyed in a manner that prevents unauthorized access.

26 32.1.1.2 Control of access to physical and electronic records to ensure
27 COUNTY data is accessed only by individuals with a need to know for the delivery of contract
28 services.

1 32.1.1.3 Control to prevent unauthorized access and to prevent
2 CONTRACTOR employees from providing COUNTY data to unauthorized individuals.

3 32.1.1.4 Firewall protection.

4 32.1.1.5 Use of encryption methods of electronic COUNTY data while
5 in transit from CONTRACTOR networks to external networks, when applicable.

6 32.1.1.6 Measures to securely store all COUNTY data, including, but not
7 be limited to, encryption at rest and multiple levels of authentication and measures to ensure
8 COUNTY data shall not be altered or corrupted without COUNTY's prior written consent.
9 CONTRACTOR further represents and warrants that it has implemented and will maintain during
10 the term of this Agreement administrative, technical, and physical safeguards and controls
11 consistent with State and federal security requirements.

12 32.2 Security Breach Notification

13 32.2.1 CONTRACTOR shall have policies and procedures in place for the
14 effective management of Security Breaches, as defined below. In the event of any actual,
15 attempted, suspected, threatened, or reasonably foreseeable circumstance CONTRACTOR
16 experiences or learns of that either compromises or could reasonably be expected to comprise
17 COUNTY data through unauthorized use, disclosure, or acquisition of COUNTY data ("Security
18 Breach"), CONTRACTOR shall immediately notify COUNTY of its discovery. After such
19 notification, CONTRACTOR shall, at its own expense, immediately:

20 32.2.1.1 Investigate to determine the nature and extent of the Security
21 Breach.

22 32.2.1.2 Contain the incident by taking necessary action, including, but
23 not limited to, attempting to recover records, revoking access, and/or correcting weaknesses in
24 security.

25 32.2.1.3 Report to COUNTY the nature of the Security Breach, the
26 COUNTY data used or disclosed, the person who made the unauthorized use or received the
27 unauthorized disclosure, what CONTRACTOR has done or will do to mitigate any harmful effect
28 of the unauthorized use or disclosure, and the corrective action CONTRACTOR has taken or will

1 take to prevent future similar unauthorized use or disclosure.

2 32.2.2 The COUNTY, in its sole discretion and on a case-by-case basis, will
3 determine what actions are necessary in response to the Security Breach and who will perform
4 these actions. Actions may include, but are not limited to: notifications; investigation and
5 remediation costs, including notification of all whose personal information was disclosed; outside
6 investigation; forensics; counsel; crisis management; and credit monitoring. In the event
7 COUNTY determines CONTRACTOR will conduct additional action(s), CONTRACTOR shall
8 bear the costs. In the event COUNTY conducts additional actions(s) arising out of or in connection
9 with a Security Breach, CONTRACTOR shall reimburse COUNTY for costs associated to legally
10 required actions.

11 33. COPYRIGHT ACCESS

12 The U.S. Department of Health and Human Services, the CDSS, and COUNTY will have
13 a royalty-free, nonexclusive, and irrevocable license to publish, translate, or use, now and
14 hereafter, all material developed under this Agreement, including those covered by copyright.

15 34. WAIVER

16 No delay or omission by either party hereto to exercise any right or power accruing upon
17 any noncompliance or default by the other party with respect to any of the terms of this Agreement
18 shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of
19 the parties hereto of any of the covenants, conditions, or agreements to be performed by the other
20 shall not be construed to be a waiver of any succeeding breach thereof, or of any other covenant,
21 condition, or agreement herein contained.

22 35. SERVICES DURING EMERGENCY AND/OR DISASTER

23 35.1 CONTRACTOR acknowledges that service usage may surge during or after an
24 emergency or disaster. For purposes of this Agreement, an emergency is defined as a sudden,
25 urgent, usually unexpected occurrence or event requiring immediate action to protect the health
26 and well-being of COUNTY residents. A disaster is defined as an occurrence that has resulted in
27 property damage, deaths, and/or injuries to a community. Emergencies and/or disasters as
28 described above may require resources or support beyond the local government's capability and

1 will typically involve a proclamation of a local emergency by the local governing body (e.g., city
2 council, County Board of Supervisors, or State) and may be declared at the federal level by the
3 President of the United States.

4 35.2 CONTRACTOR agrees to collaborate with COUNTY, on an urgent basis, to adjust
5 service delivery in a manner that assists COUNTY in meeting the needs of clients COUNTY
6 identifies as being impacted by emergencies and/or disasters. Time limited adjustments may
7 include, but are not limited to: providing services at different location(s); assigning staff to work
8 days or hours beyond typical work schedules or that may exceed contracted Full Time Equivalents
9 (FTEs); reassigning staff to an assignment in which their experience or skill is needed; and
10 prioritizing services for staff as requested by COUNTY.

11 35.3 CONTRACTOR shall service COUNTY during emergencies and/or declared
12 disaster under the same terms and conditions that apply during non-emergency/disaster conditions.

13 36. PUBLICITY, LITERATURE, ADVERTISEMENTS AND SOCIAL MEDIA

14 36.1 COUNTY owns all rights to the name, logos, and symbols of COUNTY. The use
15 and/or reproduction of COUNTY's name, logos, or symbols for any purpose, including
16 commercial advertisement, promotional purposes, announcements, displays, or press releases,
17 without COUNTY's prior written consent is expressly prohibited.

18 36.2 CONTRACTOR may develop and publish information related to this Agreement
19 where all of the following conditions are satisfied:

20 36.2.1 ADMINISTRATOR provides its written approval of the content and
21 publication of the information at least thirty (30) days prior to CONTRACTOR publishing the
22 information, unless a different timeframe for approval is agreed upon by the ADMINISTRATOR;

23 36.2.2 Unless directed otherwise by ADMINISTRATOR, the information includes
24 a statement that the program, wholly or in part, is funded through County, State, and Federal
25 Government funds;

26 36.2.3 The information does not give the appearance that the COUNTY, its
27 officers, employees, or agencies endorse:

28 36.2.3.1 Any commercial product or service; and

1 36.2.3.2 Any product or service provided by CONTRACTOR, unless
2 approved in writing by ADMINISTRATOR; and

3 36.2.4 If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube,
4 or other publicly available social media sites) to publish information related to this Agreement,
5 CONTRACTOR shall develop social media policies and procedures and have them available to
6 the ADMINISTRATOR. CONTRACTOR shall comply with COUNTY Social Media Use Policy
7 and Procedures as they pertain to any social media developed in support of the services described
8 within this Agreement. The policy is available on the Internet at
9 <http://www.ocgov.com/gov/ceo/cio/govpolicies>.

10 37. REPORTS

11 37.1 CONTRACTOR shall provide information deemed necessary by
12 ADMINISTRATOR to complete any State-required reports related to the services provided under
13 this Agreement.

14 37.2 CONTRACTOR shall maintain records and submit reports containing such data
15 and information regarding the performance of CONTRACTOR's services, costs, or other data
16 relating to this Agreement, as may be requested by ADMINISTRATOR, upon a form approved by
17 ADMINISTRATOR. ADMINISTRATOR may modify the provisions of this Paragraph upon
18 written notice to CONTRACTOR.

19 38. ENERGY EFFICIENCY STANDARDS

20 As applicable, CONTRACTOR shall comply with the mandatory standards and policies
21 relating to energy efficiency in the State Energy Conservation Plan (Title 24, CCR).

22 39. ENVIRONMENTAL PROTECTION STANDARDS

23 CONTRACTOR shall be in compliance with the Clean Air Act [Title 42 USC Section 7401
24 et seq.], the Clean Water Act (Title 33 USC Section 1251 et seq.), Executive Order 11738 and
25 Environmental Protection Agency, hereinafter referred to as "EPA," regulations (Title 40 CFR),
26 as any may now exist or be hereafter amended. Under these laws and regulations, CONTRACTOR
27 assures that:

28 39.1 No facility to be utilized in the performance of the proposed grant has been listed

1 on the EPA List of Violating Facilities;

2 39.2 It will notify COUNTY prior to award of the receipt of any communication from
3 the Director, Office of Federal Activities, U.S. EPA, indicating that a facility to be utilized for the
4 grant is under consideration to be listed on the EPA List of Violating Facilities; and

5 39.3 It will notify COUNTY and EPA about any known violation of the above laws and
6 regulations.

7 40. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE
8 CERTAIN FEDERAL TRANSACTIONS

9 40.1 CONTRACTOR shall be in compliance with Section 319 of Public Law 101-121
10 pursuant to Title 31 USC Section 1352 and the guidelines with respect to those provisions set down
11 by the Office of Management and Budget (OMB) and published in the Federal Register dated
12 December 20, 1989, Volume 54, No. 243, pp. 52306-52332. Under these laws and regulations, it
13 is mutually understood that any contract which utilizes federal monies in excess of \$100,000 must
14 contain, and CONTRACTOR must certify compliance utilizing a form provided by
15 ADMINISTRATOR that cites the following:

16 40.1.1 The definitions and prohibitions contained in the clause at Federal
17 Acquisition Regulation 52.203-12, Limitation on Payments to Influence Certain Federal
18 Transactions, included in this solicitation, are hereby incorporated by reference in Subparagraph
19 B of this certification.

20 40.1.2 The offeror, by signing its offer, hereby certifies to the best of his or her
21 knowledge and belief as of December 23, 1989, that

22 40.1.2.1 No federal appropriated funds have been paid or will be paid to
23 any person for influencing or attempting to influence an officer or employee of any agency, a
24 Member of Congress, an officer or employee of Congress, or an employee of a Member of
25 Congress on his or her behalf in connection with the awarding of any federal contract, the making
26 of any federal grant, the making of any federal loan, the entering into of any cooperative
27 agreement, and the extension, continuation, renewal, amendment, or modification of any federal
28 contract, grant, loan or cooperative agreement;

1 40.1.2.2 If any funds other than federal appropriated funds (including
2 profit or fee received under a covered federal transaction) have been paid, or will be paid, to any
3 person for influencing or attempting to influence an officer or employee of any agency, a Member
4 of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his
5 or her behalf in connection with this solicitation, the offeror shall complete and submit with its
6 offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer;
7 and

8 40.1.2.3 He or she will include the language of this certification in all
9 subcontract awards at any tier and require that all recipients of subcontract awards in excess of
10 \$100,000 shall certify and disclose accordingly.

11 40.1.3 Submission of this certification and disclosure is a prerequisite for making
12 or entering into this Agreement imposed by Section 1352, Title 31, USC. Any person who makes
13 an expenditure prohibited under this provision or who fails to file or amend the disclosure form to
14 be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000,
15 and not more than \$100,000, for each such failure.

16 41. POLITICAL ACTIVITY

17 CONTRACTOR agrees that the funds provided herein shall not be used to promote,
18 directly or indirectly, any political party, political candidate, or political activity, except as
19 permitted by law.

20 42. TERMINATION PROVISIONS

21 42.1 ADMINISTRATOR may terminate this Agreement without penalty, immediately
22 with cause or after thirty (30) days written notice without cause, unless otherwise specified. Notice
23 shall be deemed served on the date of mailing. Cause shall include, but not be limited, to any
24 breach of contract, any partial misrepresentation whether negligent or willful, fraud on the part of
25 CONTRACTOR, discontinuance of the services for reasons within CONTRACTOR's reasonable
26 control, and repeated or continued violations of COUNTY ordinances unrelated to performance
27 under this Agreement that, in the reasonable opinion of COUNTY, indicate a willful or reckless
28 disregard for COUNTY laws and regulations. Exercise by ADMINISTRATOR of the right to

1 terminate this Agreement shall relieve COUNTY of all further obligations under this Agreement.

2 42.2 For ninety (90) calendar days prior to the expiration date of this Agreement, or upon
3 notice of termination of this Agreement ("Transition Period"), CONTRACTOR agrees to
4 cooperate with ADMINISTRATOR in the orderly transfer of service responsibilities, case records,
5 and pertinent documents. The Transition Period may be modified as agreed upon in writing by
6 the parties. During the Transition Period, service and data access shall continue to be made
7 available to COUNTY without alteration. CONTRACTOR also shall assist COUNTY in
8 extracting and/or transitioning all data in the format determined by COUNTY.

9 42.3 In the event of termination of this Agreement, cessation of business by
10 CONTRACTOR, or any other event preventing CONTRACTOR from continuing to provide
11 services, CONTRACTOR shall not withhold the COUNTY data or refuse for any reason, to
12 promptly provide to COUNTY the COUNTY data if requested to do so on such media as
13 reasonably requested by COUNTY, even if COUNTY is then or is alleged to be in breach of this
14 Agreement.

15 42.4 The obligations of COUNTY under this Agreement are contingent upon the
16 availability of federal and/or State funds, as applicable, for the reimbursement of
17 CONTRACTOR's expenditures, and inclusion of sufficient funds for the services hereunder in the
18 budget approved by the Orange County Board of Supervisors each fiscal year this Agreement
19 remains in effect or operation. In the event that such funding is terminated or reduced,
20 ADMINISTRATOR may immediately terminate this Agreement, reduce COUNTY's maximum
21 obligation, or modify this Agreement, without penalty. The decision of ADMINISTRATOR shall
22 be binding on CONTRACTOR. ADMINISTRATOR will provide CONTRACTOR with written
23 notification of such determination. CONTRACTOR shall immediately comply with
24 ADMINISTRATOR's decision.

25 42.5 If any term, covenant, condition, or provision of this Agreement or the application
26 thereof is held invalid, void, or unenforceable, the remainder of the provisions in this Agreement
27 shall remain in full force and effect and shall in no way be affected, impaired, or invalidated
28 thereby.

1 43. GOVERNING LAW AND VENUE

2 This Agreement has been negotiated and executed in the State of California and shall be
3 governed by and construed under the laws of the State of California, without reference to conflict
4 of law provisions. In the event of any legal action to enforce or interpret this Agreement, the sole
5 and exclusive venue shall be a court of competent jurisdiction located in Orange County,
6 California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court,
7 notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree
8 to waive any and all rights to request that an action be transferred for trial to another county.

9 44. SIGNATURE IN COUNTERPARTS

10 44.1 The parties agree that separate copies of this Agreement may be signed by each of
11 the parties, and this Agreement will have the same force and effect as if the original had been
12 signed by all the parties.

13 44.2 CONTRACTOR represents and warrants that the person executing this Agreement
14 on behalf of and for CONTRACTOR is an authorized agent who has actual authority to bind
15 CONTRACTOR to each and every term, condition and obligation of this Agreement and that all
16 requirements of CONTRACTOR have been fulfilled to provide such actual authority.

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 WHEREFORE, the parties hereto have executed this Agreement in the County of Orange,
2 California.

3
4 By: _____ By: _____
5 JARAD HILDENBRAND CHAIRWOMAN
6 CITY MANAGER OF THE BOARD OF SUPERVISORS
7 CITY OF STANTON COUNTY OF ORANGE, CALIFORNIA

8
9 Dated: _____ Dated: _____

10 By: _____ By: _____
11 CATHY SEELIG CAROL WILLIAMS
12 PRESIDENT/CEO EXECUTIVE DIRECTOR
13 FRIENDLY CENTER, INC. INTERVAL HOUSE

14 Dated: _____ Dated: _____

15 SIGNED AND CERTIFIED THAT A COPY OF THIS
16 AGREEMENT HAS BEEN DELIVERED TO THE CHAIR
17 OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535
18 ATTEST:

19 _____
20 ROBIN STIELER
21 Clerk of the Board
22 Orange County, California

23 APPROVED AS TO FORM
24 COUNTY COUNSEL
25 COUNTY OF ORANGE, CALIFORNIA

26 By: _____
27 DEPUTY

28 Dated: _____

EXHIBIT A
TO
AGREEMENT
BETWEEN
COUNTY OF ORANGE
AND
CITY OF STANTON
AND
FRIENDLY CENTER, INC.
AND
INTERVAL HOUSE

FOR THE PROVISION OF FAMILY RESOURCE CENTER SERVICES

1. POPULATION TO BE SERVED

1.1 CONTRACTOR shall provide Family Resource Center (FRC) services, as contained in Paragraph 5 of this Exhibit, to: birth, kinship, blended, adoptive, and Resource Families with children, ages birth to eighteen (0-18) years, who are at risk of or are experiencing child abuse and neglect; families who are living in poverty or suffering economic hardship, domestic violence, unemployment, teen pregnancy, and unhealthy parenting; families involved with and/or receiving child welfare services; non-minor dependents ages eighteen (18) to twenty-one (21), who are being served by child welfare or probation agencies and who are under the jurisdiction of the Orange County Juvenile Court; homeless families, unaccompanied homeless youth, and those families at-risk of homelessness; military families; and persons with disabilities. The population to be served as defined in this Paragraph shall hereinafter be referred to as "PARTICIPANTS" or "FAMILIES."

1.2 CONTRACTOR shall provide FRC services primarily to those PARTICIPANTS residing in the city of Stanton and surrounding communities.

///

1 2. DEFINITIONS

2 2.1 Community Engagement Advisory Committee (CEAC): A partnership of multiple
3 agencies and community members that strive to achieve positive outcomes for the populations they
4 serve and build an interdependent system to address issues and opportunities. Collaboratives also
5 share resources and responsibilities to jointly plan, implement, and evaluate programs to achieve
6 common goals.

7 2.2 Differential Response (DR): A concept that child safety is a responsibility shared
8 by the family, community, and child welfare agencies. DR's primary goal is to engage a greater
9 number of families in services within the community without bringing them into the child welfare
10 system and reduce the recurrence of child maltreatment. DR services are indicated when reported
11 allegations meet statutory definitions of abuse or neglect yet an initial assessment made by SSA
12 Children and Family Services (CFS) determines that with targeted services a family is likely to
13 make needed changes to improve child safety.

14 2.3 Families and Communities Together (FaCT): A public-private partnership that
15 supports FRCs and provides program development and administration, funding, and training.
16 FaCT receives federal, State, and County funding, as well as volunteer, in-kind support, and private
17 donations.

18 2.4 Full-Time Equivalent (FTE): The amount of time (stated as a percentage) an hourly
19 position will be providing services under an agreement. This percentage is based upon a 40-hour
20 work week. For salaried employees, FTE is defined as the amount of time (stated as a percentage)
21 the position will be paid under an agreement, regardless of the number of hours actually worked.

22 2.5 Military Families: A family unit consisting of active service members, reservists,
23 veterans (regardless of discharge status) and their children, spouses, partners, and loved ones.

24 2.6 Provider: A funded or non-funded partner agency in partnership with the County
25 that provides contracted services through a collaborative FRC agreement or an individual agency
26 agreement.

27 2.7 Resource Family: The Resource Family provides care on a temporary (foster care)
28 and/or permanent (adoption and legal guardianship) basis and includes all types of caregivers in

1 the child welfare and probation systems formerly known as foster parents, approved relatives or
2 approved Non-Relative Extended Family Member.

3 **3. HOURS OF OPERATION**

4 3.1 CONTRACTOR shall provide services during hours that are responsive to the
5 needs of the target population as determined by ADMINISTRATOR. At a minimum,
6 CONTRACTOR shall provide services Monday through Friday, for a minimum of ten (10) hours
7 per weekday. FRC shall remain open until at least 8:00 p.m. two (2) weekdays per week, and until
8 at least 5:30 p.m. on the remaining three (3) weekdays. FRC may off-set regular hours in order to
9 offer FaCT funded services on weekends for a minimum of four (4) hours. CONTRACTOR
10 holiday schedule shall not exceed the COUNTY's holiday schedule as established by the Orange
11 County Board of Supervisors, as described in Subparagraph 3.2 below. However,
12 CONTRACTOR is encouraged to provide the contracted services on holidays, whenever possible.

13 3.2 CONTRACTOR's holiday schedule shall not exceed COUNTY's holiday schedule
14 which is as follows: New Year's Day, Martin Luther King Jr. Day, President Lincoln's Birthday,
15 Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day,
16 Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day. CONTRACTOR shall
17 obtain prior written approval from ADMINISTRATOR for any closure outside of COUNTY's
18 holiday schedule and the hours listed in Subparagraph 3.1 of this Exhibit. Any unauthorized
19 closure shall be deemed a material breach of this Agreement, pursuant to Paragraph 19, and shall
20 not be reimbursed.

21 **4. FRC GENERAL REQUIREMENTS AND CHARACTERISTICS**

22 During the entire term of this Agreement, the CONTRACTOR shall:

23 4.1 Maintain a family-friendly community facility that functions as a multi-service
24 community-based site that offers a "one-stop shop" approach to comprehensive array of social and
25 health services to families and provides a support system that builds on family and community
26 strengths.

27 4.2 Offer multiple programs, including, but not limited to, the following core services:
28 a case management team, counseling, DR, family support services, parenting education, domestic

1 violence prevention and treatment (i.e., Personal Empowerment Program), and information and
2 referral services in support of achieving FaCT goals.

3 4.3 Be situated in a community-based location easily accessed by pedestrians, as well
4 as public and private transportation.

5 4.4 Offer free and accessible parking.

6 4.5 Promote the FaCT platform (e.g. FRC sites, services, and literature) at outreach
7 events where FaCT funded staff are utilized.

8 4.6 Display FaCT literature within FRC lobbies and in areas accessible to
9 PARTICIPANTS.

10 4.7 Involve local residents and stakeholders in planning, designing, implementing, and
11 evaluating activities at the FRC.

12 4.8 Maximize the use of volunteers to assist not only in service delivery, but also serve
13 as ambassadors in the community to promote community ownership and sustainability.

14 4.9 Leverage multiple funding streams to offer quality services to the community.

15 4.10 Operate as a collaborative that includes FaCT funded Contractor Partner Agencies
16 and a minimum of three (3) non-FaCT funded partner agencies who are providing onsite services
17 at the FRC. Roles and responsibilities of each partner shall be clearly defined for the entire term
18 of the Agreement.

19 4.11 Have each non-FaCT funded partner agency sign a memorandum of understanding
20 or agreement specifying their commitment to provide services throughout the term of this
21 Agreement.

22 4.12 Designate the City of Stanton to function as both the designated lead agency and
23 the program management lead agency. The fiscal and program management responsibilities shall
24 include those referenced in Paragraph 20 of this Agreement.

25 4.13 Provide bilingual direct service staff that are proportionate and responsive to the
26 language and cultural needs of the community they serve.

27 4.14 Collaborate with ADMINISTRATOR and COUNTY'S FaCT Network
28 Administrative Services provider, by attending required meetings, trainings, completing data entry

1 into FaCT database system, and engaging with the FaCT Network in activities related to the FaCT
2 mission and vision.

3 4.15 Services shall be provided at the FRC, in-home, and/or in satellite sites such as
4 schools and other community locations as mutually agreed upon by CONTRACTOR and
5 ADMINISTRATOR. Confidential space is required for all Clinical Supervision, Family Support
6 Services, Counseling, and Case Management Team services.

7 4.16 Ensure PARTICIPANTS complete FaCT required registration, consent, sign-in
8 forms, and/or complete assessment tools referenced in Subparagraph 8.6 of this Exhibit when
9 receiving services requiring an assessment.

10 4.17 Encourage PARTICIPANTS to complete satisfaction surveys when receiving FRC
11 services.

12 4.18 Collaborate with COUNTY staff and COUNTY'S contracted DR services staff
13 who provide services to SSA PARTICIPANTS.

14 5. SERVICES

15 Throughout this Exhibit, the Contractor Partner Agencies shall herein be referred to as:
16 City of Stanton (City); Friendly Center, Inc. (FC); and Interval House (IH). The Contractor Partner
17 Agency that shall provide the particular service listed in Subparagraphs 5.1 through 5.8 below
18 shall be indicated by the reference to that particular Contractor Partner Agency. Where more than
19 one Contractor Partner Agency is responsible for providing a service, or there is joint responsibility
20 for providing the service, that responsibility will be outlined under the service category.

21 5.1 Case Management Team (City)

22 5.1.1 The objectives of Case Management Team (CMT) services are as follows:

23 5.1.1.1 Increase collaboration among Contractor Partner Agencies by
24 meeting on a weekly basis to effectively coordinate PARTICIPANT services;

25 5.1.1.2 Encourage family attendance and participation in determining
26 their service needs;

27 5.1.1.3 Increase and facilitate resource linkages;

28 5.1.1.4 Improve individual and family functioning;

1 5.1.1.5 Decrease duplication of PARTICIPANT services; and

2 5.1.1.6 Foster the collaboration between the community, service
3 providers, and FRCs to address the needs of children and families.

4 5.1.2 The CMT consists of an integrated multidisciplinary team, comprised of
5 three (3) or more persons, trained and qualified to provide services. The CMT is responsible for
6 identifying the educational, health, or social service needs of a child, and child's family, and for
7 developing a plan to address these multiple needs as identified in Welfare and Institutions Code
8 section 18986.40. Participants of the CMT shall include FaCT funded and non-FaCT funded
9 representatives and subcontractors that would benefit the family.

10 5.1.3 City and Contractor Partner Agencies shall jointly provide CMT services
11 for a minimum of eighty (80) unduplicated FAMILIES annually. FRC CMT services include, but
12 are not limited to: identifying the educational, health, or social service needs of a child and child's
13 family; developing a plan to address these multiple needs; weekly reviews; team assessment;
14 arranging and coordinating appropriate services; monitoring effectiveness of services; evaluating
15 the outcome of services; and assigned clinician/intern, in conjunction with appropriate partners,
16 will utilize clinical skills and knowledge of the community in order to access resources that are
17 best suited to PARTICIPANT's needs. FRC CMT services shall include, but are not limited to,
18 the following components:

19 5.1.3.1 Assessment: The CMT Clinical Supervisor, based on input from
20 the CMT, shall complete an assessment of PARTICIPANTS' strengths and needs and community
21 resources available to PARTICIPANT.

22 5.1.3.2 Individual Treatment Plan: On the basis of the assessment in
23 Subparagraph 5.1.3.1, the CMT shall jointly develop an individualized treatment plan with the
24 PARTICIPANT that identifies priorities; desired outcomes; strategies; and resources to be used in
25 attaining the outcomes; follow up; and termination.

26 5.1.3.3 Reassessment: The CMT Clinical Supervisor and CMT shall
27 jointly reassess the PARTICIPANT's status, with input from Contractor Partner Agencies, in a
28 weekly clinical review of cases. CMT meetings shall provide weekly evaluations and assessment

1 for PARTICIPANTS.

2 5.1.3.4 Termination: The CMT Clinical Supervisor and CMT shall
3 jointly terminate the case from the CMT when the desired outcomes have been attained, the
4 PARTICIPANT is non-compliant, or the PARTICIPANT withdraws.

5 5.1.4 City and Contractor Partner Agencies shall jointly provide CMT services
6 continuously throughout the term of this Agreement. CMT meetings shall be scheduled a
7 minimum of one (1) day per week for a minimum of one (1) hour in duration. The CMT Clinical
8 Supervisor shall facilitate CMT meetings. CMT meetings shall be held at the FRC or other
9 mutually agreed upon location, in an appropriate, private, and confidential space.

10 5.1.5 City shall complete the CMT Tracking and Outcomes Log as well as the
11 required forms referenced in Subparagraph 4.16 of this Exhibit.

12 5.1.6 City shall provide qualified CMT Clinical Supervisor staff, as specified in
13 Subparagraph 15.2 of this Exhibit.

14 5.2 Counseling Services (City)

15 5.2.1 The objectives of Counseling Services are as follows:

16 5.2.1.1 Increase PARTICIPANT's coping skills;

17 5.2.1.2 Stabilize immediate crisis;

18 5.2.1.3 Increase access to social support systems;

19 5.2.1.4 Facilitate linkages to appropriate and needed treatment
20 programs (e.g., domestic violence, substance abuse, mental health, etc.);

21 5.2.1.5 Reduce risk of violence, abuse, and/or neglect in the home; and

22 5.2.1.6 Improve individual and family functioning.

23 5.2.2 City shall utilize evidence-based practices to provide Crisis, Individual,
24 Family, and Group Counseling Services for a minimum of two hundred seventy-five (275) sessions
25 annually. A completed session of any modality shall be counted as one (1) session regardless of
26 number of PARTICIPANTS. A session shall be defined as a minimum of fifty (50) minutes in
27 length.

28 5.2.3 City Counseling Services shall be held at the FRC, schools, or other

1 mutually agreed upon community location, in an appropriate, private, and confidential space and
2 be provided to low income, high risk PARTICIPANTS who are not Medi-Cal eligible and who
3 may be experiencing an immediate crisis that is disrupting their level of functioning.

4 5.2.4 Service Requirements per Modality:

5 5.2.4.1 Crisis Counseling Services: The duration of City Crisis
6 Counseling Services shall consist of a minimum of one (1) session and a maximum of three (3)
7 sessions for each PARTICIPANT. City Crisis Counseling Services shall provide a brief term
8 therapeutic approach to include, but not be limited to, assessing the immediate crisis/trauma,
9 helping the PARTICIPANT identify and develop coping strategies, identifying the factors that led
10 to the crisis state, and restoring the PARTICIPANT to their previous level of functioning. City
11 shall complete a clinical assessment around level of crisis stabilization at the end of service and a
12 transfer to additional counseling modalities may be offered as deemed necessary and clinically
13 indicated.

14 5.2.4.2 Individual Counseling Services: City shall provide Individual
15 Counseling Services for a minimum of four (4) sessions and a maximum of twenty (20) sessions,
16 for each PARTICIPANT. Individual Counseling sessions shall be offered to PARTICIPANTS on
17 a weekly basis. PARTICIPANTS shall receive counseling services to strengthen their ability to
18 improve individual functioning, explore healthy personal goal(s), and strengthen social-emotional
19 growth. Individual Counseling Service topics shall include, but are not limited to: reducing risk
20 of violence, exploring the cycle of abuse, self-control, parenting issues, victimization, depression,
21 anxiety, social and communication skills, and self-care to cope with stress. Services shall include
22 prevention and intervention, a psychosocial assessment and evaluation of the PARTICIPANT, and
23 development of treatment goal(s) focused on needs and strengths of the PARTICIPANT.

24 5.2.4.3 Family Counseling Services: City shall provide Family
25 Counseling Services for a minimum of four (4) sessions and a maximum of twenty (20) sessions,
26 for each FAMILY. Family Counseling sessions may be weekly or daily, based on
27 PARTICIPANTS' needs. City Family Counseling Services shall include, but not be limited to:
28 assessing PARTICIPANT's needs; providing emotional support; stabilizing immediate crisis;

1 developing goals for PARTICIPANTS; addressing parenting issues, cycle of abuse, and
2 victimization; enhancing family dynamics; and making appropriate linkages to all needed
3 treatment programs and social support systems.

4 5.2.4.4 Group Counseling Services: The duration of City Group
5 Counseling Services shall consist of a minimum of four (4) group counseling series at a minimum
6 of ninety (90) minutes each, with a six (6) week session minimum per series. PARTICIPANTS
7 may join at any point in time and will be considered as having successfully completed group
8 counseling after having attended six (6) sessions. City shall provide group counseling services in
9 a variety of topics, as appropriate for the PARTICIPANTS, including, but not limited to: Social
10 skills, anger management, and stress reduction.

11 5.2.5 City shall provide counseling services during FRC operating hours. City
12 may also schedule evening hours at the request of the PARTICIPANTS.

13 5.2.6 City shall provide qualified, bilingual Counselor staff as specified in
14 Subparagraph 15.4 of this Exhibit. City Counselor staff and/or designee, as approved by
15 ADMINISTRATOR, shall attend all FRC's CMT meetings.

16 5.3 Differential Response (FC)

17 The primary goal of DR Services is to engage a greater number of families in
18 services within the community without further child welfare intervention and, at the same time,
19 reduce the recurrence of child maltreatment.

20 5.3.1 The objectives of DR Services are as follows:

21 5.3.1.1 Support the family while in crisis;

22 5.3.1.2 Collaborate with the COUNTY social worker and the family to
23 devise a plan that identifies resources in an effort to protect the children and preserve the family;

24 5.3.1.3 Assess the family's needs, stabilize immediate crisis, and
25 increase coping skills and family cohesiveness;

26 5.3.1.4 Develop a treatment plan to address individual and family needs
27 to be offered for a minimum of thirty (30) days;

28 5.3.1.5 Provide in-home services, as needed, to address positive

parenting skills, discipline, child development, and child health and safety; and

5.3.1.6 Present DR cases at the CMT.

5.3.2 FC DR services shall focus on a family centered approach to: maintain children safely in the home; reduce entry into the child welfare system; serve as a support to families while in crisis; assess safety concerns and family's willingness to participate; team home visit; comprehensive family assessment; develop an individualized, needs based, and collaborative service plan; make referrals to community resources as appropriate; create linkage to assistance with service receipt; provide ongoing support; engage in advocacy; provide case management; provide ongoing tracking; follow up with family; provide assistance in accessing community resources; work with DR COUNTY social worker(s) to ensure appropriateness of service plan in meeting goals while protecting children; and refer to CMT, facilitate attendance, and include, at the family's request, extended family, non-family, and community leaders such as pastors/religious leaders as a long term support for family.

5.3.3 FC shall provide DR Services during FRC operating hours. FC may also schedule evening hours at the request of the PARTICIPANTS.

5.4 Family Support Services (FC)

Family Support Services shall be provided to families with a minimum of two (2) core service needs. Services are provided through a collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates the options and services required to meet PARTICIPANT needs.

5.4.1 The objectives of Family Support Services are as follows:

5.4.1.1 Support effective coordination of services among service providers;

5.4.1.2 Promote knowledge of, and provide linkages, to resources, services, and opportunities to improve self-sufficiency; and

5.4.1.3 Support families in following through with recommended services.

5.4.2 FC shall provide Family Support Services for a minimum of one hundred

1 (100) unduplicated FAMILIES annually. Family Support Services are those services responsible
2 for assessing the strengths and meeting the multiple needs of a PARTICIPANT and family;
3 arranging, coordinating, monitoring, evaluating, and advocating for multiple services for families;
4 and linking PARTICIPANTS to resources, services, and opportunities. The Family Support
5 Advocate shall also teach and empower families to access community resources and strengthen
6 problem solving skills.

7 5.4.3 FC shall provide Family Support Services continuously throughout the term
8 of this Agreement during FRC operating hours or on evenings as required by FAMILIES. FC
9 shall provide Family Support Services for a minimum of thirty (30) days per FAMILY.

10 5.4.4 FC shall provide Family Support Services in English and Spanish, primarily
11 at the FRC, in family's home, or at other community locations as agreed upon by PARTICIPANT
12 and FRC.

13 5.4.5 FC shall provide qualified, bilingual Family Support Advocate staff as
14 specified in Subparagraph 15.5 of this Exhibit.

15 5.5 Information and Referral Services (City)

16 5.5.1 The objective of Information and Referral Services is to increase access to
17 community resources for families in need.

18 5.5.2 City shall provide Information and Referral Services to a minimum of one
19 thousand (1,000) PARTICIPANTS annually.

20 5.5.3 Services include an assessment of need and referral services, including, but
21 not limited to, the following: emergency housing, emergency food, counseling, child care,
22 substance abuse counseling and treatment, parenting education, utility assistance, health and
23 mental health treatment, education and job training, legal aid, and youth academic and recreation
24 services. Information and Referral Specialist shall collaborate with other community agencies by
25 receiving and referring PARTICIPANTS.

26 5.5.4 Information and Referral Specialist shall be stationed at the FRC reception
27 area as the first point of contact for walk-in and telephone/email inquiries during FRC operating
28 hours. Information and Referral Specialist shall follow-up with linked service provider to verify

1 linkages.

2 5.5.5 City shall track Information and Referral Services using the FRC Daily
3 Information and Referral Tracking Log to capture number of PARTICIPANTS served,
4 PARTICIPANT zip code, mode of contact (e.g., phone call, walk-in, internet), and service(s)
5 referred.

6 5.5.6 City shall provide qualified, bilingual Information and Referral Specialist
7 staff as specified in Subparagraph 15.7 of this Exhibit.

8 5.6 Parenting Education (City)

9 5.6.1 The objectives for Parent Education are as follows:

10 5.6.1.1 Provide social support;

11 5.6.1.2 Enhance coping skills;

12 5.6.1.3 Improve knowledge of child development; and

13 5.6.1.4 Improve knowledge of appropriate and effective discipline.

14 5.6.2 City shall provide evidence-based parenting curriculum as listed on the
15 California Evidence Based Clearinghouse website (CEBC4CW.org). Elements of an effective
16 parenting education program shall improve parenting skills and family functioning by teaching
17 parents/caregivers about child development (e.g., developmental expectations), behavior
18 management (e.g., discipline techniques), and coping skills (e.g., communication and stress
19 management). As applicable, parenting education emphasis shall be placed on the prevention of
20 recurrence of maltreatment and/or shall address attachment, bonding, and traumatic loss issues.

21 5.6.3 City shall provide Parenting Education services for a minimum of forty-five
22 (45) unduplicated PARTICIPANTS annually.

23 5.6.4 City shall provide a minimum of four (4) Parenting Education series
24 annually. Frequency and length of each parenting series will be based on selected evidence-based
25 curriculum.

26 5.6.5 Parenting Education services shall be provided continuously during the
27 term of this Agreement at dates and times convenient for PARTICIPANTS. Services shall be
28 offered at the FRC, schools, and other community locations as needed and approved by

ADMINISTRATOR. A minimum of one (1) class shall be offered at the FRC annually.

5.6.6 City shall ensure completion of required paperwork when providing parenting education to PARTICIPANTS receiving child welfare services, including, but not limited to, verification of attendance, issuance of certificates of completion, and verbal and/or written reports to COUNTY social workers.

5.6.7 City shall provide parenting education in English and Spanish.

5.6.8 City shall provide parenting instructors that are trained and certified to provide the selected evidence-based curriculum.

5.7 Personal Empowerment Program (Certified Domestic Violence Prevention and Treatment Education Program) (IH)

5.7.1 The objectives of Personal Empowerment Program (PEP) are as follows:

5.7.1.1 Raise awareness of the various types of domestic violence and its short and long term effects;

5.7.1.2 Develop or enhance safety plan for domestic violence victims;

5.7.1.3 Increase victim's understanding of the effects domestic violence has on children; and

5.7.1.4 Promote safety and permanency in homes and communities through prevention efforts aimed at child abuse and domestic violence.

5.7.2 IH shall provide PEP services to a minimum of forty-five (45) unduplicated PARTICIPANTS annually.

5.7.3 PEP services shall be an evidence-based ten (10) week educational support program designed to help victims break the cycle of domestic violence through education on the dynamics of domestic violence, effects of violence on victims and their children, and to help victims protect children who live in domestic violence homes. Topics shall include, but not be limited to, safety planning, boundaries, anger management, legal aspects of domestic violence, working through denial, and maintaining healthy relationships.

5.7.4 IH shall provide PEP services continuously during the term of this Agreement.

1 5.7.5 During the entire term of this agreement, PEP providers must be approved
2 by the PEP Program Collaborative of Orange County.

3 5.7.6 IH shall offer PEP services at the FRC and other community locations at
4 dates and times convenient for PARTICIPANTS and as approved by ADMINISTRATOR. IH
5 may refer PARTICIPANTS to attend PEP services at any IH facilitated location that fits their
6 language preference and schedule availability.

7 5.7.7 PEP instructors shall administer the FaCT-approved pre/post measurement
8 tools and enter the results into the FaCT database.

9 5.7.8 IH shall ensure completion of required paperwork when providing PEP to
10 PARTICIPANTS receiving child welfare services, including, but not be limited to, verification of
11 attendance, issuance of certificates of completion, and verbal and/or written reports to COUNTY
12 social workers.

13 5.8 Other Services: Out of School Time Program (City)

14 5.8.1 City shall provide Out of School Time (OST) services to children ages six
15 (6) to twelve (12) years old with recreation, education, healthy development, artistic and cultural
16 enrichment, and leadership development.

17 5.8.2 City shall provide OST services for a minimum of forty (40) unduplicated
18 PARTICIPANTS annually. OST services shall provide PARTICIPANTS with a safe and
19 nurturing place during after-school and non-school hours. OST services shall include, but not be
20 limited to, the following: academic achievement, safe and healthy relationship development, and
21 critical life skills improvement.

22 5.8.3 City shall provide OST services Monday through Thursday during the
23 school year and during school breaks (e.g., spring, summer, and winter breaks) throughout the
24 term of this Agreement.

25 5.8.4 City shall provide OST services at locations approved by
26 ADMINISTRATOR.

27 6. ADDITIONAL CONTRACTOR RESPONSIBILITIES

28 In addition to providing the services described in Paragraph 5 of this Exhibit,

1 CONTRACTOR agrees to:

2 6.1 Provide a minimum of three (3) non-FaCT funded onsite services throughout the
3 term of this Agreement.

4 6.2 Provide ADMINISTRATOR a bi-annual detailed marketing plan for each
5 contracted service, and revise, if necessary, as requested by ADMINISTRATOR.

6 6.3 Actively engage the community, including local residents, faith-based groups,
7 businesses, public and private organizations, civic groups, and others in the planning and
8 implementation of services that promote the well-being, safety, and permanency of children,
9 families, and communities.

10 6.4 CONTRACTOR shall use Emergency Assistance (EA) funds to meet the basic
11 needs of PARTICIPANTS in support of services as described herein. Allowable costs include
12 emergency food, emergency clothing, diapers, medicine, bus tickets to access services, safety
13 items, one-time rent payment assistance, and one-time utility payment assistance. Other allowable
14 costs are to be approved in advance and in writing by ADMINISTRATOR. All purchases from
15 EA funds in excess of one hundred (\$100) dollars per PARTICIPANT must be requested in
16 advance and in writing for approval by ADMINISTRATOR. CONTRACTOR shall research
17 available community resource options prior to approving expenditures.

18 6.5 Develop and maintain a Governance Structure document outlining resource
19 sharing, accountability, decision-making strategies, and conflict resolution plan. The Governance
20 Structure shall include, but not be limited to, the addition and/or deletion of any Contractor Partner
21 Agency and/or subcontractor(s), ongoing community input and involvement, and voting quorum
22 (including what constitutes a quorum). FRC shall review and submit governance structure to
23 ADMINISTRATOR by August 1st of each subsequent COUNTY fiscal year.

24 6.6 Develop a CEAC that shall meet a minimum of quarterly during the term of this
25 Agreement. CEAC shall develop and advance a community agenda to affect community level
26 change. The FRC will maintain a roster and a copy of minutes for all CEAC meetings. The
27 composition of CONTRACTOR's CEAC shall vary, depending on the specific goals of, and the
28 services to be provided by the FRC. CEAC shall consist of community members such as parents,

1 youths, teachers, school community liaisons, businesses professionals, religious community
2 leaders, law enforcement, human and health service professionals, and city representatives. On an
3 annual basis, CEAC shall assess, survey, and identify community strengths and needs to advocate
4 for FRC services to meet community need; develop parent and youth leadership; and engage
5 business community to provide tangible support and leadership. CEAC shall enlist broad
6 community support and advocacy for the FRC by fundraising for the FRC and hosting events. A
7 minimum of five hundred dollars (\$500) shall be allocated to the CEAC within the FRC budget
8 for the purposes of its members to use for planning events, and other activities as deemed necessary
9 by the CEAC committee. City shall provide a qualified Community Engagement Coordinator staff
10 as specified in Subparagraph 15.3 of this Exhibit.

11 6.7 Follow procedures provided by ADMINISTRATOR for reporting any special
12 incidents that occur during CONTRACTOR's performance of duties under this Agreement,
13 involving CONTRACTOR's staff, PARTICIPANTS, and/or property.

14 6.7.1 City shall provide child care services at the FRC to children of parents
15 attending FRC programs during FRC operating hours, continuously throughout the term of this
16 Agreement, at dates and times convenient for PARTICIPANTS. Allowable costs include direct
17 child care services and purchases of cleaning supplies, snacks directly related to child care services,
18 activities, age appropriate toys, crafts, and games. Child care services shall be reimbursed based
19 on actual hours worked. City shall provide child care staff that are at least eighteen (18) years of
20 age; possess a high school diploma or equivalent; have one (1) year of child care experience;
21 possession of, or ability to obtain a valid Pediatric CPR and First Aid Certification prior to
22 providing child care duties; and ability to deal with stressful situations.

23 7. FACILITIES

24 7.1 Stanton FRC is located at:

25 11822 Santa Paula Street

26 Stanton, CA 90680

27 7.2 Administrative services under this Agreement shall be provided at Stanton FRC
28 and:

City of Stanton
7800 Katella Avenue
Stanton, CA 90680

CONTRACTOR and ADMINISTRATOR may mutually agree in writing as to the facility(ies) and location(s) where services shall be provided without changing COUNTY's maximum obligation, referenced in Subparagraph 21.1 of this Agreement.

8. DATA ENTRY AND DATA SUBMISSION REQUIREMENTS

8.1 CONTRACTOR shall maintain data that includes the types and amounts of services provided to each PARTICIPANT, assessment data, and key demographic items, including, but not limited to: family identifier, family member identifier, ethnicity, date of birth, sex, referral reason(s), services recommended, services provided, date service delivery begins, date service delivery ends, status indicators [e.g., previous abuse reports, existing health problems], and primary language spoken as determined by ADMINISTRATOR.

8.2 City shall be responsible for the integrity of all data. This includes ensuring all required PARTICIPANT and service data is entered and maintained in the FaCT database. Data for services incurred in the preceding month shall be available for review prior to the date of the regularly scheduled monthly steering committee meeting, or as requested by ADMINISTRATOR. Data includes monthly service grids, quarterly assessment reports, and other reports as required by ADMINISTRATOR.

8.3 FaCT utilizes a model developed by the Center for the Study of Social Policy called "Strengthening Families" to frame outcomes and evaluation data. This model, which has been identified as preventing child abuse and neglect identifies the following five (5) protective factors:

- 8.3.1 Provide concrete support in times of need;
- 8.3.2 Increase parental resilience;
- 8.3.3 Increase knowledge of parenting and child development;
- 8.3.4 Support the social and emotional competence of children; and
- 8.3.5 Build parents' social connections.

8.4 Services provided at the FRC fall under one (1) or more of the protective factors.

FaCT core services have their own measurement tool that shall be administered and used to collect data and entered into the FaCT database. The current FaCT database system is a web-based PARTICIPANTS management system, managed by FaCT and its administrative contractor, which provides contractual and outcome based reporting for each FRC. FRCs shall work closely with ADMINISTRATOR to maximize utility and adhere to confidentiality within the data system. FaCT shall provide technical assistance and training to the FRCs to ensure strong data collection and outcome reporting.

8.5 Direct service staff shall be responsible for entering PARTICIPANT service and outcome data for FaCT funded services into the FaCT database. These include, but are not limited to, the following:

8.5.1 CMT Facilitator shall administer, collect, and enter the CMT tracking and assessment tool;

8.5.2 Family Support Advocate shall administer, collect, and enter the Family Development Matrix Tool(s);

8.5.3 Parenting Educator shall administer, collect, and enter the Parenting Education Survey; and

8.5.4 Direct service provider shall administer, collect, and enter the Registration Form.

8.6 In addition to the FaCT Registration form and/or FaCT Large Group Tracking form, the following assessment tool(s) required for each core service include:

Core Service	Required Assessment Tool(s)
CMT	CMT Tracking & Outcomes Log
Information & Referral Services	Information & Referral Tracking Log
Family Support Services	Family Development Matrix
Counseling Services	Protective Factors Counseling Survey
Parenting Education	Protective Factors Parenting Survey
Personal Empowerment Program	PEP Pre/Post Test

8.7 The FRC Coordinator is responsible for ensuring data integrity and accurate data collection. FRC Coordinator shall also ensure that the data is entered correctly into the FaCT data system and within timelines required by ADMINISTRATOR. Contractor Partner Agencies are responsible for their own staff data collection, ensuring data integrity, and accurate submission to

1 the FRC Coordinator.

2 8.8 FRCs can administer COUNTY-approved measurement tools (e.g., tracking logs,
3 pre/post-tests, satisfaction surveys, etc.) to collect data on other services. ADMINISTRATOR
4 shall provide CONTRACTOR a minimum of ten (10) business day notice in the event a
5 measurement tool is changed.

6 8.9 The COUNTY measurement tools, referenced in Subparagraph 4.16 of this Exhibit
7 are subject to change based on program and evaluation needs as defined by ADMINISTRATOR.

8 9. REPORTS

9 CONTRACTOR shall prepare and submit written reports in a format approved in writing
10 by ADMINISTRATOR. Written reports include the Quarterly Assessment Report and the
11 Monthly Service Grid.

12 9.1 Monthly Service Grid Reports shall be submitted to ADMINISTRATOR by the
13 twentieth (20th) day of each month for the preceding month of services. In the event the twentieth
14 (20th) calendar day falls on a weekend or COUNTY holiday as specified in Subparagraph 3.2 of
15 this Exhibit, CONTRACTOR shall submit the Monthly Service Grid the next business day.

16 9.2 CONTRACTOR shall complete the FaCT standardized Marketing Outreach Log
17 and CEAC Data Form, and shall submit to ADMINISTRATOR quarterly, ten (10) calendar days
18 following the end of each quarter.

19 9.3 CONTRACTOR shall provide information deemed necessary by
20 ADMINISTRATOR to complete any state-required reports related to the services provided under
21 this Agreement.

22 10. GOALS AND OUTCOME OBJECTIVES

23 10.1 A minimum of ninety percent (90%) of counseling PARTICIPANTS will complete
24 a pre and post-test.

25 10.2 Family Support Advocate shall make efforts to contact one hundred percent (100%)
26 of PARTICIPANTS referred to CMT a minimum of three (3) business days prior to their scheduled
27 CMT to encourage attendance.

28 10.3 A minimum of ninety percent (90%) of participants receiving services at the FRC

1 will complete a FaCT FRC Satisfaction Survey.

2 11. UTILIZATION REVIEW

3 11.1 CONTRACTOR and ADMINISTRATOR's designee shall meet at least semi-
4 annually to review and evaluate a random selection of family case records. The review may
5 include, but is not limited to, an evaluation of the necessity and appropriateness of services
6 provided and length of services. FAMILY cases to be reviewed shall be randomly selected by
7 ADMINISTRATOR and may include both open and closed cases.

8 11.2 ADMINISTRATOR may conduct a Utilization Review (UR) at CONTRACTOR'S
9 facility referenced in Paragraph 7 of this Exhibit, with date and time determined at
10 ADMINISTRATOR'S discretion. ADMINISTRATOR may provide oral and/or written feedback
11 regarding the UR findings. CONTRACTOR shall comply with the findings of the UR and take
12 corrective action accordingly.

13 11.3 In the event CONTRACTOR, ADMINISTRATOR and COUNTY's Children and
14 Family Services staff representatives and/or ADMINISTRATOR's designee are unable to resolve
15 differences of opinion regarding the necessity and appropriateness of services and length of
16 services, the dispute shall be submitted to COUNTY's Director of Children and Family Services
17 for final resolution. Nothing in this subparagraph shall affect COUNTY's termination rights under
18 Paragraph 42 of this Agreement.

19 12. SUSTAINABILITY

20 12.1 CONTRACTOR agrees to demonstrate, throughout the term of this Agreement, the
21 ability to integrate multiple public, private, and collaborative partner funding sources.

22 12.2 CONTRACTOR must provide measurable goals that demonstrate resource
23 leveraging and in-kind partnerships and/or grants based on service gaps and identified needs,
24 specific to the community.

25 12.3 CONTRACTOR agrees to work with ADMINISTRATOR in order to pursue long-
26 term sustainability of CONTRACTOR's FaCT collaborative programs. This includes, but is not
27 limited to, participation in the following:

28 12.3.1 Assessment of long-term need for and reasonableness of FaCT

1 collaborative programs;

2 12.3.2 Training programs developed by or for FaCT;

3 12.3.3 Outreach activities initiated by FaCT staff or FaCT committees, as mutually
4 agreed by CONTRACTOR and ADMINISTRATOR;

5 12.3.4 Research of other public/private funding sources and opportunities;

6 12.3.5 Pursuit of linkages with other partners, as appropriate; and

7 12.3.6 Development of marketing and community education materials as mutually
8 agreed upon by CONTRACTOR and ADMINISTRATOR.

9 12.4 CONTRACTOR agrees to cooperate in these efforts, as well as independently
10 pursue opportunities to improve sustainability of their collaborative program. Independent
11 activities may include activities identified above as well as grant writing and engaging in
12 collaborative agreements with other integrated service initiatives.

13 13. MEETINGS AND TRAININGS

14 13.1 CONTRACTOR shall ensure the FRC Coordinator participates in meetings of all
15 FaCT FRC Coordinators for the purpose of information sharing, joint problem solving,
16 identification of Best Practices, development of common approaches to case management and
17 intake, training, and other related matters. Meetings will occur a minimum of one (1) time per
18 month. ADMINISTRATOR will provide CONTRACTOR with detailed information regarding
19 meeting date(s) and location(s).

20 13.2 CONTRACTOR shall ensure appropriate CONTRACTOR staff participates in all
21 required trainings and/or meetings as identified by ADMINISTRATOR. ADMINISTRATOR will
22 provide CONTRACTOR with detailed information regarding training/meeting date(s) and
23 location(s).

24 13.3 Trainings eligible for reimbursement through this Agreement must be approved in
25 advance, in writing, by ADMINISTRATOR.

26 13.4 At the request of ADMINISTRATOR, CONTRACTOR shall attend trainings
27 presented or sponsored by COUNTY.

28 ///

1 14. BUDGET

2 14.1 For the three (3) COUNTY fiscal years (July 1 through June 30) included during
3 the term of this Agreement, the maximum budget for services provided pursuant to Exhibit A of
4 this Agreement shall not exceed \$900,000.

5 14.2 In the event ADMINISTRATOR reduces the maximum obligation as stated in
6 Subparagraph 21.1 of this Agreement, CONTRACTOR and ADMINISTRATOR may mutually
7 agree in writing to proportionately reduce the service goals as set forth in this Exhibit.

8 14.3 The budget specified in Subparagraph 14.4 below shall be for the period of July 1,
9 2020, through June 30, 2023. Each period shall be defined as follows:

10 14.3.1 Year One shall be for the period of July 1, 2020, through June 30, 2021.

11 14.3.2 Year Two shall be for the period of July 1, 2021, through June 30, 2022.

12 14.3.3 Year Three shall be for the period of July 1, 2022, through June 30, 2023.

13 14.4 The budget for services provided pursuant to Exhibit A of this Agreement is set
14 forth as follows:

<u>FRC Services</u>	YEAR ONE	YEAR TWO	YEAR THREE
Direct Service Costs ⁽¹⁾	\$ 297,735	\$ 297,735	\$ 297,735
Indirect Costs ⁽²⁾	\$ 2,265	\$ 2,265	\$ 2,265
TOTAL MAXIMUM OBLIGATION:	\$ 300,000	\$ 300,000	\$ 300,000

15 ⁽¹⁾ Direct Service Costs are costs that are incurred and specifically allocable to the
16 provision of services identified in this Agreement. Employee Benefits include contributions to
17 401k or retirement plans; health insurance; dental insurance; life insurance; long-term disability
18 insurance; payroll taxes such as FICA, Federal Unemployment Tax, State Unemployment Tax,
19 and Workers' Compensation Tax, based on the currently prevailing rates; and expense for accrued
20 vacation time payout, for a separated employee, limited to the actual vacation time accrued during
21 the fiscal year in which the expense is claimed, minus the actual vacation time used by the
22 employee during said fiscal year.

23 ⁽²⁾ Indirect Costs are costs that are incurred for an organization's common objectives and
24 that cannot be readily identified with a particular final cost objective.

25 14.5 For the purpose of meeting specific program needs, CONTRACTOR may request
26
27
28

to reallocate funds between budgeted line items by utilizing a Budget Modification Request form provided by ADMINISTRATOR, which shall include a justification narrative specifying the purpose of the request, the amount of said funds to be reallocated, and the sustaining annual impact as applicable to the current and subsequent fiscal years. CONTRACTOR shall obtain advance written approval from ADMINISTRATOR for any Budget Modification Request prior to implementation. Failure to obtain advance written notice approval for any proposed Budget Modification Request may result in disallowance of reimbursement for those costs.

14.6 In the event CONTRACTOR identifies savings within their budget, CONTRACTOR shall prioritize and utilize funding to meet the service requirements identified in Paragraph 5 of this Exhibit before adding new services and/or programming.

14.7 In the event the budget shown in Subparagraph 14.4 of this Exhibit is modified, the modified budget shall remain in effect for the remainder of the fiscal year, unless superseded by subsequent budget modification(s) that have been approved in writing by ADMINISTRATOR. For example, if Budget Modification #1 is approved on August 15, 2020, the modified budget will remain in effect until Budget Modification #2 is requested and approved in writing.

15. STAFF

CONTRACTOR shall provide the following described staff positions continuously throughout the term of the Agreement:

<u>Position</u>	FTE ⁽¹⁾	Maximum Hourly Rate ⁽²⁾
CMT Clinical Supervisor	0.05	\$125.00
Community Engagement Coordinator	0.25	\$20.00
Counselor	0.50	\$24.00
Family Support Advocate	1.00	\$21.00
FRC Coordinator	1.00	\$30.00
Information and Referral Specialist	1.00	\$20.00

⁽¹⁾ For hourly employees, Full-Time Equivalent (FTE) is defined as the amount of time (stated as a percentage) the position will be providing services under the terms of this Agreement. This percentage is based upon a 40-hour work week. For salaried employees, FTE is defined as the amount of time (stated as a percentage) the position will be paid for under the terms of this Agreement, regardless of the number of hours actually worked.

1 (2) Maximum hourly rate which will be permitted during the term of this Agreement;
2 employees may be paid at less than maximum hourly rate.

3 15.1 Recruitment Practices

4 15.1.1 CONTRACTOR shall use a formal recruitment plan, which complies with
5 federal and State employment and labor regulations. CONTRACTOR shall hire staff with the
6 education, language skills, and experience necessary to appropriately perform all functions as
7 described in this Agreement.

8 15.1.2 CONTRACTOR shall notify ADMINISTRATOR, in writing, no later than
9 seventy-two (72) hours of any staffing vacancies or filling of vacant positions that occur during
10 the term of this Agreement. For resignations, CONTRACTOR's notification shall include
11 employee's name, position title, date of resignation, a description of planned recruitment activities,
12 and the CONTRACTOR's contingency plan to cover services during the vacancy. For new hires,
13 CONTRACTOR's notification shall include candidate's resume or application, position title, and
14 date of hire.

15 15.1.3 The number of direct service bilingual staff proposed should include how
16 staffing will meet the needs of the community to be served.

17 15.1.4 CONTRACTOR may be required to submit employer's bilingual
18 certification criteria and/or test results to ADMINISTRATOR.

19 15.2 CMT Clinical Supervisor (City)

20 15.2.1 Duties: A licensed clinician shall facilitate case management team group
21 process, ensure thorough assessment and linkages for families to resources, and ensure team and/or
22 staff members follow up on all mandated reporting requirements. Responsibilities include, but are
23 not limited to: verify and track attendance of required CMT members; ensure PARTICIPANT
24 confidentiality/release forms are signed by PARTICIPANT and CMT members; review the laws
25 of confidentiality and child and elder/dependent adult abuse reporting on an annual basis, and
26 ensure compliance for each case presented; ensure all CMT cases conferenced are multiple needs
27 cases (i.e., not just information and referral); facilitate weekly review of CMT cases, including a
28 thorough assessment of needs, treatment plan, follow up plan, and termination; provide and

1 coordinate ongoing cross-training to CMT on clinical training needs; ensure families are invited
2 to the CMT meetings; maintain weekly case logs and registration forms for each case conferenced
3 at CMT; complete standardized CMT assessment tools, ensuring COUNTY required CMT data is
4 accurately entered into FaCT database; and actively engage new collaborative partners and/or
5 other COUNTY agency representatives to conference cases that would benefit families.

6 15.2.2 Qualifications: A Licensed Clinical Social Worker, Marriage and Family
7 Therapist, or Licensed Clinical Psychologist. A minimum of one (1) year of group/meeting
8 facilitation experience and proficiency in English is required.

9 15.3 Community Engagement Coordinator (City)

10 The Community Engagement Coordinator shall not be a current member of the
11 CEAC.

12 15.3.1 Duties: To assist in advocacy for the expansion of the FRC CEAC and
13 Youth Action Council programs and activities focusing on issues that affects the health, well-
14 being, and public safety of residents in the FRC community. Oversee community organizing,
15 volunteer recruitment and training, problem solving, and developing and implementing an
16 outreach plan. In addition, support the efforts of local programs to explore donation and service
17 opportunities for the FRC; develop and promote FRC volunteer project activities; develop and
18 maintain regular contact with community organizations; coordinate and communicate with FRC
19 Coordinator, attend all required meetings and trainings, administer FaCT-approved measurement
20 tools, and enter the results into the FaCT database.

21 15.3.2 Qualifications:

22 Option One (1): An Associate's degree or sixty (60) college units in human
23 services or related field from an accredited college/university; one (1) year of experience,
24 including leadership/supervisory experience, providing direct services to the target population;
25 capable of relating well to individuals from diverse backgrounds, cultures, varied income, and
26 education levels; and computer competency. Proficiency in English is required. Based on
27 community need, bilingual proficiency may be required; or

28 Option Two (2): Three (3) years of experience, including one (1) year of

1 leadership/supervisory experience, providing direct services to the target population; capable of
2 relating well to individuals from diverse backgrounds, cultures, varied income, and education
3 levels; and computer competency. Proficiency in English is required. Based on community need,
4 bilingual proficiency may be required.

5 15.4 Counselor (City)

6 15.4.1 Duties: The counselor shall: provide therapy, including assessment,
7 treatment planning, termination, and documentation; communicate applicable case related
8 information to SSA staff, as requested; and complete FaCT designated measurement tools and
9 enter all required data into the FaCT database.

10 15.4.2 Qualifications: Licensed clinician or an intern registered with the State of
11 California Department of Consumer Affairs, Board of Behavioral Sciences (BBS). All interns
12 must be receiving direct clinical supervision in accordance with BBS requirements. Proficiency
13 in English is required. Based on community need, bilingual proficiency may be required.

14 15.5 Family Support Advocate (FC)

15 15.5.1 Duties: Responsible for serving all Family Support Services referrals.
16 Services shall include, but not limited to: assessing family strengths and needs; linkages to
17 resources; case planning; in-home services; communicating applicable case related information to
18 SSA staff, as requested; compiling and maintaining records; preparing reports; presenting cases at
19 CMT meetings; completing FaCT designated measurement tools and entering all required data
20 into the FaCT database; and attending all required FaCT meetings and trainings.

21 15.5.2 Qualifications:

22 Option One (1): Bachelor's degree in human services or related field from
23 an accredited university. Proficiency in English is required. Based on community need, bilingual
24 proficiency may be required; or

25 Option Two (2): A minimum of three (3) years of experience providing
26 direct services to the target population. Proficiency in English is required. Based on community
27 need, bilingual proficiency may be required.

28 ///

1 15.6 FRC Coordinator (City)

2 15.6.1 Duties: FRC Coordinator's work schedule shall be consistent with FRC
3 operating hours and their workspace shall be located at the FRC. Perform a variety of
4 administrative functions, including: coordinate service providers; supervise FRC staff; oversee the
5 day-to-day operation of the FRC; compile statistical and financial data for various reports;
6 facilitate community involvement in the CEAC; coordinate governance and policy procedure
7 development; coordinate training opportunities for staff; prepare and monitor program budget;
8 perform outreach to community businesses and schools; market FRC services within the
9 community; initiate outreach to new partners and service providers; address public inquiries
10 regarding services, procedures, operations and regulations; facilitate FRC partners and staff
11 meetings and ensure completion of meeting minutes; complete all required documentation; attend
12 required FaCT meetings and trainings; and perform related duties as assigned.

13 15.6.2 Qualifications:

14 Option One (1): Bachelor's degree (Master's degree preferred) in social
15 work, sociology, psychology, or related field from an accredited university and two (2) years of
16 experience providing direct services to the target population; capable of relating well to individuals
17 from diverse backgrounds, cultures, varied income, and education levels; leadership and/or
18 supervisory experience; ability to work successfully in a collaborative environment; attention to
19 detail; and computer competency. Proficiency in English is required. Based on community need,
20 bilingual proficiency may be required; or

21 Option Two (2): A minimum of five (5) years of experience providing direct
22 services to the target population; capable of relating well to individuals from diverse backgrounds,
23 cultures, varied income, and education levels; leadership and/or supervisory experience; ability to
24 work successfully in a collaborative environment; attention to detail; and computer competency.
25 Proficiency in English is required. Based on community need, bilingual proficiency may be
26 required.

27 15.7 Information and Referral Specialist (City)

28 15.7.1 Duties: Responsible for responding to walk-in, call-in, and referred

PARTICIPANTS seeking community resources. Assess PARTICIPANTS’s immediate needs and make referrals to appropriate resources. Administer FaCT-approved tracking tool and enter results into the FaCT database.

15.7.2 Qualifications: High school diploma or equivalent, one (1) year of customer service experience working directly with the public, and computer competency (i.e., knowledge and ability to use computers and related technology). Proficiency in English is required. Based on community need, bilingual proficiency may be required.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

AMENDMENT ONE TO AGREEMENT
BETWEEN
COUNTY OF ORANGE
AND
CITY OF STANTON
AND
FRIENDLY CENTER, INC.
AND
INTERVAL HOUSE
FOR THE PROVISION OF FAMILY RESOURCE CENTER SERVICES

THIS AMENDMENT ONE, made and entered into upon execution of all necessary signatures, is to that certain AGREEMENT Number FMK1120 between the parties hereto, hereinafter referred to as the “Agreement” and is by and between the COUNTY OF ORANGE, hereinafter referred to as “COUNTY,” and City of Stanton, a California municipal agency; Friendly Center, Inc., a California non-profit corporation; and Interval House, a California non-profit corporation, hereinafter collectively referred to as “STANTON FAMILY RESOURCE CENTER” or “CONTRACTOR.” City of Stanton, Friendly Center, Inc., and Interval House, may each also be referred to as “Contractor Partner Agencies.” This Amendment shall be administered by the County of Orange Social Services Agency, hereinafter referred to as “ADMINISTRATOR.”

W I T N E S S E T H

WHEREAS, on July 1, 2020, COUNTY and CONTRACTOR entered into an Agreement for the provision of Family Resource Center Services, for the term of July 1, 2020, through June 30, 2023;

WHEREAS, on August 1, 2020, COUNTY and CONTRACTOR modified the Agreement to add Network Security and Privacy Liability Insurance;

WHEREAS, COUNTY desires to increase funding for the provision of additional Family Resource Center Services to clients; amend Subparagraph 21.1 of the Agreement; amend

Subparagraphs 4.15, 6.4, 8.6, 14.1, 14.4, and Paragraph 15 of Exhibit A of the Agreement; and add Subparagraph 5.9 to Exhibit A of the Agreement;

WHEREAS, CONTRACTOR agrees to continue to provide such services under the terms and conditions set forth in this Agreement; and

ACCORDINGLY, THE PARTIES AGREED AS FOLLOWS:

1. Subparagraph 21.1 of the Agreement is hereby amended to read as follows:

21.1 Maximum Contractual Obligation

The maximum obligation of COUNTY under this Agreement shall not exceed the amount of \$970,800 or actual allowable costs, whichever is less. The estimated annual amount for each twelve (12) month period is as follows:

21.1.1 Year One: \$300,000 for July 1, 2020, through June 30, 2021;

21.1.2 Year Two: \$300,000 for July 1, 2021, through June 30, 2022; and

21.1.3 Year Three: \$370,800 for July 1, 2022, through June 30, 2023.

2. Subparagraph 4.15 of Exhibit A of the Agreement is hereby amended to read as follows:

4.15 Services shall be provided in-person or virtually, based on PARTICIPANT's needs, at the FRC, in-home, and/or in satellite sites such as schools and other community locations as mutually agreed upon by CONTRACTOR and ADMINISTRATOR. Confidential space is required for all Clinical Supervision, Family Support Services, Counseling, and Case Management Team services.

3. Subparagraph 5.9 is hereby added to Exhibit A of the Agreement to read as follows:

5.9 Emergency Assistance (City)

5.9.1 The objective of Emergency Assistance (EA) services is to help stabilize families in crisis due to inability to meet their basic needs.

5.9.2 City shall provide EA services for a minimum of sixty (60) FAMILIES annually.

5.9.3 EA services shall include an assessment of emergency needs and promote family self-sufficiency. The assessment shall be completed by qualified FRC

staff and include recommendation(s) to meet the emergency needs of the PARTICIPANTS and a plan on how to circumvent the circumstances that lead to the crisis. Recommendations for use of EA funds shall be in accordance with Subparagraph 6.4 of this Exhibit.

5.9.4 City shall provide EA services primarily at the FRC and other community locations, as needed. Services shall be offered during FRC hours of operation or at dates and times convenient for the PARTICIPANT. City shall provide EA services continuously throughout the term of this Agreement.

4. Subparagraph 6.4 of Exhibit A of the Agreement is hereby amended to read as follows:

6.4 CONTRACTOR shall use EA funds to meet the basic needs of PARTICIPANTS in support of services as described herein. Allowable costs include emergency food, emergency clothing, diapers, medicine, hygiene items, household items, transportation payment assistance to access services, safety items, housing payment assistance and utility payment assistance, or other allowable costs, as approved in advance by ADMINISTRATOR. All purchases from EA funds in excess of two hundred dollars (\$200) per FAMILY must be requested in advance and in writing for approval by ADMINISTRATOR. Housing payment assistance and utility payment assistance in excess of five hundred dollars (\$500) per FAMILY shall be provided no more than one (1) time per fiscal year for each FAMILY, or as approved in advance and in writing by ADMINISTRATOR. CONTRACTOR shall research available community resource options prior to utilizing EA funds.

5. Subparagraph 8.6 of Exhibit A of the Agreement is hereby amended to read as follows:

8.6 In addition to the FaCT Registration form and/or FaCT Large Group Tracking form, the following assessment tool(s) required for each core service include:

Core Service	Required Assessment Tool(s)
CMT	CMT Tracking & Outcomes Log
Emergency Assistance	Emergency Assistance Assessment
Information & Referral Services	Information & Referral Tracking Log
Family Support Services	Family Development Matrix

Counseling Services	Protective Factors Counseling Survey
Parenting Education	Protective Factors Parenting Survey
Personal Empowerment Program	PEP Pre/Post Test

6. Subparagraph 14.1 of Exhibit A of the Agreement is hereby amended to read as follows:

14.1 For the three (3) COUNTY fiscal years (July 1 through June 30) included during the term of this Agreement, the maximum budget for services provided pursuant to Exhibit A of this Agreement shall not exceed \$970,800.

7. Subparagraph 14.4 of Exhibit A of the Agreement is hereby amended to read as follows:

14.4 The budget for services provided pursuant to Exhibit A of this Agreement is set forth as follows:

<u>FRC Services</u>	YEAR ONE	YEAR TWO	YEAR THREE
Direct Service Costs ⁽¹⁾	\$ 297,735	\$ 297,735	\$ 369,952
Indirect Costs ⁽²⁾	\$ 2,265	\$ 2,265	\$ 848
TOTAL MAXIMUM OBLIGATION:	\$ 300,000	\$ 300,000	\$ 370,800

⁽¹⁾ Direct Service Costs are costs that are incurred and specifically allocable to the provision of services identified in this Agreement. Employee Benefits include contributions to 401k or retirement plans; health insurance; dental insurance; life insurance; long-term disability insurance; payroll taxes such as FICA, Federal Unemployment Tax, State Unemployment Tax, and Workers' Compensation Tax, based on the currently prevailing rates; and expense for accrued vacation time payout, for a separated employee, limited to the actual vacation time accrued during the fiscal year in which the expense is claimed, minus the actual vacation time used by the employee during said fiscal year.

⁽²⁾ Indirect Costs are costs that are incurred for an organization's common objectives and that cannot be readily identified with a particular final cost objective.

8. Paragraph 15 of Exhibit A of the Agreement is hereby amended to read as follows:

15. **STAFF**

CONTRACTOR shall provide the following described staff positions continuously throughout the term of the Agreement:

<u>Position</u>	FTE ⁽¹⁾	Maximum Hourly Rate ⁽²⁾
CMT Clinical Supervisor	0.05	\$125.00
Community Engagement Coordinator	0.25	\$20.00
Counselor	1.00	\$30.00
Family Support Advocate	1.00	\$25.00
FRC Coordinator	1.00	\$30.00
Information and Referral Specialist	1.00	\$23.00

- ⁽¹⁾ For hourly employees, Full-Time Equivalent (FTE) is defined as the amount of time (stated as a percentage) the position will be providing services under the terms of this Agreement. This percentage is based upon a 40-hour work week. For salaried employees, FTE is defined as the amount of time (stated as a percentage) the position will be paid for under the terms of this Agreement, regardless of the number of hours actually worked.
- ⁽²⁾ Maximum hourly rate which will be permitted during the term of this Agreement; employees may be paid at less than maximum hourly rate.

15.1 Recruitment Practices

15.1.1 CONTRACTOR shall use a formal recruitment plan, which complies with federal and State employment and labor regulations. CONTRACTOR shall hire staff with the education, language skills, and experience necessary to appropriately perform all functions as described in this Agreement.

15.1.2 CONTRACTOR shall notify ADMINISTRATOR, in writing, no later than seventy-two (72) hours of any staffing vacancies or filling of vacant positions that occur during the term of this Agreement. For resignations, CONTRACTOR's notification shall include employee's name, position title, date of resignation, a description of planned recruitment activities, and the CONTRACTOR's contingency plan to cover services during the vacancy. For new hires, CONTRACTOR's notification shall include candidate's resume or application, position title, and date of hire.

15.1.3 The number of direct service bilingual staff proposed should include how

staffing will meet the needs of the community to be served.

15.1.4 CONTRACTOR may be required to submit employer's bilingual certification criteria and/or test results to ADMINISTRATOR.

15.2 CMT Clinical Supervisor (City)

15.2.1 Duties: A licensed clinician shall facilitate case management team group process, ensure thorough assessment and linkages for families to resources, and ensure team and/or staff members follow up on all mandated reporting requirements. Responsibilities include, but are not limited to: verify and track attendance of required CMT members; ensure PARTICIPANT confidentiality/release forms are signed by PARTICIPANT and CMT members; review the laws of confidentiality and child and elder/dependent adult abuse reporting on an annual basis, and ensure compliance for each case presented; ensure all CMT cases conferenced are multiple needs cases (i.e., not just information and referral); facilitate weekly review of CMT cases, including a thorough assessment of needs, treatment plan, follow up plan, and termination; provide and coordinate ongoing cross-training to CMT on clinical training needs; ensure families are invited to the CMT meetings; maintain weekly case logs and registration forms for each case conferenced at CMT; complete standardized CMT assessment tools, ensuring COUNTY required CMT data is accurately entered into FaCT database; and actively engage new collaborative partners and/or other COUNTY agency representatives to conference cases that would benefit families.

15.2.2 Qualifications: A Licensed Clinical Social Worker, Marriage and Family Therapist, or Licensed Clinical Psychologist. A minimum of one (1) year of group/meeting facilitation experience and proficiency in English is required.

15.3 Community Engagement Coordinator (City)

The Community Engagement Coordinator shall not be a current member of the CEAC.

15.3.1 Duties: To assist in advocacy for the expansion of the FRC CEAC and Youth Action Council programs and activities focusing on issues that affects the health, well-being, and public safety of residents in the FRC community. Oversee community organizing, volunteer recruitment and training, problem solving, and developing and implementing an outreach plan. In addition, support the efforts of local programs to explore donation and service opportunities for the FRC; develop and promote FRC volunteer project activities; develop and maintain regular contact with community organizations; coordinate and communicate with FRC Coordinator, attend all required meetings and trainings, administer FaCT-approved measurement tools, and enter the results into the FaCT database.

15.3.2 Qualifications:

Option One (1): An Associate's degree or sixty (60) college units in human services or related field from an accredited college/university; one (1) year of experience, including leadership/supervisory experience, providing direct services to the target population; capable of relating well to individuals from diverse backgrounds, cultures, varied income, and education levels; and computer competency. Proficiency in English is required. Based on community need, bilingual proficiency may be required; or

Option Two (2): Three (3) years of experience, including one (1) year of leadership/supervisory experience, providing direct services to the target population; capable of relating well to individuals from diverse backgrounds, cultures, varied income, and education levels; and computer

competency. Proficiency in English is required. Based on community need, bilingual proficiency may be required.

15.4 Counselor (City)

15.4.1 Duties: The counselor shall: provide therapy, including assessment, treatment planning, termination, and documentation; communicate applicable case related information to SSA staff, as requested; and complete FaCT designated measurement tools and enter all required data into the FaCT database.

15.4.2 Qualifications: Licensed clinician registered with the State of California Department of Consumer Affairs, Board of Behavioral Sciences (BBS); or graduate behavioral science degree intern. All associates and interns must be receiving direct clinical supervision in accordance with BBS requirements. It is the responsibility of the licensed clinical supervisor to ensure that the extent, kind, and quality of clinical services performed is consistent with the training and experience of the associate and/or intern. Proficiency in English is required. Based on community need, bilingual proficiency may be required.

15.5 Family Support Advocate (FC)

15.5.1 Duties: Responsible for serving all Family Support Services referrals. Services shall include, but not limited to: assessing family strengths and needs; linkages to resources; case planning; in-home services; communicating applicable case related information to SSA staff, as requested; compiling and maintaining records; preparing reports; presenting cases at CMT meetings; completing FaCT designated measurement tools and entering all required data into the FaCT database; and attending all required FaCT meetings and trainings.

15.5.2 Qualifications:

Option One (1): Bachelor's degree in human services or related field from an accredited university. Proficiency in English is required. Based on community need, bilingual proficiency may be required; or

Option Two (2): A minimum of three (3) years of experience providing direct services to the target population. Proficiency in English is required. Based on community need, bilingual proficiency may be required.

15.6 FRC Coordinator (City)

15.6.1 Duties: FRC Coordinator's work schedule shall be consistent with FRC operating hours and their workspace shall be located at the FRC. Perform a variety of administrative functions, including: coordinate service providers; supervise FRC staff; oversee the day-to-day operation of the FRC; compile statistical and financial data for various reports; facilitate community involvement in the CEAC; coordinate governance and policy procedure development; coordinate training opportunities for staff; prepare and monitor program budget; perform outreach to community businesses and schools; market FRC services within the community; initiate outreach to new partners and service providers; address public inquiries regarding services, procedures, operations and regulations; facilitate FRC partners and staff meetings and ensure completion of meeting minutes; complete all required documentation; attend required FaCT meetings and trainings; and perform related duties as assigned.

15.6.2 Qualifications:

Option One (1): Bachelor's degree (Master's degree preferred) in social work, sociology, psychology, or related field from an accredited university and two (2) years of experience providing direct services to the target population; capable of relating well to individuals from diverse backgrounds, cultures, varied income, and education levels; leadership

and/or supervisory experience; ability to work successfully in a collaborative environment; attention to detail; and computer competency. Proficiency in English is required. Based on community need, bilingual proficiency may be required; or

Option Two (2): A minimum of five (5) years of experience providing direct services to the target population; capable of relating well to individuals from diverse backgrounds, cultures, varied income, and education levels; leadership and/or supervisory experience; ability to work successfully in a collaborative environment; attention to detail; and computer competency. Proficiency in English is required. Based on community need, bilingual proficiency may be required.

15.7 Information and Referral Specialist (City)

15.7.1 Duties: Responsible for responding to walk-in, call-in, and referred PARTICIPANTS seeking community resources. Assess PARTICIPANTS's immediate needs and make referrals to appropriate resources. Administer FaCT-approved tracking tool and enter results into the FaCT database.

15.7.2 Qualifications: High school diploma or equivalent, one (1) year of customer service experience working directly with the public, and computer competency (i.e., knowledge and ability to use computers and related technology). Proficiency in English is required. Based on community need, bilingual proficiency may be required.

9. The parties agree that separate copies of this Amendment may be signed by each of the parties, and this Amendment will have the same force and effect as if the original had been signed by all parties.
10. All other terms and conditions of the Agreement, including those terms and conditions as modified on August 1, 2020, shall remain the same and in full force and in effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment One to Agreement the date set forth opposite their signatures. If Contractor is a corporation, Contractor shall provide two signatures as follows: 1) the first signature must be either the Chairman of the Board, the President, or any Vice President; 2) the second signature must be that of the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution or by-laws demonstrating the legal authority of the signature to bind the company.

Contractor: CITY OF STANTON

Print Name

Title

Signature

Date

Contractor: FRIENDLY CENTER, INC.

Print Name

Title

Signature

Date

Contractor: INTERVAL HOUSE

Print Name

Title

Signature

Date

County of Orange, a political subdivision of the State of California

Purchasing Agent/Designee Authorized Signature:

Print Name

Deputy Purchasing Agent
Title

Signature

Date

APPROVED AS TO FORM
COUNTY COUNSEL
COUNTY OF ORANGE, CALIFORNIA

Print Name

Deputy County Counsel
Title

Signature

Date

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: May 10, 2022

**SUBJECT: UPDATE ON BONANNI CLOUD HOUSE PROJECT LOCATED AT
12331-12435 BEACH BOULEVARD**

REPORT IN BRIEF:

In September and October of 2020, the City Council approved a Zoning Code amendment, development agreement, Planned Development Permit, and a Site Plan and Design Review (collectively the “Entitlements”) for the development of a new 321 multifamily apartment community at a 3.75 acre site located at 12331-12435 Beach Boulevard (the “Cloud House Project”).¹ The application was submitted as “Bonanni Development,” and the parties intend to clarify in the Entitlements that the applicant title is “Bonanni Development Company, LLC, a California limited liability company.” Additionally, the developer recently informed the City that it would be assigning the Entitlements to Stanton 2.0 LLC, which is also controlled by the Bonanni team.

The clarification to the documents and the assignment can be done administratively. Staff prepared this report to keep the City Council and members of the public apprised of these recent Cloud House Project developments.

RECOMMENDED ACTIONS:

1. City Council declare that this item is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2); and
2. Receive and file the update.

FISCAL IMPACT:

There is no fiscal impact to this action.

¹ The Project entitlements include: Zoning Code Amendment ZCA 20-01, Development Agreement (DA 20-03), Planned Development Permit PDP 20-04, and a Site Plan and Design Review SPDR-807.

ENVIRONMENTAL IMPACT:

This item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(5) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly)

LEGAL REVIEW:

The City Attorney's Office reviewed this report.

PUBLIC NOTIFICATION:

Public notice for this item was made through the regular agenda process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

6. Maintain and Promote a Responsive, High Quality and Transparent Government

Prepared By:

/s/ Jennifer A. Lilley

Jennifer A. Lilley
Community and Economic
Development Director

Approved as to Form By:

/s/ HongDao Nguyen

HongDao Nguyen
City Attorney

Approved By:

/s/ Jarad L. Hildenbrand

Jarad L. Hildenbrand
City Manager

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: May 10, 2022

**SUBJECT: RENEWAL OF AUTHORIZATION FOR VIRTUAL PUBLIC MEETINGS
PURSUANT TO AB 361**

REPORT IN BRIEF:

Consideration of the circumstances of the state of emergency related to the COVID-19 pandemic to determine whether remote teleconference meetings of the City Council, Committees, and Commissions can continue to be held under the provisions of AB 361.

RECOMMENDED ACTION:

1. City Council declare that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3); and
2. Reconsider the circumstances of the state of emergency; and
3. Find that state or local officials have continued to impose or recommend measures to promote social distancing; and
4. Direct staff, no later than 30 days after the City Council approves the recommended action, to report back on the state-proclaimed state of emergency so that City Council may reconsider the circumstances of the emergency, and, if appropriate, make findings to continue to hold virtual meetings of City legislative bodies pursuant to AB 361.

BACKGROUND:

On October 26, 2021, City Council adopted Resolution 2021-34, which authorized City Staff to conduct remote teleconference meetings of the City Council, Committees, and Commissions under the provisions of AB 361 (in effect as of October 1, 2021 – Government Code Section 54953(e)). Pursuant to Government Code Section 54953(e)(3), the City Council is required every thirty (30) days to reconsider the circumstances of the state of emergency and determine whether:

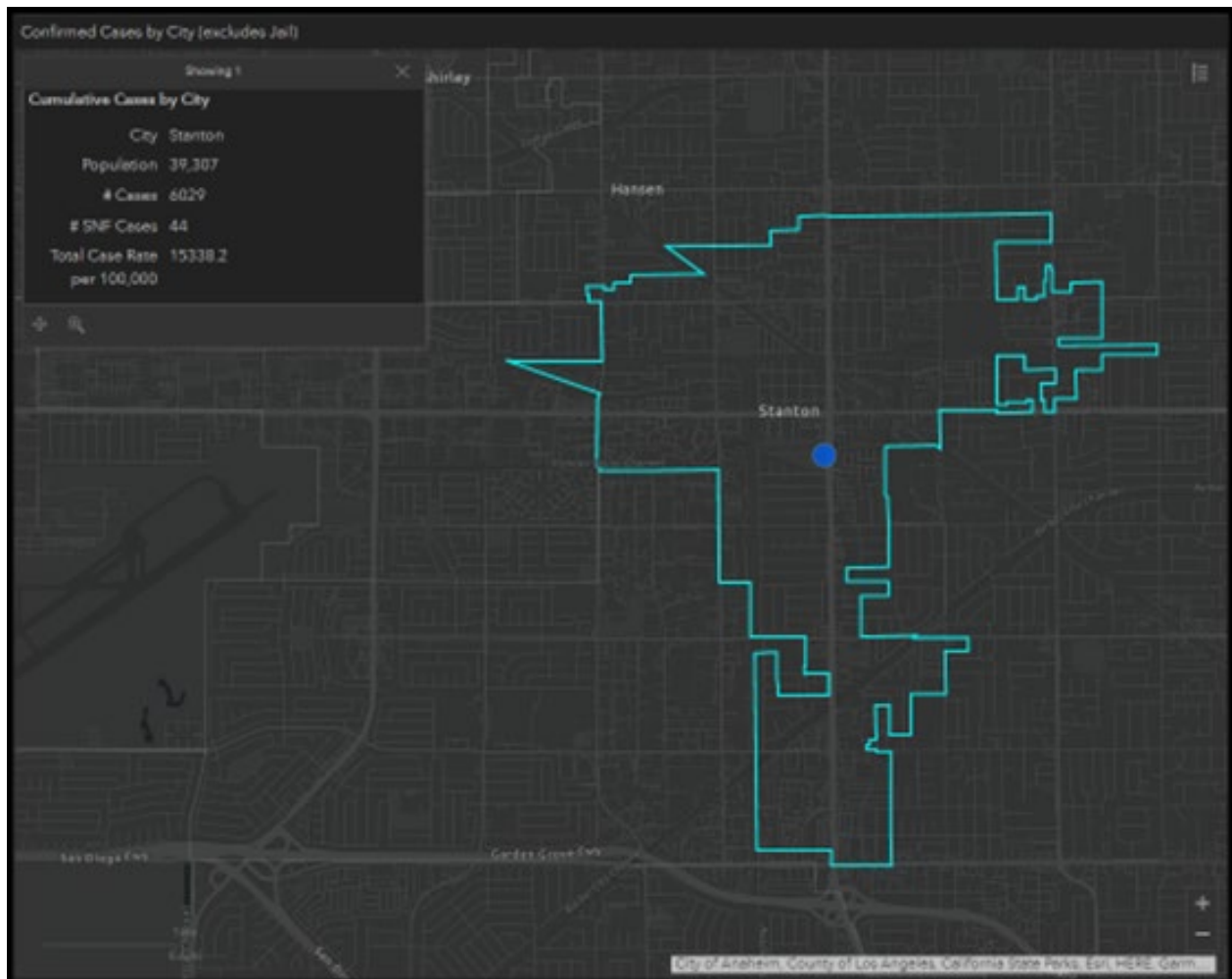
- The state of emergency continues to directly impact the ability of the members to meet safely in person, or
- State or local officials continue to impose or recommend measures to promote social distancing.

If neither of the two finding options can be made by majority vote, the City Council, Committees, and Commissions will no longer be able to continue holding public meetings by teleconference without compliance to the Ralph M. Brown Act's Section 54953(b)(3). Section 54953(b)(3) imposes notice and access requirements for public meetings conducted via teleconference. Such requirements include identifying in the meeting notice and agenda the teleconference location of each member of the legislative body participating in the meeting and ensuring that each teleconference location be accessible to the public.

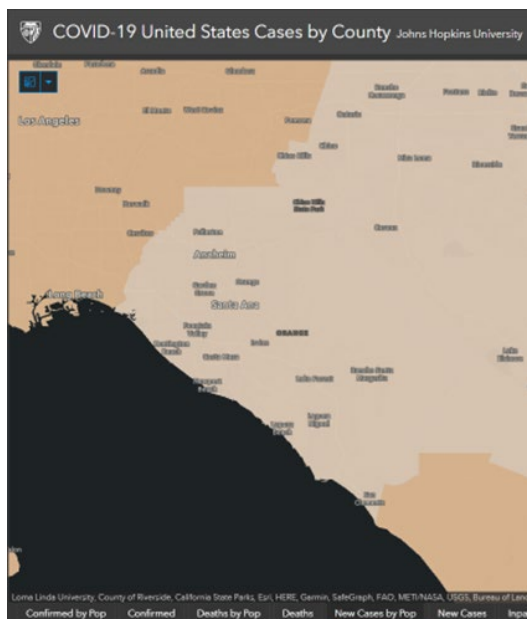
It is important to note that having virtual meetings under the provisions of Government Code Section 54953(e)(3) is optional. If the Council wishes, it may continue to meet in-person. In addition, hybrid meetings are permissible. Given that the dynamics of the pandemic and the health crisis are continually changing, the intent of the attached Resolution is to, among other things, allow for the City's Council, Commissions, and Committees to meet virtually in the event of illness, quarantine, or other government measures. If the Council will meet only or partially in-person, it should ensure compliance with the Orange County Health Care Agency's recommendations for local public meetings.

ANALYSIS/JUSTIFICATION:

Currently, the State of California and the County of Orange remain under the state of emergency brought on by the COVID-19 pandemic, particularly with the spread of the Omicron BA.2 Variant. State and local officials are still recommending measures to promote social distancing.



[COVID-19 Cases by City](#)



[COVID-19 United States Cases by County \(by Johns Hopkins University\)](#)

Update for May 3, 2022



Updated May 3, 2022 at 9:36 AM, with data from May 2, 2022. Data is updated on Tuesdays and Fridays.

[Vaccines administered source data](#) and [cases, deaths, and tests source data](#)

[Tracking COVID-19 in California](#)

FISCAL IMPACT:

None.

ENVIRONMENTAL IMPACT:

None. This item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(4) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

LEGAL REVIEW:

None.

STRATEGIC PLAN OBJECTIVE(S) ADDRESSED:

1. Provide a safe community.

PUBLIC NOTIFICATION:

Public notice for this item was made through the regular agenda process.

Prepared By:

/s/ Jason Huynh

Jason Huynh
Management Analyst

Approved as to Form By:

HongDao Nguyen
City Attorney

Approved By:

/s/ Jarad L. Hildenbrand

Jarad L. Hildenbrand
City Manager

CITY OF STANTON

REPORT TO CITY COUNCIL

TO: Honorable Mayor and Members of the City Council

DATE: May 10, 2022

**SUBJECT: CITY OF STANTON'S AMERICAN RESCUE PLAN ACT (ARPA)
ALLOCATION OF FUNDS REVIEW AND UPDATE**

REPORT IN BRIEF:

Staff will provide an American Rescue Plan Act (ARPA) presentation to provide the City Council with an update and review of the City's ARPA allocation plans. In addition, staff is recommending the City Council shift the funding source for the City's funding commitment of the permanent supportive housing project located at the Riviera Motel from the ARPA Fund (#257) to the Housing Authority Fund (#285).

RECOMMENDED ACTION:

1. City Council declare that this item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) and 15060(c)(3); and
2. Receive and file the presentation;
3. Approve an appropriation to reallocate the City's \$2,500,000 Homekey Project funding commitment regarding the Riviera Motel acquisition (Task Code 2022-832) from the ARPA Fund (#257) to the Housing Authority Fund (#285); and
4. Direct City Staff to allocate unencumbered ARPA funds to specified unfunded projects, based on the priorities identified by the City Council.

BACKGROUND:

Through the passage of H.R. 1319, the American Rescue Plan Act of 2021 (ARPA), state, tribal, and local governments have received billions in much-needed relief to help offset the negative impacts of COVID-19. The City of Stanton has been allocated a total of \$9,123,660 of these Coronavirus State and Local Fiscal Recovery Funds (SLFRF), with the second of two equal installments expected to be received at the end of July 2022. The entire SLFRF allocation must be encumbered by the end of calendar year 2024. The first Annual Project and Expenditure report is due to the U.S. Department of the Treasury by April 30, 2022.

On January 27, 2022, the U.S. Treasury Department published a Final Rule to implement the SLFRF program. The Final Rule establishes five eligible use categories for the funds:

- Responding to the public health emergency or its negative economic impacts.
- Providing premium pay to eligible workers (performing essential work).
- Providing government services (to the extent of the reduction in the recipient's general revenue due to the public health emergency).
- Making necessary investments in water, sewer, and broadband infrastructure.
- Meeting the non-federal matching requirements for Bureau of Reclamation projects.

Under the Final Rule's Standard Allowance threshold, the City is allowed to claim \$10 million as general revenue loss due to the public health emergency. By opting to take the Standard Allowance, the City is permitted to use its entire \$9,123,660 for the provision of government services. The Treasury Department has clarified 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." Activities that the Treasury Department has explicitly excluded from the definition of government services include:

- Payment of debt service;
- Replenishing of financial reserves (e.g., rainy day funds);
- 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;
- Deposits into any pension fund; and
- Uses that conflict with the overall statutory purpose of ARPA to reduce the spread of COVID-19.

ANALYSIS:

At the July 27, 2021 City Council meeting, the City's ARPA spending allocation plan was presented with the acknowledgement that the listed projects were estimates and subject to change.

Since then, the City has adjusted the spending plan with two major projects to the allocation plan: 1) a \$2.5 million funding commitment for the acquisition of the Riviera Motel (as part of a Homekey Project for permanent supportive housing) and 2) a \$2.8 million tentative allocation for the purchase of Bauman's Market and adjacent parcels (as part of an effort to revitalize the town center). The adjustment of these two major projects, combined with a refinement of cost estimates for the initial projects, has resulted in a current ARPA budget of about \$9.5 million, nearly \$400,000 more than the City's ARPA fund allocation. The current ARPA budget does not include a number of the initial projects that were approved.

Because of the Standard Allowance option, City Staff recommends that the funding commitment for the acquisition of the Riviera Motel be drawn from the Stanton Housing Authority fund balance. This would allow the City to fund several other initially approved projects that are not part of the current ARPA budget.

FISCAL IMPACT:

The total project commitments in the ARPA Fund (#257) exceeds the City's total ARPA allocation of \$9.1 million by approximately \$400,000. Staff is recommending shifting the funding for the Riviera Motel project from the ARPA Fund to the Housing Authority Fund (#285). If approved, the estimated available balance in the Housing Authority Fund would be reduced from \$12.1 million to \$9.6 million by June 30, 2022.

ENVIRONMENTAL IMPACT:

None. This item is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378(b)(5) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly).

LEGAL REVIEW:

None.

STRATEGIC PLAN OBJECTIVE(S) ADDRESSED:

1. Provide a safe community.
2. Provide a strong local economy.
3. Provide a quality infrastructure.
4. Ensure fiscal stability and efficiency in governance.
5. Provide a high quality of life.
6. Maintain and promote a responsive, high-quality, and transparent government.

PUBLIC NOTIFICATION:

Public notice for this item was made through the regular agenda process.

Prepared By:

/s/ Jason Huynh

Jason Huynh
Management Analyst

Reviewed By:

/s/ Soo Elisabeth Kang

Soo Elisabeth Kang
Assistant to the City Manager

Approved By:

/s/ Jarad L. Hildenbrand

Jarad L. Hildenbrand
City Manager

Attachment(s):

- A. City of Stanton's ARPA Update Presentation – Year 1, Quarter 3
- B. U.S. Department of Treasury Coronavirus State and Local Fiscal Recovery Funds Final Rule

Attachment: A

[Click here to return to the agenda.](#)



ARPA YEAR 1, QUARTER 3 CITY COUNCIL UPDATE RESPOND, RECOVER, REBUILD

Reporting Period:
January 26, 2021, to April 26, 2022

INITIALLY APPROVED PROJECTS (JULY 2021)

- Community Education on Public Health
 - Safety Measures at City Facilities
 - HVAC Ionization Incentives for Stanton Businesses
 - Homeless Outreach Expansion/Enhancement
 - Crime Prevention Program
 - Sheriff Department Front Counter
 - Park Safety Measures
 - Security Camera Community Safety Plan
 - Flock Camera Expansion
-
- "Life on Beach" Revitalization Project
 - Economic Recovery Management and Workforce/Small Business Recovery Program
 - Community & Business Coronavirus Relief Grants
 - Outdoor Dining Design & Safety Guidelines
 - Small Business Promotion
 - Homekey Acquisitions (Riviera Motel)
 - Measures to Preserve Affordable Housing (Rental Assistance) and Promote Homeownership
 - Town Center Specific Plan Implementation
 - Citywide Parking Strategy
 - General Plan Update
 - Community Access (to Resources) Mapping
 - Zoning Code Update
 - Incentives to Retrofit Multi-Family Public Spaces and Alleviate Density
 - Online Resources Integrated System

INITIALLY APPROVED PROJECTS (JULY 2021)

- Backfill Loss Revenue (for provision of government services)
- ARPA Accounting & Administration

-
- Administrative Management & Analysis
 - NeoGov Recruitment Software
 - Commuting Reimbursement (FasTrak)
 - Update City Hall Reader Board
 - Upgrade Council Chamber Speaker/Audio System & Audio Recording
 - Language Accessibility for City Operations
 - Sphere of Influence - Island Annexation Study
 - Grant for Boys & Girls Club of Stanton

-
- Community Needs Assessment
 - Measures to Improve Access to and Encourage Use of Parks and Outdoor Space
 - Holistic Care - Mental Health Counseling, Child Care, Equitable Outreach

-
- ENGIE Energy Efficiency and Renewable Energy Generation
 - City Hall Battery Energy Storage System (BESS) and Generator
 - Urban Forest Management Program

CURRENTLY BUDGETED PROJECTS

Project	Budget
Disinfection at City Facilities	\$25,200
Homeless Outreach Coordinators	\$1,237,455
Crime Prevention Specialist and Sheriff Dept. Office Specialist	\$746,465
Sheriff's Station Reflooring*	\$60,000
Planning Manager and Community & Economic Development Departmental Assistant	\$723,233
Bang the Table Engagement Platform (Let's Talk Stanton)	\$14,890
Online Resources Integrated System (Land Management)	TBD
Senior Accounting Technician (Grant Specialist)	\$299,650
Management Analyst	\$288,235

Project	Budget
NeoGov Recruitment Software	\$20,000
Grant for Boys & Girls Club of Stanton	\$250,000
Purchase of Bauman's Market*	\$2,800,000
Contribution to Riviera Motel Acquisition	\$2,500,000
Additional ARPA-related Costs Incurred through 6/30/21	\$254,178
Community Needs Assessment	\$23,900
Outdoor Fitness Court (Stanton Park)	\$127,910
Holistic Care (Part-time Counselor?)	\$132,065
Total	\$9,503,181+

*Not part of Initially Approved Budget

ARPA WISHLIST PROJECTS

- Public Health Navigator
- HVAC Ionization Incentives for Stanton Businesses
- Park Safety Measures
- Security Camera Community Safety Plan
- Flock Camera Expansion

-
- "Life on Beach" Revitalization Project
 - Community & Business Coronavirus Relief Grants
 - Outdoor Dining Design & Safety Guidelines
 - Small Business Promotion
 - Measures to Preserve Affordable Housing (Rental Assistance) and Promote Homeownership
 - Town Center Specific Plan Implementation
 - Citywide Parking Strategy
 - General Plan Update

- Zoning Code Update
- Incentives to Retrofit Multi-Family Public Spaces and Alleviate Density

-
- Language Accessibility for City Operations
 - Sphere of Influence - Island Annexation Study
 - City Rebrand and Marketing Strategy
 - Cybersecurity Modernization
 - Stanton Equity Map and Data Dashboards

-
- ENGIE Energy Efficiency and Renewable Energy Generation
 - City Hall Battery Energy Storage System (BESS) and Generator
 - Urban Forest Management Program
 - Fleet Additions (electric vehicle, skip loader)



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: Katherine 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 19, 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

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 Analysis.

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, or 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

¹ Public Law 117-2, <https://www.congress.gov/117/plaws/pub2/PLAW-117-pub2.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 nonincorporated units of local government.

³ 86 FR 26798 (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, <https://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.

⁸ U.S. Bureau of Economic Analysis, Real Gross Domestic Product (GDP), retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/GDP> (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 (CES9090000001), retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9090000001> (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, nonincorporated units of local government, and counties.

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

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

¹⁷ In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section 602(c)(1)(A) of section 602 and 603 of the Social Security Act.

¹² Centers for Disease Control and Prevention, COVID Data Tracker, <https://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).

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: CES9099000001 and All Employees, Local Government: CES9099000001, retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9099000001> and <https://fred.stlouisfed.org/series/CES9099000001> (last visited December 7, 2021).

¹⁶ Tracy Gordon, State and Local Budgets and the Great Recession, Brookings Institution (Dec. 31, 2012), <https://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession/>.

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 these 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 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.

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

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.

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 I-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

State and Metropolitan Area, available at <https://www.huduser.gov/portal/datasets/il/121/area-definitions-FY21.pdf>.

²⁴ 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=010000US%204000%2021&tid=ACST5Y2019.S1901&tid=ST001_0122&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=190126&tid=ACST5Y2019.S190126&hidePreview=true>.

²⁵ 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).

²⁶ U.S. Census Bureau, Poverty Status by State, <https://www.census.gov/data/tables/time-series/dema/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

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 Rodriguez (2015) define the "middle class" as those with incomes of at least 300 percent of the poverty line. Melissa Kearney et al., "A Dime Doers about America's Struggling Lower-Middle Class," The Hamilton Project (December 2013), https://www.hamiltonproject.org/assets/images/files/downloads_and_links/THP_12LowIncomeFacts_Final.pdf; Isabel Sawhill and Edward Rodriguez, "An Agenda for Reducing Poverty and Improving Opportunity," Brookings Institution, https://www.brookings.edu/wp-content/uploads/2016/07/Sawhill_FINAL.pdf.

³⁰ Date 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/58701/2001806_foodinsecurity_housinghardship_medicalcareutilization_finalized.pdf.

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

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 (LHEAP)
 - Pell Grants
 - For services to address educational disparities, Treasury will recognize Title

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 608(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

³² For instance, the American Community Survey does not include all territories. U.S. Census Bureau, Areas Published, <https://www.census.gov/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-geography.php>.

³⁵ Lisa Stoyler 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-us-territories-covid-19-and-the-medicare-financing-cliff/>.

³⁶ The term *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. 6312), 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

³⁹ 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).

⁴⁰ Centers for Disease Control and Prevention, COVID Data Tracker, <https://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 workplaces, 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.columbusohio.gov/recovery/>.

⁴⁴ Luzerne County, Pennsylvania Recovery Plan, <https://www.luzerne-county.org/DocumentCenter/View/58394/Plan-Interim-Recovery-Plan-Performance-Report-83221>.

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 90 percent increase in drug overdose mortality from April 2020 to April 2021, bringing the estimated period over 100,000 for the first time ever.⁴⁹ The CDC also found that 13 percent of adults started or increased

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/>; Mark E. Cressler 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. Lee et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 4–October 12, 2020, *Morb. Mortal. Wkly. Rep.* 68(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/vsr/drug-overdose-data.htm> (last visited May 8 December 6, 2021).

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,

⁵⁰ Panchal, *supra* note 46; Mark E. Cressler 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 Release, 2020 Crime Statistics (September 27, 2021), <https://www.fbi.gov/news/press-releases/fbi-releases-2020-crime-statistics>.

⁵³ Id.

⁵⁴ Id.

⁵⁵ The Educational Fund to Stop Gun Violence, Community Gun Violence, <https://efgv.org/learn/type-of-gun-violence/community-gun-violence/> (last visited November 9, 2021).

⁵⁶ Offords Law Center, Healing Communities in Crisis: Lifesaving Solutions to the Urban Gun Violence Epidemic (March 2016), <https://offords.org/wp-content/uploads/2019/01/Healing-Communities-in-Crisis.pdf>.

libraries, and other public spaces.⁵⁷ Similarly, Los Angeles County will further invest in its "Care First, Jail 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, <https://file.lacounty.gov/SDSInter/soe/supdoc/160301.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/mm7015a2.html>.

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 eleven variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

⁶³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases and Deaths in the United States, by Social

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.⁶⁰ Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID-19 mortality.⁶¹ 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.⁶²

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.⁶³ 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.⁶⁴

Vulnerability Index, https://covid.cdc.gov/covid-data-tracker/#pop-factors_fatalities (last visited December 7, 2021).

⁶⁰ 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-19-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> (last visited December 7, 2021).

⁶¹ 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/facial-ethnicity/racial-ethnic-disparities/disparities-illness.html> (last visited December 7, 2021).

⁶² Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID-19: Evidence from Geolocation Data (Sept. 22, 2020), NTU Stern School of Business (forthcoming), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3689546; Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, JAMA 324(4):389-90 (2020), available at <https://jamanet-work.com/journals/jama/fullarticle/2249320>.

⁶³ See, e.g., Joseph C. 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.* 20(1):15–21 (Feb. 5, 2021), <https://www.cdc.gov/mmwr/rr/rr0201a01.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/hlthaff.2020.03.19.757883.full>.

⁶⁴ 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.⁶⁵ 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.* 89(38):1369–73 (Sept. 25, 2020), <https://www.cdc.gov/mmwr/volumes/89/wr/mm8938a1.htm>.

⁶⁵ Generally, funding uses eligible under CRRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under the AFPA, including those not explicitly listed in the final rule, with the following two exceptions: (1) The standard for eligibility of public health and safety payroll 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;⁶⁶ 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.⁶⁷ 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.⁶⁸ 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

⁶⁶ See Centers for Disease Control and Prevention, COVID Data Tracker, https://covid.cdc.gov/covid-data-tracker/#trends_dailycases (last visited December 7, 2021).

⁶⁷ See Centers for Disease Control and Prevention, COVID-19, <https://www.cdc.gov/coronavirus/2019-nCoV/index.html> (last visited November 8, 2021).

⁶⁸ See 35.8(b); Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 26766.

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.⁶⁹ Since that time, the FDA has authorized booster vaccine doses for certain groups and certain vaccines and has also authorized vaccines for youths.⁷⁰ 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

⁶⁹ Centers for Disease Control and Prevention, Coronavirus (COVID-19) Vaccinations in the United States, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last visited October 18, 2021).

⁷⁰ 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).

⁷¹ 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 Supplemental 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

⁷⁵ Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021, <https://www.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.

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 homeless 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

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 assistance 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.

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).

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, copays, 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

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 insurance⁷⁶ 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.⁷⁷ 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

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

⁷⁶ Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CLF16OV> (last visited December 7, 2021).

⁷⁷ 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/empstat101.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/empstat/cps0004.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/empstat/cps0005.htm> (last visited December 7, 2021).

⁷⁸ Elise Gould & Jodi Kundra, Wage grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), <https://www.epi.org/publications/wage-growth-2020/>. 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/omw/research-papers/2021/pdf/ec210200.pdf>.

⁷⁹ 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-recession-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 (GDP), retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/GDP> (last visited December 7, 2021).

⁸⁶ U.S. Department of the Treasury, Economy Statement by Catherine Williams, Acting Assistant Secretary for Economic Policy, for the Treasury Borrowing Advisory Committee (November 1, 2021), available at <https://home.treasury.gov/news/press-releases/2021/11/01>.

⁸⁷ Yulia Hayashi, IMF Cuts Global Growth Forecast Amid Supply-Chain Disruptions, 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,

⁷⁶ However, SLFRF funds may not be used to reimburse a service that was also billed to insurance.

⁷⁷ 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/Biden-Harris-Statement-of-Drug-Policy-Priorities-April-1.pdf>.

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 well-being.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 This disproportionate negative impact 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

⁹³ 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.

⁹⁴ Irvin Garfinkel, Sara McLanahan, Christopher Wimer, eds., *Children of the Great Recession*, Russell Sage Foundation (Aug. 2016), available at <https://www.russellsage.org/publications/children-of-the-great-recession>.

⁹⁵ Kyle J. Caswell 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/69701/201806_foodinsecurity_housinghardship_medicalcareutilization_finalized.pdf.

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* [LNS11300021], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/LNS11300021> (last visited December 7, 2021).

⁹⁸ See, e.g., Michael Greenstein & 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 See, e.g., Michael Greenstein & 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/>.

¹⁰⁰ Elise Gould and Malet Kaes, *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 2021), available at <https://www.epi.org/publication/swo-2020-employment-report/>.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

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

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

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."¹³² 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.¹³⁴ 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,¹³⁵ meaning they do not have the ability to meet their energy needs.¹³⁶ 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.¹³⁷ These

¹³⁴ 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>.

¹³⁵ U.S. Energy Information Administration, *Residential Energy Consumption Survey (RECS)*, Retrieved from <https://www.eia.gov/consumption/residential/data/2018/het/php/hc1.1.php>.

¹³⁶ Hernández, D. (2016). Understanding 'energy insecurity' and why it matters to health. *Social Science & Medicine*, 167, 1–10 (2016). <https://doi.org/10.1016/j.socscimed.2016.09.028>.

¹³⁷ 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.2016.09.028>.

¹³⁸ U.S. Energy Information Administration, *Residential Energy Consumption Survey (RECS)*, Retrieved from <https://www.eia.gov/consumption/residential/data/2018/het/php/hc1.1.php>. (last visited November 9, 2021).

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.¹³⁸ 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.¹³⁹ With increased use of

technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

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).¹⁴⁰ 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.¹⁴¹ 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.¹⁴² 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.¹⁴³

Public Comment: Many commenters highlighted the importance of broadband access during the pandemic, including for remote work and

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>.

¹⁴⁰ 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-compare-worldwide>.

¹⁴¹ 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/>.

¹⁴² 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/>.

¹⁴³ Id.

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 services 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.

¹³² 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/SLFRFAQ.pdf>.

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 use 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 1505–1536 (2019), <https://www.nber.org/papers/w24682>.

(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 Zammaro & Man's J. Prodos, 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/s11362-020-09634-7>; Titus Alon et al., The Impact of COVID-19 on Gender Equality, National Bureau of Economic Research Working Paper 26847 (April 2020), available at <https://www.nber.org/papers/w26847>.

¹²⁹ See, e.g., Center For The Study Of Child Care Employment (CSOCC), Child Care Sector Jobs: ELS Analysis (November 8, 2021), <https://csoccc.berkeley.edu/child-care-sector-jobs-els-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:10.1177/23780232211032026; Jason Furman, Malissa Scheridini Kearney, and Wilson Powell, The Role of Childcare Challenges in the U.S. 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

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.¹³⁴ 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,¹³⁵ and health and safety concerns.¹³⁶ As a result, children's school readiness has suffered, leading to potential long-term impacts on life outcomes.¹³⁷ 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 M. 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>.

¹³³ National Association for the Education of Young Children, Am I Next? Sacrificing to Stay Open, Child Care Providers Face a Risky Future Without Relief (December 2020), <https://www.naeyc.org/sites/default/files/globally-shared/downloads/PDF>.

¹³⁴ C. 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-19-on-Preschool-Enrollment-and-Spending_3-19-21.pdf.

¹³⁵ 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/child-care-workers-quit/>.

¹³⁶ Monash University, The emotional toll of COVID-19 among early childhood educators (August 5, 2020), <https://news.monash.edu/education/2020/08/05/181801/the-emotional-toll-of-covid-19-among-early-childhood-educators/>.

¹³⁷ Daphne Bassok and Anna Shapiro, Understanding COVID-19-era enrollment drops

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-19.¹⁴⁰ 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 pandemic.¹⁴¹ 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 Jewaid, Sarah Burington, Sarah D. Compton, Elizabeth Kaselitz, Marie Muzik, Cheryl A. Meyer, 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 0268-8138, <https://doi.org/10.1016/j.midw.2021.102991>.

¹⁴² A. Basu, H.H. Kim, R. Basaldua, K.W. Choi, L. Charon, 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 5, 2020), <https://www.nytimes.com/2020/04/05/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/officer-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/> (last visited November 9, 2021).

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://fbay.org/wp-content/uploads/2021/04/IBAY-COVID-19-Impact.pdf>.

¹⁴⁸ John Kelly, Nine Week, Thousands of Foster Youth Will Age Out on the Same Day (September 21, 2021), <https://imprntnews.org/subscriber-content/thousands-of-foster-youth-will-age-out-on-the-same-day/39068>.

¹⁴⁹ Council on Children, Children, 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. 157-172, doi:10.1177/1524838019875912.

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.

¹⁵⁰ Verelnden JV, Pampati S, Raeberry 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 15, 2020. *MMWR Morb Mortal Wkly Rep* 2021;70:389–397. DOI: <https://dx.doi.org/10.15585/mmwr.mm7011e1a1>.

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,

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>.

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 housing to increase supply 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

¹⁵² Consumer Financial Protection Bureau, Housing insecurity and the COVID-19 pandemic, <https://www.consumerfinance.gov/newsroom/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

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 Pickler, Katherine Wen, and Nicolas R. Ziebarth, COVID-19 Emergency Sick Leave Has Flipped Flattening The Curve In The United States: Study examined 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.2020.0968>.

¹⁵⁶ Scott Brown et al., Employees and Workers Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys, Aetna Associates (July 2020), https://www.dol.gov/sites/dolgov/files/OASFP/evaluation/pdf/WHED_FMLA2018SurveyResults_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/mir/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-and-medical-leave.htm>.

(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/insights/files/Harvard_JCHS_State_Nations_Housing_2021.pdf.

¹⁵⁴ Devin Reed and Eileen Divingdi, 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.fpmg.org/theses/content/dam/fpmg/fpmg-cur-cure-and-ccf-institute/pdf/institute-trading-equity-for-liquidity.pdf>.

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, at 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 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.¹⁶⁴

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.¹⁶⁵ 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,

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, coins, 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 prepaid 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

¹⁷² 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-u-s-households-in-2018-banking-and-credit.htm>.

¹⁷³ Zabeer 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, <https://doi.org/10.17185/2020-12-02-0318-0-00008-0>.

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

¹⁶⁰ U.S. Bureau of Labor Statistics, Employee Benefits in the United States (March 2019), <https://www.bls.gov/news.release/benefits/2019/ownship/civilian/tables31a.pdf>.

¹⁶¹ Maya Rossin-Slater et al., Local exposure to school shootings and youth antidepressant use, *Proceedings of the National Academy of Sciences*, vol. 117(78), pages 23484–23489 (2020), <https://www.pnas.org/content/117/78/23484>; Ariel Marek Pili and Gaetano Basso, Did California Paid Family Leave Impact Infant Health?, *Journal of Policy Analysis and Management*, <https://onlinelibrary.wiley.com/doi/10.1002/pam.2310>.

¹⁶² 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/pii/S0277953613000681>.

¹⁶³ E. Lightfoot, R.P. Moore, Caregiving in times of uncertainty: Helping adult children of aging parents find support during the COVID-19 outbreak, *Journal of Gerontological Social Work*, 65(6–7), 542–552 (2020), <https://www.tandfonline.com/doi/abs/10.1080/08982643.2020.1789793>.

¹⁶⁴ 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.

¹⁶⁵ S.A. Cohen, Z.J. Kenickel, M.M. Deaton, M.L. Greenay, Exploring Changes in Caregiver Burden and Caregiving Intensity due to COVID-19, *Gerontology that Geriatric Medicine* (January 2021), <https://doi.org/10.1177/2333721421896276>.

¹⁶⁶ *Id.*

¹⁶⁷ 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/>.

¹⁶⁸ 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>.

¹⁶⁹ 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>.

¹⁷⁰ 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-checks/2021-federal-health-insurance-exchange-weekly-enrollment-snapshot-final-snapshot>.

¹⁷¹ Sara R. Collina, Munira Z. Gupta, and Gabriella N. Aboukhalil, U.S. Health Insurance Coverage in 2020: A Looming Crisis in Affordability (New York: Commonweath Fund, 2020), available at <https://www.commonwealthfund.org/publications/issue-briefs/2020/looming-crisis-health-coverage-2020-brief.pdf>.

¹⁷² *Id.*

¹⁷³ Federal Deposit Insurance Corporation, FDIC National Survey of Unbanked and Underbanked Households (2018), <https://www.fdic.gov/householdsurvey/2018/2018ExecutiveSummary.pdf>.

¹⁷⁴ Federal Deposit Insurance Corporation, How America Banks: Household Use of Banking and Financial Services 2019 FDIC Survey, <https://www.fdic.gov/news/analysis/household-survey/2019report.pdf>.

¹⁷⁵ 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).

¹⁷⁶ *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

balance and deposit more SLFRF funds, back up to the pre-pandemic balance.

Enumerated Eligible Uses for Disproportionately Impacted Households

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 underserved 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 communities 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

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-Explanatory.pdf>.

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_jquery/1199901/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_jquery/1199516/covid-equity-issue-brief.pdf.

¹⁸² Perry, Brea L., Brian Aronson, and Bernice A. Pascosolido, 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 Bernett & Rakesh Kochhar, Two Recession, Two Recoveries, Pew Research Center (December 13, 2019), <https://www.pewresearch.org/social-trends/2019/12/13/two-recessions-two-recoveries-2/>.

¹⁸⁵ Derrick 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., Pantalone NP, Feldman JM, Ogden O., Thorpe L, Troxel AB, Assessment of Community-Level Disparities in Coronavirus Disease 2019 (COVID-19) Infections and Deaths in Large US Metropolitan Areas [AMA New Open. 2020;37(7):e2019938. doi:10.1001/jama.networkopen.2020.16938.

requested further clarification on their role.¹⁴⁷ 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.¹⁴⁸

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.¹⁴⁹ 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.”¹⁵⁰ As such, CDC identifies “neighborhoods and built environment” as one of five key social determinants of health¹⁵¹ 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 community¹⁵² 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

¹⁴⁹ U.S. Department of Health and Human Services, Neighborhood and Built Environment, <https://health.gov/fundamentals/objectives-and-data/browse/objectives/neighborhood-and-built-environment/c11> (last visited November 9, 2021).

¹⁵⁰ 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).

¹⁵¹ 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).

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.”¹⁵³

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.¹⁵⁴ 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.^{155 156}

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

¹⁵³ J. Beaulac, E. Kristjansson, S. Cummins, A. systematic review of food deserts, 1996–2007, *Prev Chronic Dis* 2008;(6):A105, http://www.cdc.gov/pod/issue/2008/06/08_0105.htm.

¹⁵⁴ See, e.g., Trish 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, no. 8640 (Sep. 13, 2020), doi:10.3390/ijerph17086400; 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;(3):e180298 (2018), available at doi:10.1001/jamanetworkopen.2018.0298.

¹⁵⁵ See, e.g., Yangxiu Xu, Cong Fu, Eugene Kennedy, Shaohua Jiang, Samuel Owens-Agnew, The impact of street lights on spatial-temporal patterns of crime in Detroit, Michigan, *Cities*, Volume 79, Pages 45–53, ISSN 0264-2761 (2018), <https://doi.org/10.1016/j.cities.2018.03.021>.

¹⁵⁶ A. Chaffin, R. 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/s10940-020-0949-6>.

mortality and illness and increased well-being.¹⁵⁷ Urban park use during the COVID-19 pandemic may have declined among lower-income individuals.¹⁵⁸ 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.¹⁵⁹ 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 2020.¹⁶⁰ 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.

¹⁵⁷ 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/2013/07/08/08/08/18/improving-health-and-wellness-through-access-to-nature>.

¹⁵⁸ LR Larson et al., Urban Park Use During the COVID-19 Pandemic: Are Socially Vulnerable Communities Disproportionately Impacted?, *Front. Sustain. Cities* 3:710245 (2021), <https://doi.org/10.3389/fsc.2021.710245>.

¹⁵⁹ P. 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>.

¹⁶⁰ Caroline George and Adie Toomey, 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/>.

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,¹⁶¹ 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

¹⁶¹ 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.

¹⁴⁷ See, e.g., Centers for Disease Control and Prevention, Community Health Worker (CHW) Toolkit, <https://www.cdc.gov/dhcdp/public/toolkits/chw-toolkit.htm> (last visited November 9, 2021).

¹⁴⁸ Environmental Protection Agency, 40 CFR 141.80(c)(1), <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-D/part-141/subpart-Usection-141.80>.

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 use (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 2—Redevelop Demolished or Vacant Properties?* (October 2021), <https://www.hudexchange.info/faq/programs/neighborhood-stabilization-program-redevelopment/what-is-the-definition-of-vacant-properties-as-referenced-in-nsp-eligible-use-2-redevelop-demolished-or-vacant-properties/>, U.S. Department of Housing and Urban Development, *What are the definitions of abandoned and foreclosed?* (October 2021), <https://www.hudexchange.info/faq/programs/neighborhood-stabilization-program-nsp-program-requirements/eligible-activities/what-are-the-definitions-of-abandoned-and-foreclosed/>.

²⁰² 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> (last visited November 9, 2021). 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> (last visited November 9, 2021). ²⁰⁴ 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> (last visited November 9, 2021).

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=DP001&tid=ACSDP57015.DP048&hidePreview=true> or <https://www.huduser.gov/portal/datasets/vacp.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.

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 86 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 28 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(d)(1)(A) and 603(d)(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

"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 operating 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

²⁰⁵ Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), <https://www.federalreserve.gov/monetarypolicy/2020-06-mp-report-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. Nixson, Remarks by President Nixson on Helping Small Businesses (Feb. 22, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-nixson-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.adoxy.com/wp-content/uploads/2021/03/02/12318/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. Barkin et al., The Impact of COVID-19 on Small Business Outcomes and Expectations, FNAS 117(30): 17856–68 (July 28, 2020), available at <https://www.pnas.org/content/117/30/17856>.

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.14002>.

²¹⁴ U.S. Small Business Administration, The Effects of the COVID-19 Pandemic on Small Businesses (March 2021), <https://cdn.adoxy.com/wp-content/uploads/2021/03/02/12318/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, <https://www.federalreservebankatlanta.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, philadelphiabfed.org/covid-19/covid-19-equity-in-recovery/what-small-businesses-will-be-impacted.

²¹⁸ Lucas Mares, An Uphill Battle: COVID-19's Outstated Toll on Minority-Owned Firms, Federal Reserve Bank of Cleveland (October 6, 2020), <https://www.clevelandfed.org/newsroom-and-events/publications/community-development/briefs/20201006-minority-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>.

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 facade 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

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 assistance 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

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 121.105(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).

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.frb.org/community-development/files/impact-of-covid>.

²²² Philanthropy and COVID-19: Measuring one year of giving, Covid and the Center for Disaster Philanthropy. (2021), <https://www.issueatlas.org/resources/38039/38039.pdf>.

²²³ Id.

²²⁴ Elizabeth T. Boix 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), <https://ccss.jhu.edu/november-2021-jobs/>.

²²⁷ Elizabeth T. Boix et al., *supra* note 224 at p. 38.

²²⁸ § 35.3 Definitions.

²²⁹ 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.²⁹¹

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 Act.²⁹² See section Distinguishing Subrecipients versus Beneficiaries for further information. Additional guidance on determining subrecipient status may be found in the Uniform Guidance.²⁹³

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

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.²⁹⁴ 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)(8)s and 501(c)(19)s were eligible for assistance.²⁹⁵

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."²⁹⁶ 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 districts²⁹⁷ 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.

²⁹¹ 501(c)(3) Definitions.

²⁹² 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).

²⁹³ Coronavirus State and Local Fiscal Recovery Funds, 86 FR at 28798.

²⁹⁴ 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/1361/SLFRFAQ.pdf>.

²⁹⁵ 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.

²⁹⁶ See sections 602(c)(8) and 603(c)(8) of the Social Security Act. See also Section 401 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11901(17), which defines a "private nonprofit organization."

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.³²⁸ 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).³²⁹ 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.

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.³⁴⁰ 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

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.

³²⁸ 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.

³²⁹ 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/lag/lag70.htm> (last visited December 7, 2021).

³⁴⁰ 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 200.316(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.

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 employees²⁴² 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, on 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

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, educational, 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 adopted 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.

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

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.

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

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 rehiring 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 $1,000 \times 1.075 = 1,075$ 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)(12) 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 policymaking 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>.

²⁴⁷ Results for America, Invest in What Works State Standard of Excellence (August 2020), https://8020state.resultsforamerica.org/2020_State-Standard-of-Excellence.pdf.

²⁴⁸ 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>.

- **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/SLFRFFAQ.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

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., videoconferencing 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

resolution, and other expenses to expedite case resolution are eligible uses."

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.

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 expenditures, 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

²⁵⁰ See 25 U.S.C. 5108.

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

feasible. Where relevant, recipients should compare the proposed 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.

²⁵⁰ 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_1631030158017.

²⁵¹ For instance, researchers have found no consistent positive relationship between building sports facilities and local economic development. As Siegfried and Zimbalist (2000, 102) 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): 98–114, <https://www.aeaweb.org/articles?id=10.1257/jep.14.3.95>.

²⁵² See, e.g., “Economic Perspectives on Incarceration and the Criminal Justice System,” Council of Economic Advisers (April 2016), pp. 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

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.

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,

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.

For the Uniform Guidance, the term "capital expenditures" means "expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, relocations, 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 entity²⁶⁶ 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,

²⁶⁶ In this context, a pass-through entity means a recipient of SLFRF funds.

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 benefiting 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

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

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, 2018), 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 Income and the Income Distribution Vary with Different Assumptions about Incentive Policy and the Local Economy* (Upjohn Institute Technical Report No. 19-084, W.E. Upjohn Institute for Employment Research, March 1, 2019), available at https://research.upjohn.org/up_technicalreports/146/; Caitlin Slattery and Owen Zidar, *Evaluating State and Local Business Tax Incentives*, *Journal of Economic Perspectives* 34, no. 2 (2020): 90-116, 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, *Growth Effects of Sports Franchises, Stadiums, and Arenas: 15 Years Later* (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, September 2015), available at <https://www.mercatus.org/system/files/Coates-Sports-Franchises.pdf>; Dennis Coates and Brad E. Humphreys, *Do Economists Reach a Conclusion on Subsidies for Sports Franchises, Stadiums, and Mega-Events?*, *Beacon Journal Watch* 5, no. 3 (2008): 294-315, available at <https://econwatch.org/articles/do-economists-reach-a-conclusion-on-subsidies-for-sports-franchises-stadiums-and-mega-events>; Matthew D. Mitchell, Daniel Suttie, and Scott Soeman, *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>.

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

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-public 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 government employees.

²⁵⁸ See U.S. Department of Labor, *Hazard Pay*, <https://www.dol.gov/general/topic/wages/hazardpay> (last visited October 16, 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. 8850, 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

(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

²⁶⁴ See, e.g., sources such as Bureau of Labor Statistics, Occupational Outlook Handbook, which provides 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.

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>.

²⁶⁷ Department of Labor, Overtime Pay, <https://www.dol.gov/agencies/whd/overtime>; see also 28 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, State Monthly CPS, January 2019 through December 2019, available at <https://www.census.gov/data/datasets/times-series/demographics/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 lower than those reported elsewhere. Either assumption may overestimate earnings if workers do not work year-round.

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.²⁹⁸

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.²⁹⁹ 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.³⁰¹ Twenty-two state governments took actions to close budget gaps in fiscal year 2020³⁰² and nearly 80 percent of cities reported being less able to meet the fiscal needs of their communities relative to fiscal year 2019.³⁰³ 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.³⁰⁴

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 revenues and is contributing to a brighter fiscal

²⁹⁸ 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 Revenues, <https://www.census.gov/programs-surveys/qtax.html>.

²⁹⁹ National Association of State Budget Officers, Fiscal Survey of the States (Fall 2020), available at https://higherlogicdownload.s3.amazonaws.com/NAASBO/8d2d2db1-c943-4f1b-b750-0f0a152d64c2/UploadedImages/Fisc%20Survey%20NASBO_Fall_2020_Fiscal_Survey_of_States_5.pdf.

³⁰⁰ National League of Cities, City Fiscal Conditions (2020), available at https://www.nlc.org/wp-content/uploads/2020/10/City_Fiscal_Conditions_2020_FINAL.pdf.

³⁰¹ 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 Schoepfle, Tribal entities remain resilient as COVID-19 buffers their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2020), <https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-buffers-their-finances>.

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.³⁰⁵ 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 2020,³⁰⁶ 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.³⁰⁷ 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.³⁰⁸ Inflation-adjusted state and local government revenue did not return to the previous peak until 2013,³⁰⁹ while employment in the sector returned to the previous peak in August 2019, nearly a decade later.³¹⁰ 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.³¹¹

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* * $[(1 + \text{growth adjustment})^n / (n/12)]$, 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.³¹² 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*,³¹³ 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
n (months elapsed)	18	30	42	54
Counterfactual revenue:	107.9	113.5	119.4	125.6

³⁰⁵ Analysis of Quarterly Summary of State and Local Tax Revenues, U.S. Census Bureau, [supra](https://www.census.gov/programs-surveys/qtax.html) note 271.

³⁰⁶ 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>.

³⁰⁷ 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-pandemic-negative-effects-persist-in-indian-country>.

³⁰⁸ 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-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.

³⁰⁹ 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>.

³¹⁰ U.S. Bureau of Labor Statistics, All Employees, State Government (CES8062500001) and All Employees, Local Government (CES8062500001), retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES8062500001> and <https://fred.stlouisfed.org/series/CES8062500001>.

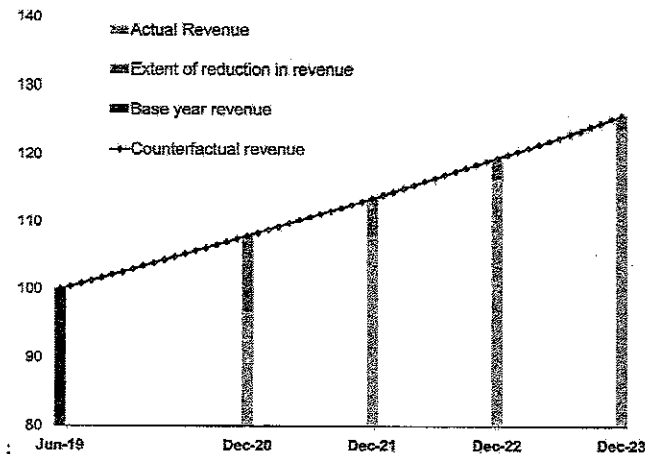
³¹¹ Pew Research, State and Local Government Job Growth Lags as Economy Recovers (September 2021), available at <https://www.pewtrusts.org/en/research-and-analysis/articles/2021/09/14/state-and-local-government-job-growth-lags-as-economy-recovers>.

³¹² 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.

³¹³ 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 2018–2019 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 revenues to produce an estimate for total general revenue).²⁸⁵ The resulting calculation was then extrapolated over the four-year period of interest 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

²⁸⁴ 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 “blunting” state and local “government payrolls . . . have only edged up from their lows at the onset of the pandemic”).

²⁸⁵ Local government tax revenue data in the Census Bureau’s Quarterly Summary of State and Local Tax Revenue, supra note 274, is provided on an aggregated basis.

²⁸⁶ The Department also released guidance clarifying how a recipient may determine whether a particular entity is “part of the recipient’s government.” See FAQ 2-14, Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home.treasury.gov/system/files/1336/SLFRFAQ.pdf>.

²⁸⁷ 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.

²⁸⁸ Annual Survey of State and Local Government Finances (2019).

²⁸⁹ 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

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 loss in one year does not affect the calculation of revenue loss 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 loss 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.

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 changes are defined as “changes 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 (not 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_prices/.

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://hhsa.treasury.gov/system/files/136/SLFRFAQ.pdf>.

Presumption of Revenue Loss "Due To" the Pandemic

In enacting sections 802(a)(1)(C) and 803(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

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.,

²⁹⁴ See also sections 802(a)(1) and 803(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. Thinkal 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 benefits 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://highereducation.s3.amazonaws.com/1/ASBO/8d3d2b1-c943-471b-b760-0f0a1526d4c2/UploadedImages/Budget%20Processes/ASBO_2021_Budget_Processes_in_the_States_S.pdf.

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,

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.

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

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 subcontract 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

³⁰² See U.S. Department of the Treasury, *Compliance and Reporting Guidance*, 21 (June 24, 2021), <https://home.treasury.gov/system/files/138/SLFRF-Compliance-and-Reporting-Guidance.pdf>.

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

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

³⁰³ 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.

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

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.

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

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 at 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."

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

³⁰⁸ Specifically, this would include desalination projects that decrease the burden on aquifers where there is a causal relationship between aquifer withdrawals and saltwater intrusion if the projects implement a nonpoint source pollution

Continued

³⁰⁴ See 40 CFR 35.3520(b)(2)(vi).

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. 300g-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

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.

³¹⁰ 33 U.S.C. 1333(c).

³¹¹ 33 U.S.C. 1292.

³¹² 33 U.S.C. 1326.

³¹³ 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 resources 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.

³¹⁶ 33 U.S.C. 1274.

Other Clarifications of DWSRF 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

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 WIDN 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

³¹⁷ See EPA Science Advisory Board, *Evaluation of the Effectiveness of Partial Lead Service Line Replacements*, (September 2021), <https://www.epa.gov/science-advisory-board-evaluation-effectiveness-partial-lead-service-line-replacements> (advising against partial lead service line replacement).

³¹⁸ Environmental Protection Agency, *supra* note 158.

³¹⁹ 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/2020-30884>; scheduled to become effective December 18, 2021. Environmental Protection Agency, 86 FR 31938, <https://www.federalregister.gov/d/2021-12800>.

³²⁰ 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).

³²¹ Such testing and remediation programs would be an eligible use of SLFRF funds given that they

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

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 facility’s operating costs would not be considered part of an infrastructure project.

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.

³²³ 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.

³²⁴ See EPA, *Approval of Class Deviation 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/epa/press-releases/2021-07/dwstf-class-deviation-dam-reservoir-rehab-2021-0-pd>.

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

³²⁵ See 40 CFR 35.3520(c)(5).

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 802(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

³²⁶ See Public Law 117–58, 40809(a)–(b) (Nov. 15, 2021).

³²⁷ See Public Law 117–58 § 40809(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 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/SLFRFAQ.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 Telecommunications 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

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

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.

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 "reliable" 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

³³³ See FAQ 6.1.1. Coronavirus State and Local Fiscal Recovery Funds, Frequently Asked Questions, as of July 19, 2021, <https://home.treasury.gov/system/files/136/SLFRFPAQ.pdf>.

³³⁴ 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_will_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://www.fcc.gov/sites/default/files/tech_transitions_network_upgrades_that_will_affect_your_service.pdf.

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

data.fcc.gov/download/measuring-broadband-america/2020/2030-Fixed-Measuring-Broadband-America-Report.pdf (comparing fiber with DSL and cable technologies on a number of dimensions); <https://www.fcc.gov/wireless/case-fiber-home-today-why-fiber-superior-use-today-21st-century-broadband> (providing a technical background comparing fiber technology to other legacy technologies).

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/#top>.

³⁴² Bennett Ogburn, The Case for Fiber to the Home, Today, Why Fiber is a Superior Medium for 21st Century Broadband, Electronic Frontier Foundation (October 18, 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 Financial Recovery Funds, Frequently Asked Questions, as of July 19, 2021; <https://home-treasury.gov/system/files/136/SLFRFFAQ.pdf>.

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.³⁴⁸ 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."³⁴⁹ 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.

³⁴⁸ 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-10-83A1.docx>; 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/>.

³⁴⁹ 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 of 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

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 abatement 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

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-81, 2021 WL 2712220 (S.D. Ohio Jul. 1, 2021).

³⁵⁰ *National Fed'n of Indep. Bus. v. Sebelius* (*NFIB*), 557 U.S. 519, 590 (2012) (plurality opinion); see, e.g., *South Dakota v. Dole*, 483 U.S. 203, 206–208 (1987); *Grove v. Louisiana Bd. of Supervisors for Louisiana State Univ. Agric. & Mech. Coll.*, 859 F.2d 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 (5th Cir. Oct. 25, 2021).

³⁵¹ *Sohn v. United States*, 543 U.S. 600, 606 (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 607–608 (joint dissent).

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

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 See Statement on State Fiscal Recovery Funds and Tax Conformity, April 7, 2021, available at <https://www.treasury.gov/press-releases/jy0113>.

³⁵⁵ 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).

³⁵⁶ 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."³⁸⁷

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.³⁸⁸

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 2021,³⁸⁹ suggesting that an FY 2019 pre-

³⁸⁷ 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.

³⁸⁸ U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, <https://www.bea.gov/data/price-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.

³⁸⁹ Economy Statement by Catherine Williams, 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/jj0483>.

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."³⁹⁰ 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).³⁹¹ Further, estimation approaches may not use dynamic methodologies that incorporate the

³⁹⁰ 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."

³⁹¹ By permitting recipient governments to use actual or estimated values, the interim final rule and final rule provide flexibility to recipients and thus minimize burden.

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

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.³⁹²

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

³⁹² 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.³⁰³ 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.³⁰⁴

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

³⁰³ See Reporting Guidance, Section C.1.1, 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 802(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 803(c)(2) of the Social Security Act provides that "[n]o metropolitan city, nonmetropolitan 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.³⁰⁵ 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

³⁰⁵ "[C]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." 66 FR 26796-97 (May 17, 2021).

government services to the extent of revenue loss.²⁹⁶

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 lost 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

²⁹⁶ "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."

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.²⁹⁷

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.

²⁹⁷ Table 2.1 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-19.²⁹⁸ 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.²⁹⁹ 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.³⁰⁰ 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 laws³⁰¹ and federal civil rights and nondiscrimination requirements, which include prohibitions on discrimination on the basis of race, color, national origin, sex, (including sexual orientation

²⁹⁸ 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 200.318."

³⁰¹ An exception is statute that do not apply unless explicitly stated, including, e.g., the National Environmental Policy Act and the Davis-Bacon Act.

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)(5)(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

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/138/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, 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 Non-entitlement Units of Local Government can be found at this link: https://home.treasury.gov/system/files/138/NEU_Guidance.pdf. The Non-entitlement Unit of Local Government Definitional and Data Methodology can be found at this link: https://home.treasury.gov/system/files/138/NEU_Definitional_and_Data_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 Non-entitlement Unit of Local Government Definitional and Data Methodology, available at: https://home.treasury.gov/system/files/138/NEU_Definitional_and_Data_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/SLFRFFAQ.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 4.10.1d.

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 9, 2021; <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal>.

Continued

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.³⁷⁹ 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 match or cost-share 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 200.308(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

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 to 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 to 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 to the interim final rule clarified that SLFRF funds were generally subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit

³⁷⁹ *recovery-funds/recipient-compliance-and-reporting-responsibilities*.
³⁸⁰ *id.*

³⁷⁹ Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR at 4152.

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/SLFRFFAQ.pdf>.

³⁸¹ See U.S. Government Accountability Office, *Principles of Federal Appropriations Law*, Third Edition, Volume II, p. 10-95, GAO-06-382SP (February 2006), <https://www.gao.gov/assets/gao-06-382sp.pdf>.

³⁸² U.S. Department of the Treasury, *Recipient Compliance and Reporting Responsibilities*, as of November 5, 2021, <https://www.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, 2025 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.³⁶⁴

³⁶⁴ *Id.*

L. 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.³⁶⁵ 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

³⁶⁵ Treasury will also consider the tax offset provision on an annual basis.

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.³⁶⁶ 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

³⁶⁶ Funds subject to recoupment cannot later be returned.

violation,³⁶⁷ 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.³⁶⁸ 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.³⁶⁹ 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

³⁶⁷ 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).

³⁶⁸ Treasury intends to work with recipients to support the use of SLFRF funds consistent with the law.

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

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

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

³⁹⁰ See, e.g., Gabriel Chodorow-Rich et al., *Does State Fiscal Relief During Recessionary Increases Employment? Evidence from the American Recovery and Reinvestment Act*, 4 *American Economic Journal* 118–145 (2012) <http://dx.doi.org/10.1257/aer.100.3.118>.

³⁹¹ See, e.g., Fitzgerald, *supra* note 278.

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 revenue 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

For 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 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 26, 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.³⁰⁶

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)(2). 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	2,096,400
NEU Distribution Template	55	2	110	10	1,100	53,880
Non-UGL 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/occupations-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

³⁰⁶ 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/SLFRFAQ.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)(E)(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 1985, 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. 5313).

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(e)(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 (j) 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;

(E) 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)(i)(A)(1)–(6);

(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; 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.

(i) *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. 1363(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. 1363(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)(8) 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), 1494(d)(2), and 1465 of the Safe Drinking Water Act (42 U.S.C. 300j-19a(b)(2), 300j-19(b)(1), 300j-24(c)(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(c)(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 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

CITY OF STANTON

REPORT TO THE CITY COUNCIL

TO: Honorable Mayor and Council Members

DATE: May 10, 2022

SUBJECT: INTERIM CITY MANAGER EMPLOYMENT AGREEMENT

REPORT IN BRIEF:

For consideration is the Interim City Manager Employment Agreement between the City and Zenia Bobadilla for the position of Interim City Manager.

RECOMMENDED ACTIONS:

1. City Council declare that the project is exempt from the California Environmental Quality Act ("CEQA") under Section 15378(b)(2) - continuing administrative or maintenance activities, such as purchase of supplies, personnel-related actions, general policy and procedures making; and
2. Authorize the Mayor to approve and execute the Interim City Manager Employment Agreement with Zenia Bobadilla; and
3. Adopt Resolution No. 2022-22 amending the Employee Benefits and Salary Rates, entitled:

"A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, REGARDING EMPLOYEE BENEFITS AND SALARY RATES FOR ALL CLASSES OF EMPLOYMENT".

BACKGROUND AND ANALYSIS:

Jarad L. Hildenbrand has served as the City Manager since March 18, 2019 and has recently tendered his resignation to the City in order to accept employment with another public agency. His last day of employment will be May 12, 2022. As such, under the provisions of Government Code Section 54957, the City Council met in Closed Session on April 19, 2022 and April 26, 2022, to discuss appointment of an Interim City Manager. The City Council provided direction to the City Manager and City Attorney to negotiate with Zenia Bobadilla, who currently serves as the City's Community Services Director, to serve as the City's Interim City Manager. Ms. Bobadilla has accepted the City's offer, which is conditioned on the Council's approval at a regularly noticed public meeting.

An amendment to Ms. Bobadilla's employment agreement is provided for the Council's consideration. It provides that Ms. Bobadilla would begin serving as Interim City Manager effective on May 16, 2022, until a permanent City Manager is appointed or as otherwise determined by the City Council. The salary for the Interim City Manager position would be \$15,481 per month. All other benefits provided to Ms. Bobadilla shall remain in accordance with the terms of the Salary and Benefits Resolution (Attachment 3), which are the same benefits as what she currently receives. At the conclusion of Ms. Bobadilla's term as Interim City Manager, she would return to her current role as Community Services Director.

The resolution amending the Employee Benefits and Salary Rates to include the abovementioned change is included as Attachment 3. The salary ranges of the City's Compensation Plan can be found as Exhibit A. The updated Monthly Employee Salary Schedule can be found as Exhibit B.

FISCAL IMPACT:

The salary and benefits costs related to this agreement amendment are within the existing budget.

ENVIRONMENTAL IMPACT:

In accordance with the requirements of the CEQA, this project has been determined to be exempt under Section 15378(b)(2).

LEGAL REVIEW:

The City Attorney's Office has reviewed and approved this item.

PUBLIC NOTIFICATION:

Public notice for this item was made through the regular agenda process.

STRATEGIC PLAN OBJECTIVE ADDRESSED:

6. Maintain and Promote a Responsive, High Quality and Transparent Government.

Prepared by:

/s/ HongDao Nguyen

HongDao Nguyen
City Attorney

Approved by:

/s/ Jarad L. Hildenbrand

Jarad L. Hildenbrand
City Manager

Attachments:

1. Proposed Interim City Manager Employment Agreement
2. Employment Agreement
3. Resolution No. 2022-22
 - Exhibit A: City Compensation Plan Salary Ranges
 - Exhibit B: Revised Monthly Salary Schedule

AMENDMENT TO EMPLOYMENT AGREEMENT

This Amendment to the Employment Agreement (“Amendment”) is made and entered into this 16th day of May, 2022 (“Effective Date”), by and between the City of Stanton, a public entity (“City”), and Zenia Bobadilla (“Employee”). City and Employee are sometimes individually referred to herein as “Party” and collectively as “Parties.”

1. City and Employee entered into an Employment Agreement dated November 12, 2019 (“Employment Agreement”), whereby Employee agreed to serve as the Community Services Director for the City.

2. On May 10, 2022, the City Council appointed Employee as Interim City Manager effective May 16, 2022. City and Employee now desire to amend the Employment Agreement to temporarily increase Employee’s compensation while she serves as the Interim City Manager, which role shall cease at such time as the City Council appoints a new City Manager or as otherwise determined by the City Council. For purposes of this Amendment, the City Council will be deemed to have appointed a new City Manager when his/her agreement is approved and he/she begins his/her first day in that position.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENT HEREIN CONTAINED, IT IS HEREBY AGREED AS FOLLOWS:

3. Temporary Duties. The Employment Agreement is amended to require the following temporary duties until such time as the City Council appoints a new City Manager. Thereafter, Employee’s duties shall revert to only those set forth in her Employment Agreement, and this Section shall be of no further force and effect.

3.1 Interim City Manager. City temporarily appoints Employee as Interim City Manager to perform the functions and duties in accordance with applicable state law and the Municipal Code. Employee shall also perform other legally permissible and proper duties and functions as the City Council shall from time-to-time assign.

3.2 Control and Supervision. Employee shall serve at the will and pleasure of the City Council.

3.3 City Council Meetings. Employee shall attend all City Council meetings, unless excused or directed otherwise.

4. Temporary Compensation. Section 3 of the Employment Agreement is amended to add the following temporary compensation provision until such time as the City Council appoints a new City Manager or otherwise terminates this Amendment. Thereafter, Employee’s compensation shall revert to that provided for in Section 3 of her Employment Agreement, and this Section 4 shall be of no further force and effect.

“Notwithstanding the base salary authorized by Section 3 of the Employment Agreement, Employee’s monthly base salary, effective May 16, 2022, shall be temporarily

increased to the total amount of \$15,481 per month, until such time as the City Council appoints a new City Manager or otherwise terminates this Amendment, in its sole and absolute discretion. Thereafter, Employee's salary shall revert to that amount authorized by Section 3 of the Employment Agreement, and this provision shall be of no further force and effect."

5. Term of Amendment; Termination. This Amendment shall be effective only until such time as the City Council appoints a new City Manager or otherwise terminates this Amendment. Thereafter, this Amendment shall be of no further force and effect. In addition, the Parties understand and agree that the appointment as Interim City Manager is "at-will" and that the Employee shall serve as Interim City Manager at the will and pleasure of the City Council. Employee may be removed from the Interim City Manager position at any time, without notice and with or without cause. Nothing in this Amendment, any statute, ordinance, or rule, shall prevent, limit or otherwise interfere with the right of the City Council to remove Employee from the Interim City Manager position, without cause or right of appeal or grievance.

6. Effect Upon Expiration or Termination. When the City Council appoints a new City Manager or otherwise terminates this Amendment, Employee shall have the right but not the obligation to return to her employment as Community Services Director. The City desires to assure Employee that, except as provided hereinafter, upon termination of her duties as Interim City Manager under this agreement, she shall automatically return to the position of the City's Community Services Director. She shall return to the same duties, earn the same salary, and enjoy the same benefits she would have earned and enjoyed, had she remained the Community Services Director during the term of this Agreement.

7. Recitals. The parties agree that the Recitals to this Amendment are true and correct and are incorporated as if set forth herein.

8. Force and Effect. Except as amended by this Amendment, all provisions of the Employment Agreement shall remain in full force and effect and shall govern the actions of the City and Employee under this Amendment.

IN WITNESS WHEREOF, City and Employee have signed and executed this Amendment as of the Effective Date first above written.

CITY OF STANTON

EMPLOYEE

By: _____
David Shawver, Mayor

By: _____
Zenía Bobadilla

APPROVED AS TO FORM:

By: _____
HongDao Nguyen, City Attorney

EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made and entered into effective as the 12th day of November 2019 between the CITY OF STANTON ("City") and ZENIA BOBADILLA ("Employee") as follows:

WHEREAS, the City desires to employ the services of Employee as COMMUNITY SERVICES DIRECTOR as provided by the Stanton Municipal Code; and

WHEREAS, Employee is familiar with the legal requirements, industry standards, responsibilities, the duties of the position; warrants that she has the skill and ability to serve in such position; and wishes to accept such employment on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants herein contained the parties hereto agree as follows:

1. Employment and Term. The City hereby agrees to employ Employee, and Employee accepts at will employment upon the terms and conditions set forth herein. The effective date of employment shall be November 25, 2019. The term of this Agreement shall be for three (3) years, unless sooner terminated or extended by the parties as set forth in this Agreement. In the event that the City Manager determines that the Employee is not to be reemployed upon expiration of this Agreement, Employee shall be given written notice thereof by the City at least two (2) months in advance of the expiration of the term of this Agreement. Should the City fail to give notice at least two (2) months prior to the end date of this Agreement, the Agreement shall be extended on the same terms for an additional period of one (1) year.

2. Duties and Obligations of Employee.

A. As of the date of this Agreement, the parties formalize the employment agreement for Employee's work as COMMUNITY SERVICES DIRECTOR ("Position") and Employee's job responsibilities as set forth in the relevant job description, attached as Exhibit "A." Employee hereby agrees to perform the functions and duties of the Position as set forth in the applicable job description as may be amended in the City's discretion from time to time, the City's Municipal Code, ordinances, rules, regulations, and policies, and to perform such other duties and functions as the City Manager may assign. It is expressly understood that the terms of this Agreement, including those governing termination of employment, supersede any rights otherwise conferred by the City generally to its personnel.

B. Employee shall be under the day to day supervision and direction of the City Manager, shall be subject to any such other terms and conditions of employment as the City Manager may from time to time impose so long as not inconsistent with the provisions of this Agreement or law, and shall be expected to attend all City Council meetings unless directed otherwise by the City Manager.



C. Employee will focus her professional time, ability, and attention to City business during the term of this Agreement. Employee shall not engage in any other business duties or pursuits whatsoever or, directly or indirectly, render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, without the prior consent of the City, except that:

(1) The expenditure of reasonable amounts of time, not in conflict with the City's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.

(2) This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs off-duty if those activities do not materially interfere with the services required under this Agreement.

D. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Employee in connection with the performance of this Agreement shall be held confidential by Employee unless disclosed within the scope of his duties. Such materials shall not, without the prior written consent of the City, be used by Employee for any purposes other than the performance of her duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

3. Salary and Benefits,

A. *Salary.* City agrees to pay Employee for her services rendered pursuant hereto at the monthly base salary range Step "A," of Ten Thousand, One Hundred and Seventy-Three (\$10,173.00), payable in installments at the same time as other employees of the City. Following one (1) year of service, Employee shall be eligible for a merit review for advancement to the next step in the salary range. Thereafter, merit salary review dates shall fall upon the completion of twelve (12) months of service intervals, following the last salary review date. In addition, Employee shall be entitled to automatically receive any cost of living adjustment ("COLA") or other salary or fringe benefit increases provided to all general City employees.

B. *Comprehensive Leave.* In lieu of sick, vacation, administrative, or other paid leave, Employee is eligible to accrue up to a maximum of three hundred (300) hours of comprehensive leave each year of this Agreement. As of the date of this Agreement, Employee shall be granted 180 hours of comprehensive leave, representing the pro-rated amount for the partial year in 2019-20 beginning as of the date employment begins through June 30, 2020. Thereafter, on June 30, 2020, and on every June 30th thereafter during the term of this Agreement, Employee shall be paid at her then-current rate of pay for all accumulated comprehensive leave up to a maximum of One Hundred Eighty (180) hours. After any such pay out of comprehensive leave each year, any surplus accumulated comprehensive leave shall be carried forward to the following year. On July 1st of each year during the term of this Agreement, the total amount of comprehensive leave available to Employee shall be replenished to reach the maximum comprehensive leave accumulation limit of Three Hundred (300) hours.



C. *Automobile Allowance.* Upon proof of insurance coverage in an amount acceptable to the City, the City shall provide the Employee with a Three Hundred Dollar (\$300) monthly automobile allowance. Employee agrees to adhere to all laws, regulations, and City policies applicable to vehicles, driving, or traffic when operating his vehicle on City-related business.

D. *Cell Phone Allowance.* The City shall provide the Employee with a One Hundred Dollar (\$100) monthly cellular telephone allowance.

E. *Professional development.* Provided that Employee receives the prior approval of the City Manager, the City agrees to pay for approved professional dues and association memberships necessary for continued participation in approved organizations necessary for Employee's continued professional growth and advancement. Again, subject to prior approval by the City Manager, the City shall also pay for travel and subsistence expenses (as set out by applicable City policy) for approved professional or official travel, meetings, training, seminars, or similar functions.

F. *Other benefits.* All provisions of the City's Municipal Code, ordinances, rules, regulations, and policies relating to health, disability and life insurance; paid holidays; medical leaves, retirement and pension system contributions; and other fringe benefits and working conditions as they now exist or thereafter may be amended, which apply to all City employees, shall also apply to Employee, except as otherwise set forth in this Agreement.

4. At-Will Employment Status, Termination of Agreement.

A. *Nature of Employment.* The parties hereby expressly agree that the employment relationship created by the Agreement is "at will" and that Employee serves at the will and pleasure of the City Manager. Nothing in this Agreement, any Municipal Code, ordinance, resolution, statute, rule, or policy shall prevent, limit or otherwise interfere with the right of the City to terminate the services of Employee at any time without cause or right of notice, *Skelly* conference, hearing, appeal or grievance. Accordingly, Employee agrees that this Agreement sets forth the only terms and conditions applicable to the termination of her employment and that she hereby waives any rights he would otherwise have thereunder.

B. *By the Employee.* The Employee may terminate this Agreement upon written notice to the City Manager and shall endeavor to give thirty (30) days prior notice. The City shall have the option, in its complete discretion, to terminate the Employee any time prior to the end of such notice period, provided the City pays the Employee all compensation due and owing through the last day actually worked, plus an amount equal to the base salary the Employee would have earned through the remainder of the notice period. Thereafter, all the City's obligations under this Agreement shall cease.

C. *By the City, Without Cause.* At any time, and without prior notice, the City may terminate the Employee's employment for any reason, with or without cause. If the termination occurs within the first six (6) months of Employee's employment (the "Introductory Period"), the City shall not be obligated to provide any severance whatsoever regardless of whether cause exists



for the termination. However, in the event the City exercises its right under this provision to terminate employment without cause at any time following the Introductory Period, the City shall pay Employee all compensation due and owing through the last day actually worked, plus four (4) months of the Employee's salary as of the time of the termination *or* pursuant to the requirements of Government Code § 53260, an amount equivalent to the remainder of the term of this Agreement, whichever is less. The payment of such severance benefit shall be conditioned upon Employee executing a general release agreement containing a general release of all claims Employee may have against the City at the time of any such termination, in such form as may be reasonably required by Employer's attorney. Such severance benefit shall not be payable unless and until Employee executes such a general release and until expiration of all waiver and rescission rights as provided by law at the time of such termination. Failure by the Employee to satisfy her termination obligations pursuant to Section 4(E) shall nullify the City's obligation to provide severance payment pursuant to this Section. If Employee is convicted of a crime involving an abuse of her office or Position, whether before or after release from employment, Employee shall fully reimburse the City for any severance pay, paid leave salary disbursed pending an investigation, or legal criminal defense funds relevant to the crime paid for by the City.

D. By the City, For Cause. At any time, and without prior notice, the City may terminate Employee for Cause (as defined below). The City shall pay Employee all compensation then due and owing; thereafter, all of the City's obligations under this Agreement shall cease. Termination shall be for "cause" if Employee: (1) acts in bad faith and to the detriment of the City; (2) refuses or fails to act in accordance with any specific direction or order of the City; (3) exhibits in regard to her employment unfitness or unavailability for service, unsatisfactory performance, misconduct, dishonesty, habitual neglect, or incompetence; (4) is convicted of a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; or (5) breaches any material term of this Agreement.

In addition, while the parties recognize that the following reasons will not constitute "cause" purposes of termination, the following bases will terminate Employee's employment without severance as indicated in Section 4(c): (1) at such time Employee and City have mutually agreed to terminate the employment relationship; (2) upon death or permanent incapacity of Employee; (3) upon Employee's retirement; and (4) upon employee's prolonged unavailability, defined as any period of greater than five months for whatever reason. The parties agree that the definition of availability is not defined to alleviate legally protected leave or reasonable accommodation of disability.

E. Termination for Other Reasons. This Agreement shall automatically terminate, and the City shall not be obligated for any severance payment, upon the happening of any of the following events:

- a. Whenever Employee and the City shall mutually agree to termination in writing;
- b. Upon the death or permanent incapacity of Employee;
- c. Upon Employee's retirement; or
- d. Upon Employee's prolonged unavailability, defined as unavailability for a period greater than five (5) months for whatever reason.



E. Termination Obligations. Employee agrees that all property, including, without limitation, all equipment, tangible proprietary information, documents, records, notes, contracts, and computer-generated materials furnished to or prepared by Employee incident to her employment belongs to the City and shall be returned promptly to the City upon termination of Employee's employment. Further, any and all debts to the City shall be paid upon termination. Employee's obligations under this subsection shall survive the termination of her employment.

5. Performance Evaluations. The City Manager shall review and evaluate the performance of Employee in writing following the first twelve (12) months of employment under this Agreement. Thereafter, the City Manager shall provide a written performance evaluation to Employee on an annual basis. Said evaluations shall be performed using criteria developed by the City Manager and relayed to Employee. The evaluations will also set forth defined goals to be achieved by the Employee in the subsequent year. It is understood that additional evaluations, reviews, performance improvement plans, or counseling may also be conducted by the City Manager at any time in his discretion.

6. Notices. Any notices pursuant to this Agreement or necessary during the course of employment shall be given by United States Postal Service, postage prepaid, at the following addresses:

CITY: City of Stanton c/o City Manager
7800 Katella Avenue
Stanton, California 90680

EMPLOYEE: Zenia Bobadilla
12244 E. 186th St.
Artesia, CA 90701

Notice shall be deemed given as of the date of deposit with the United States Postal Service for delivery. Alternatively, notices may be provided by personal service in the same manner applicable to civil judicial practice.

7. Amendments. This Agreement may not be amended or modified except by a writing signed by both parties. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

8. Assignment. Neither this Agreement nor any right, privilege or obligation of Employee hereunder shall be assigned or transferred by her without the prior written consent of the City. Any attempt at assignment or transfer in violation of this provision shall, at the option of the City, be null and void and may be considered a material breach of this Agreement.

9. Severability. If a court or arbitrator holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.



ORIGINAL

10. Attorneys' Fees. In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the State of California. Venue shall be appropriate in the Superior Court of Orange County, California.

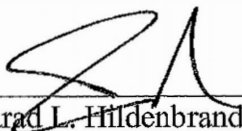
12. Interpretation. This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. Furthermore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

13. Conflict of Interest. The Employee agrees that she will abide with all applicable local State and Federal rules on conflicts of interest and receipt of gifts, including without limitation those rules found in the California Fair Political Practices Act and related regulations and those found in Government Code Sections 1090, *et seq.*

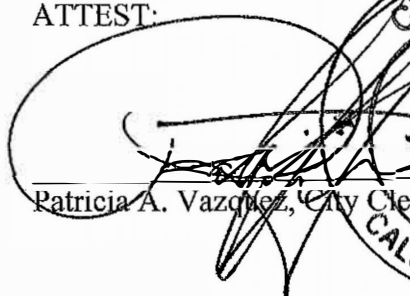
14. Acknowledgment. Employee acknowledges that she has had the opportunity to consult legal counsel in regard to this Agreement, that she has read and understands this Agreement, that she is fully aware of its legal effect, and that she has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

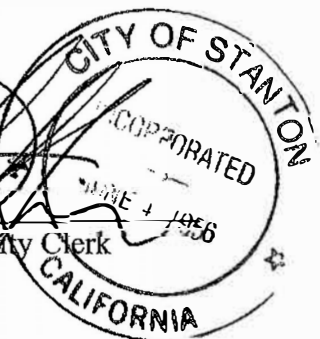
IN WITNESS WHEREOF, the City has caused this Agreement to be signed and duly executed by its Manager, and the Employee has signed and executed this Agreement as of the day and year first above written.

CITY:

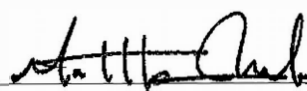

Jarad L. Hildenbrand, City Manager

ATTEST:


Patricia A. Vazquez, City Clerk



APPROVED AS TO FORM:


Matthew E. Richardson, City Attorney

EMPLOYEE:


Zenia Bobadilla



CITY OF STANTON

Job Title: **Community Services Director** Department: Community Services

Salary Range: 50 Reports to: City Manager

SUMMARY DESCRIPTION

The purpose of this position is to plan, direct, manage, and oversee the activities and operations of the Community Services Department, including a variety of recreation, leisure, and human services programs, parks and recreational facility planning, and marketing and managing City and private recreational facilities; to coordinate assigned activities with other City departments and outside agencies; and to provide highly responsible and complex administrative support to the City Manager.

This position has department head level responsibility for a broad range of services and activities of the Community Services Department and reports directly to the City Manager. Positions at this level are required to possess expert level specialized knowledge and expertise in the functions of the department. Successful performance in this classification requires a high degree of judgment, initiative, creativity, and independence in determining the day-to-day operational activities of the department.

ESSENTIAL DUTIES AND RESPONSIBILITIES

The following duties are normal for this position. These are not to be construed as exclusive or all-inclusive. Other duties may be required and assigned.

- Plan, direct, manage and oversee all Community Services Department services and activities including a variety of recreation, leisure, and human services programs, parks and recreational facility planning, and marketing and managing City and private recreational facilities.
- Manage the development and implementation of Community Services Department goals, objectives, policies, and priorities for each assigned service area; establish, within City policy, appropriate service and staffing levels; allocate resources accordingly.
- Continuously monitor and evaluate the efficiency and effectiveness of service delivery methods and procedures; assess and monitor work load, administrative and support systems, and internal reporting relationships; identify opportunities for improvement; direct the implementation of changes.
- Represent the Community Services Department to other City departments, elected officials and outside agencies; explain and interpret Parks and Recreation Department programs, policies, and activities; negotiate and resolve sensitive, significant and controversial issues.



- Select, train, motivate and evaluate Community Services Department personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline and termination procedures.
- Conduct strategic planning; plan, direct and coordinate preparation of the department work plan; meet with staff to identify and resolve problems; assign projects and programmatic areas of responsibility; review and evaluate work methods and procedures.
- Direct oversee the development and administration of the department budget; direct the forecast of additional funds needed for staffing, equipment, materials, and supplies; direct the monitoring of and approve expenditures; direct the preparation of and implement budgetary adjustments as necessary.
- Coordinate department activities with those of other departments and outside agencies and organizations; provide staff assistance to the Parks and Recreation Commission, City Manager, and City Council; prepare and present staff reports and other necessary correspondence.
- Direct and develop a diversified program of recreation, leisure, and human services programs and activities to meet the needs and desires of the public including senior citizen and youth activities and services, sports programming, special interest classes, special service programs, multigenerational and community-wide events.
- Direct the media coverage and marketing of facilities, programs, and activities to maximize usage and revenue; oversee and participate in development of marketing materials including brochures and newsletters; make presentations before civic, school, and other groups.
- Direct in the marketing and managing of recreational facilities including the City's Cultural Arts and Recreation Center as well as other public/private facilities; direct the usage of all recreational facilities and parks.
- Direct partnerships between the City and private recreational entrepreneurs for golf practice ranges, soccer facilities, and other related facilities.
- Administer the City's Commodity Distribution Program; coordinate activities with other agencies involved in the program.
- Participate on a variety of boards and commissions; attend and participate in professional group meetings; stay abreast of new trends and innovations in the field of community services.
- Respond to and resolve difficult and sensitive inquiries and complaints.

Additional Tasks and Responsibilities:

- Perform other duties as assigned.

KNOWLEDGE REQUIRED

- Operational characteristics, services and activities of a comprehensive Community Services program including recreation, leisure, and human services programs.
- Organization and management practices as applied to the analysis and evaluation of programs, policies and operational needs.



- Modern and complex principles and practices of program development and administration, facility planning, and facility marketing and management.
- Recent developments, current literature, and sources of information related to community service program administration and implementation.
- Principles and practices of public relations, publicity, and marketing. Advanced principles and practices of budget preparation and administration.
- Principles of effective supervision, training and performance evaluation.
- Pertinent Federal, State, and local laws, codes and regulations.
- Safe driving principles and practices.

ABILITIES/SKILLS

- Operate modern office equipment including computer equipment.
 - Develop, implement and administer goals, objectives, and procedures for providing effective and efficient community services and programs.
 - Direct a diverse community services program including recreation, senior services, and youth activities.
 - Plan, organize, direct and coordinate the work of supervisory, professional, and technical personnel; provide administrative and professional leadership and direction for staff; delegate authority and responsibility. Select, supervise, train and evaluate staff.
 - Identify, evaluate and respond to community, City Manager, Community Services Commission, and City Council issues, concerns and needs.
 - Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.
 - Research, analyze, and evaluate new service delivery methods, procedures and techniques.
 - Develop and administer partnerships between the City and private recreation entrepreneurs for various programs and services.
 - Effectively market and promote community services programs and facilities to maximize usage and revenue.
 - Prepare and administer large and complex budgets; allocate limited resources in a cost-effective manner.
 - Prepare clear and concise administrative and financial reports.
 - Interpret and apply Federal, State and local policies, procedures, laws and regulations.
 - Communicate clearly and concisely, both orally and in writing.
 - Provide high level of customer service.
 - Establish, maintain and foster positive and harmonious working relationships with those contacted in the course of work.
 - Maintain knowledge of community needs regarding assigned services, activities and programs.
-



EXPERIENCE/TRAINING/EDUCATION

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

- Six years of responsible professional experience in community or recreation services administration activities including three years of administrative and supervisory experience.
- Equivalent to a Bachelor's degree from an accredited college or university with major course work in recreation, public administration, business administration, or related field.

Desirable Qualifications:

Master's Degree

LICENSE/CERTIFICATE

- Possession of, or ability to obtain, an appropriate, valid California driver's license.
-

PHYSICAL ACTIVITIES AND REQUIREMENTS

- Ability to work in a standard office environment requiring prolonged sitting, standing, walking, reaching, twisting, turning, kneeling, bending, squatting, crouching and stooping in the performance of daily activities.
 - Occasional pushing, pulling, dragging and lifting office items weighing 25 lbs.
 - Movements frequently and regularly require using the wrists, hands and fingers to operate computers and office equipment.
 - Willingness to work variable hours including nights, weekends and/or holidays.
 - Ability to hear and convey detailed or important instructions or information verbally and accurately.
 - Average visual acuity to prepare and read documents.
 - Ability to communicate with both the public and co-workers in a clear and concise manner.
 - Ability to travel to different sites and locations.
 - Exposure to outdoor conditions and inclement weather.
 - Adapt to standard office sounds generated by office equipment as well as standard noise levels resulting from communication with co-workers and the general public.
-

The City of Stanton is an Equal Opportunity Employer. In compliance with the Americans with Disabilities Act, the City will provide reasonable accommodations to qualified individuals with disabilities and encourages both prospective and current employees to discuss potential accommodations with the employer.



RESOLUTION NO. 2022-22**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, REGARDING EMPLOYEE BENEFITS AND SALARY RATES FOR ALL CLASSES OF EMPLOYMENT**

WHEREAS, the City Council has historically adopted a resolution establishing the salary and benefits for all classes of employment; and

WHEREAS, Resolution No. 2022-16 included the most recent revisions to the salary and benefits for all classes of employment; and

WHEREAS, the City Council will review such resolution annually and make amendments as necessary.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANTON, CALIFORNIA, RESOLVES AS FOLLOWS:

SECTION 1: Superseding City Council Resolution 2022-16 and all prior resolutions, and each of them in their entirety, the following salary ranges are assigned to the listed classes of employment. Annual compensation is equal to 26 bi-weekly pay periods. Six months of City service are required to advance to the next pay step in the salary range for full-time and part-time classes of employment. Salary Ranges are included as Exhibit A. The monthly salary schedule is included as Exhibit B.

RANGE	POSITION TITLE	Annual Minimum	Annual Maximum
1	Administrative Clerk	\$37,500	\$47,856
1	Facilities Maintenance Worker I	\$37,500	\$47,856
5	Senior Administrative Clerk	\$41,388	\$52,824
8	Facilities Maintenance Worker II	\$44,568	\$56,880
10	Departmental Assistant	\$46,824	\$59,760
10	Marketing Assistant	\$46,824	\$59,760
10	Parking Control/Code Enforcement Specialist	\$46,824	\$59,760
10	Permit Technician	\$46,824	\$59,760
12	Business License Specialist	\$49,200	\$62,796
12	Planning Technician	\$49,200	\$62,796
13	Senior Facilities Maintenance Worker	\$50,424	\$64,356
16	Administrative Services Coordinator	\$54,300	\$69,312
16	Community Services Coordinator	\$54,300	\$69,312
16	Outreach Coordinator	\$54,300	\$69,312
18	Building Inspector	\$57,060	\$72,816
18	Engineering Assistant	\$57,060	\$72,816
19	Administrative Services Supervisor	\$58,476	\$74,640
19	Code Enforcement Officer	\$58,476	\$74,640

19	Senior Accounting Technician	\$58,476	\$74,640
20	Management Analyst	\$59,940	\$76,500
21	Assistant Planner	\$61,440	\$78,420
21	Economic Development Specialist	\$61,440	\$78,420
21	Housing Specialist	\$61,440	\$78,420
21	Information Technology Specialist	\$61,440	\$78,420
22	Accountant	\$62,976	\$80,376
22	Public Works Inspector	\$62,976	\$80,376
26	Associate Engineer	\$69,516	\$88,716
26	Associate Planner	\$69,516	\$88,716
26	Code Enforcement/Parking Control Supervisor	\$69,516	\$88,716
26	Community Services Supervisor	\$69,516	\$88,716
26	Facilities Maintenance Supervisor	\$69,516	\$88,716
26	Housing Associate	\$69,516	\$88,716
26	Human Resources/Risk Management Analyst	\$69,516	\$88,716
31	Senior Public Works Inspector	\$78,648	\$100,380
33	Civil Engineer	\$82,632	\$105,456
33	Senior Planner	\$82,632	\$105,456
35	Accounting Manager	\$86,820	\$110,796
35	Administrative Services Manager	\$86,820	\$110,796
35	Assistant to the City Manager	\$86,820	\$110,796
35	Building Official	\$86,820	\$110,796
35	City Clerk	\$86,820	\$110,796
35	Community Services Manager	\$86,820	\$110,796
35	Human Resources Manager	\$86,820	\$110,796
35	Planning Manager	\$86,820	\$110,796
35	Public Works Manager	\$86,820	\$110,796
43	Assistant City Engineer	\$105,780	\$135,000
43	Assistant Community and Economic Development Director	\$105,780	\$135,000
50	Administrative Services Director	\$125,736	\$160,476
50	Community/Economic Development Director	\$125,736	\$160,476
50	Community Services Director	\$125,736	\$160,476
50	Finance Director	\$125,736	\$160,476
50	Public Works Director/City Engineer	\$125,736	\$160,476
50	Public Safety Services Director	\$125,736	\$160,476
53	Assistant City Manager	\$135,396	\$172,812
	City Manager		\$185,771
Part Time Positions			
Range	Position Title	Hourly Minimum	Hourly Maximum
1A	Intern	\$15.00	\$19.15
1A	Recreation Leader	\$15.00	\$19.15
1A	Park Ranger	\$15.00	\$19.15

1	Administrative Clerk Hourly	\$18.03	\$23.01
1	Senior Recreation Leader	\$18.03	\$23.01
2	Code Enforcement Technician	\$18.48	\$23.58
10	Parking Control/Code Enforcement Specialist Hourly	\$22.51	\$28.73
16	Community Services Coordinator Hourly	\$26.11	\$33.32

SECTION 2: The following table designates the full-time position titles as non-exempt or exempt under the Fair Labor Standards Act ("FLSA"). All hourly part-time positions listed in Section 1 of this resolution are designated as non-exempt. Position titles designated as non-exempt are compensated overtime or compensatory time for hours worked in excess of forty (40) hours per workweek. Position titles designated as exempt are not eligible for overtime compensation under the FLSA, and will not receive overtime compensation for hours worked in excess of forty (40) hours per workweek.

FLSA DESIGNATION		
POSITION TITLE	EXEMPT/NON-EXEMPT STATUS	POSITION CATEGORY
City Manager	Exempt	Executive
Assistant City Manager	Exempt	Executive
Public Safety Services Director	Exempt	Executive
Public Works Director/City Engineer	Exempt	Executive
Finance Director	Exempt	Executive
Community Services Director	Exempt	Executive
Community and Economic Development Director	Exempt	Executive
Administrative Services Director	Exempt	Executive
Assistant Community and Economic Development Director	Exempt	Management
Assistant City Engineer	Exempt	Management
Public Works Manager	Exempt	Management
Planning Manager	Exempt	Management
Human Resources Manager	Exempt	Management
Community Services Manager	Exempt	Management
City Clerk	Exempt	Management
Building Official	Exempt	Management
Assistant to the City Manager	Exempt	Management
Administrative Services Manager	Exempt	Management
Accounting Manager	Exempt	Management
Facilities Maintenance Supervisor	Exempt	Supervisory
Community Services Supervisor	Exempt	Supervisory
Code Enforcement/Parking Control Supervisor	Exempt	Supervisory
Administrative Services Supervisor	Exempt	Supervisory
Civil Engineer	Non-Exempt	General
Senior Planner	Non-Exempt	General

Senior Public Works Inspector	Non-Exempt	General
Human Resources/Risk Management Analyst	Non-Exempt	General
Housing Associate	Non-Exempt	General
Associate Planner	Non-Exempt	General
Associate Engineer	Non-Exempt	General
Public Works Inspector	Non-Exempt	General
Accountant	Non-Exempt	General
Assistant Planner	Non-Exempt	General
Housing Specialist	Non-Exempt	General
Information Technology Specialist	Non-Exempt	General
Economic Development Specialist	Non-Exempt	General
Management Analyst	Non-Exempt	General
Code Enforcement Officer	Non-Exempt	General
Senior Accounting Technician	Non-Exempt	General
Engineering Assistant	Non-Exempt	General
Building Inspector	Non-Exempt	General
Outreach Coordinator	Non-Exempt	General
Community Services Coordinator	Non-Exempt	General
Administrative Services Coordinator	Non-Exempt	General
Senior Facilities Maintenance Worker	Non-Exempt	General
Business License Specialist	Non-Exempt	General
Planning Technician	Non-Exempt	General
Permit Technician	Non-Exempt	General
Parking Control/Code Enforcement Specialist	Non-Exempt	General
Marketing Assistant	Non-Exempt	General
Departmental Assistant	Non-Exempt	General
Facilities Maintenance Worker II	Non-Exempt	General
Senior Administrative Clerk	Non-Exempt	General
Facilities Maintenance Worker I	Non-Exempt	General
Administrative Clerk	Non-Exempt	General

SECTION 3: The City of Stanton will provide the following benefits:

I. **RETIREMENT:**

1. The City is a member of the California Public Employees Retirement System (CalPERS), pursuant to the California Public Employees Retirement Law (Cal. Gov. Code § 30000 et seq.) (PERL), as amended by the Public Employees' Pension Reform Act of 2013 (PEPRA) (Assembly Bill (AB) 340, Chapter 296, Statutes of 2012, and AB 197, Chapter 297, Statutes of 2012). The City shall provide a tax-qualified governmental defined benefit plan for all full-time miscellaneous class of employees through CalPERS, in accordance with the following provisions:

- a. Employees who are CalPERS members are subject to provisions of PERL, as amended by PEPRA. PEPRA imposes requirements and limitations on public employment retirement benefits for public employees, including establishment of a category of employees defined in PEPRA as “new members”. Employees who were hired prior to January 1, 2013, or who otherwise do not fall within the definition of a “new member” under PEPRA, are referred to in this Resolution as a “classic member” under PEPRA.
 - b. Employees hired on or before August 27, 2011, are described as “classic members” (Tier 1). Classic members’ (Tier 1) retirement benefits are based on the two percent at fifty-five (2% at 55) formula. The City shall pay the seven percent (7%) member contribution of their pensionable income to CalPERS as part of the required member retirement contribution.
 - c. Employees hired on or after August 28, 2011, are also described as “classic members” (2nd Tier). Classic members’ (2nd Tier) retirement benefits are based on the two percent at sixty (2% at 60) formula. Tier 2 employees shall pay seven percent (7%) of their pensionable income to CalPERS as part of the required member retirement contribution.
 - d. Employees hired after January 1, 2013, and who are new to CalPERS, or have had more than a six (6) month break in CalPERS service, are subject to all laws, statutes, rules and regulations of the Public Employees’ Pension Reform Act of 2013 (PEPRA or 3rd Tier). The new member retirement benefit formula is two percent at sixty-two (2% at 62). All new members shall pay at least fifty percent (50%) of the normal cost of the retirement contribution rate, or the current contribution rate of similarly situated employees, whichever is higher, to CalPERS as part of the required member retirement contribution.
 - e. All full-time employees will be covered by the 1959 Survivor Benefit. A \$.93 bi-weekly deduction is required. This benefit consists of a monthly allowance, which may be paid to the employee’s surviving spouse and children and is paid along with other death benefits and is payable whether or not the employee was eligible to retire at the time of death.
2. The City shall provide a retirement plan for all hourly part-time employees. Part-time employees are covered by the Public Agency Retirement Services Alternate Retirement System (PARS ARS). Employees contribute 7.5% salary contribution towards this program on a pre-tax basis. Upon separation from the City, hourly employees will receive one hundred percent (100%) of their contributions, plus any accrued interest.

II. INSURANCES:

1. The City shall pay the minimum required monthly contribution for medical insurance for active employees as required by the Public Employees’ Medical and Hospital Care Act (PEMHCA). To the extent required by the law, the City shall also contribute this amount for retirees.

2. The City shall pay the current Kaiser (OC) medical insurance premium for all eligible employees and two-thirds (2/3) of the additional Kaiser (OC) premium for eligible dependents. The individual employee shall pay the difference in the premium of the plan they choose, to be deducted from their salary. If a less expensive plan is selected by the employee, the employee shall receive the unused portion of the City's contribution as a cash payment not to exceed one hundred dollars (\$100.00) per month.
3. The City shall provide a medical insurance rebate program for full-time employees who are eligible for the City medical insurance program pursuant to Section II.2 above, and who are currently enrolled under a medical insurance program through a spouse or other source. Any employee for whom the City has approved waiver, the City shall compensate the employee in the amount of three hundred and fifty dollars (\$350.00) per month with the exception of Department Heads. The City shall compensate the employees occupying these positions as follows:

Position	Amount
Administrative Services Director	\$500
Assistant City Manager	\$500
City Manager	\$500
Community & Economic Development Director	\$500
Community Services Director	\$500
Finance Director	\$500
Public Works Director/City Engineer	\$500
Public Safety Services Director	\$500

4. The City shall contribute up to a maximum of twenty-three dollars and eight cents (\$23.08) per pay period for each part-time employee, who has been employed by the City for at least one year, to be used at the employee's discretion for designated dental and/or vision benefits. Such City contributions shall only be used for designated dental and/or vision benefits as determined by the City or a cash payment.
5. The City shall provide dental insurance for all eligible employees and their eligible dependents. This is provided by a carrier of the City's choosing. The City shall pay the current Delta Dental (PPO) premium amount for eligible employees and two-thirds (2/3) of the additional Delta Dental (PPO) premium for eligible dependents.
6. The City shall provide vision insurance for all eligible employees and their eligible dependents. This is provided by a carrier of the City's choosing. The City shall pay the current vision insurance premium for eligible employees and two-thirds (2/3) of the premium for eligible dependents.

7. The City shall provide term life insurance to full-time employees as follows:
 - a. The City will provide full-time employees with life insurance equal to a maximum of fifty thousand dollars (\$50,000) per employee.
 - b. The City will provide the City Manager with life insurance equal to a maximum of one hundred and fifty thousand dollars (\$150,000).
8. The City shall provide short-term disability insurance for regular full-time employees up to sixty-seven percent (67%) of the employee's weekly pre-disability earnings. However, the benefit shall not be more than two thousand dollars (\$2,000.00) per week. Payment for any accident or sickness eligible under the short-term disability policy shall commence on the thirty-first (31st) day after the accident occurs or sickness commences and shall continue for no more than sixty (60) days.
9. The City shall provide long-term disability insurance for regular full-time employees up to sixty percent (60%) of the employee's monthly pre-disability earnings. However, the benefit shall not be more than five thousand dollars (\$5,000) per month. If a disability qualifies under the long-term disability policy, benefits shall commence ninety (90) days after the accident occurs or sickness commences. An employee may not receive short-term disability insurance benefits and long-term disability insurance benefits at the same time.
10. In accordance with the California Labor Code, the City pays the rates for unemployment insurance for City employees as determined by the Employment Development Department.
11. Under the Workers' Compensation Insurance Law of California, any employee injured on the job in the course of employment is entitled to disability compensation and medical care.

III. VACATION:

1. Employees occupying full-time positions shall accrue vacation according to the following schedule:

Months of Service	Monthly Accrual	Annual Accrual
1-60	8	96
61-120	12	144
121+	16	192

2. Employees occupying part-time positions, who have completed one year of employment with the City, shall accrue vacation time expressed in working hours in accordance with the following:

Years of Service	Monthly Accrual	Annual Accrual
13-60	4	48
61-120	6	72
121+	8	96

3. Department Heads and the City Manager are not eligible to accrue vacation.
4. Vacation will be credited bi-weekly on a prorated basis proportionate to a full working month. Upon separation from the City, employees shall be compensated at their then rate of pay for their accrued vacation to a maximum of 360 hours. The maximum number of vacation hours an employee can accrue at any time is 360 hours. An employee who has reached 360 accrued vacation hours will stop accruing hours and will resume accruing vacation hours only when the number of accrued vacation hours falls below 300 hours. Probationary employees shall begin accrual of vacation leave effective on their first day of employment. New employees shall not be eligible to take vacation leave until completion of six (6) months of continuous service. Probationary employees may request exceptions to this policy, which may or may not be granted by the City Manager, in his/her discretion. Upon termination or resignation, the accrual of vacation for full-time employees will be pro-rated based on the number of hours worked during the final pay period. Upon termination or resignation, the accrual of vacation for eligible part-time employees will be pro-rated based on the number of weeks employed during the pay period.

IV. HOLIDAYS:

1. Full-time employees shall receive ten (10) hours of holiday pay for each holiday. Part-time employees, who have completed one year of employment with the City, shall receive five (5) hours of holiday pay for each holiday. Holiday pay shall be computed at the employee's basic hourly rate.
2. For pay purposes, the following holidays are recognized as municipal holidays for employees. Said employees shall receive these holidays off with pay:

New Year's Day (January 1)
Martin Luther King's Birthday (third Monday in January)
President's Day (3 rd Monday in February)
Memorial Day (last Monday in May)
Independence Day (July 4)
Labor Day (1 st Monday in September)
Veteran's Day (November 11)
Thanksgiving Day (every 4 th Thursday of November)

Christmas Eve (December 24)
Christmas Day (December 25)
New Year's Eve Day (December 31)

3. If any holiday falls on a Sunday and it is the employee's regularly scheduled day off, the following Monday shall be treated as the holiday.
4. If such holiday falls on a Friday or Saturday, employees will receive floating holiday hours for those holidays. Employees will be credited at the beginning of each fiscal year for the determined amount of hours for those holidays falling on scheduled days off. Employees must use these accrued holiday hours by June 30th of each fiscal year.
5. In addition to the above holidays, each regular full-time and part-time employee shall be eligible for one (1) floating holiday of his or her choice to be scheduled with the approval of his/her Department Head. Floating holidays not used will be forfeited.
6. City services will be closed each year from December 26 through December 30 for Winter Holiday Closure. The City will provide full-time employees and eligible part-time employees additional floating holiday pay for two (2) days between December 26 and December 30 that are the employee's normal working days per Resolution No. 2014-41. Some City facilities, programs, and services may be required to remain open during this period as deemed necessary by the Department Head or City Manager.

V. LEAVES OF ABSENCE

1. Full-time employee sick leave with pay shall accrue at the rate of eight (8) hours for each calendar month for a total of 96 hours per fiscal year. Part-time employees shall accrue four (4) hours for each calendar month for a total of 48 hours per fiscal year. No employee may accumulate more than two hundred fifty (250) hours of sick leave. Upon separation, termination or retirement, there is no payout of unused sick leave for both full-time and part-time employees.
2. An employee shall be eligible for bereavement leave to receive necessary time off, not to exceed one (1) day in any one (1) instance, to arrange for or attend a funeral of a member of his/her immediate family. Immediate family shall mean father, father-in-law, mother, mother-in-law, stepparent, brother, brother-in-law, sister, sister-in-law, spouse, domestic partner, child, grandparent, grandchild, legal guardian or legal ward. The first day of bereavement leave, in any one instance, shall be with pay and shall not be chargeable to any other leave balance. Upon request to and written approval by the City Manager, an employee may in certain circumstances be eligible to receive additional necessary time off, not to exceed

two (2) days in any one (1) instance. These two (2) additional days of bereavement leave, if approved, shall be with pay and chargeable to the employee's sick leave balance.

3. Voting Leave shall be provided in accordance with the California election Code, Sections 14000 and 14001, if a registered voter employee does not have sufficient time outside regular working hours within which to vote at statewide elections, he/she may take off such working time as will enable him/her to vote. A maximum of two (2) hours may be taken with pay.
4. Employees called to serve jury duty will be granted a leave of absence for a total of up to eight (8) days in any one calendar year provided any and all consideration, except travel reimbursement, received for such services is relinquished to the City. Fees for Jury duty performed during hours other than regularly scheduled working hours may be retained by the employee. Under special circumstances the City Manager, or designated representative(s), may authorize additional time if said time will not interfere or become a burden to City activities.
5. An employee who is called to answer a subpoena as a witness in any matter relating to City business during the employee's work hours shall be compensated at his/her regular rate of pay for all hours of absence from work due to answering the subpoena, provided the employee shows proof of such subpoena and deposits witness fees received for such hours, exclusive of mileage, with the City. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.
6. Military leave shall be provided as set forth in the applicable California and federal law. An employee entitled to military leave shall give his/her Department Head an opportunity within the limits of military regulations to determine when such leave shall be taken. Prior to taking military leave, an employee, when possible, shall present a copy of his/her military orders to his/her Department Head. The Department Head shall advise the Personnel Officer of such military orders immediately.
7. A regular, part-time, or probationary employee shall be entitled to necessary time off with pay to participate in fitness tests, examinations and interviews required by the Personnel Officer during working hours for the purpose of determining eligibility for movement to another class or transfer from one position to another.
8. The Administrative Service Leave Program is designed for employees whose positions are characterized by: (1) a work time requirement which exceeds a normal workweek (2) mental application to work related matters during off duty hours (3) a continuing on-call status to address critical problems or issues (4) the inability of the incumbent to delegate all his/her work during vacations or other time off.

- a. Administrative leave shall be provided on an annual basis to the following staff occupying these positions:

Position	Hours
City Clerk	64
Code Enforcement/Parking Control Supervisor	40
Planning Manager	40
Human Resources Manager	40
Community Services Manager	40
Administrative Services Manager	40
Accounting Manager	40
Public Works Manager	40
Building Official	40
Community Services Supervisor	40
Facilities Maintenance Supervisor	40
Assistant City Engineer	40
Assistant to the City Manager	40
Administrative Services Supervisor	40
Assistant Community and Economic Development Director	40

- b. Administrative leave shall be credited at the beginning of the fiscal year. The City Manager shall have the discretion to increase the maximum amount of Administrative Service Leave, up to a maximum amount of sixty-four (64) hours to the employees listed above. All Administrative Service Leave should be used within the fiscal year in which it is granted. Any Administrative Service Leave remaining at the end of the fiscal year will carry over to the following year, but will decrease the amount of Administrative Service Leave that is credited for the following fiscal year.
- c. Employees eligible for overtime pay may not participate in the Administrative Service Leave program.
9. Comprehensive Leave, in lieu of sick, vacation, administrative, or other paid leave, shall be provided on an annual basis to the following staff occupying these positions:

Position	Hours
Administrative Services Director	300
Assistant City Manager	300
City Manager	300
Community & Economic Development Director	300
Community Services Director	300
Finance Director	300
Public Works Director/City Engineer	300
Public Safety Services Director	300

- a. Every June 30th during the term of the employment agreement, Employee shall be paid at his/her then current rate of pay for all accumulated leave up to the maximum per his/her employment agreement. On July 1st of each year during the term of the employment agreement, the total amount of comprehensive leave available to the employee shall be replenished to reach the maximum comprehensive leave accumulation limit provided above.
10. In compliance with the California Moore-Roberti Family Rights Act of 1991 (CFRA) and the Federal Family and Medical Leave Act of 1993 (FMLA), the City will provide up to 12 weeks in any 12 month period, unpaid, job-protected leave to eligible employees for certain family and medical reasons, in accordance with the City's Personnel Rules Handbook.
11. A female employee disabled by pregnancy, childbirth or related medical conditions may take up to four (4) months of unpaid pregnancy disability leave per pregnancy, in addition to any family care or medical leave to which the employee may be entitled, in accordance with the City's Personnel Rules Handbook.
12. The City may, at the discretion of the City Manager, grant an employee a leave of absence without pay for a period not to exceed six (6) months when an employee has exhausted all of his/her paid leaves. After the initial six (6) months, the Personnel Officer, in his/her discretion, may extend the leave for up to an additional three (3) months. However, unless otherwise required by law, in no circumstances shall the unpaid leave last longer than one (1) year. Leave without pay and without benefits is intended for unusual circumstances and approval will be evaluated based on the impact to departmental functions and work force levels.

VI. OVERTIME:

1. Employees designated as exempt are exempt from receiving overtime compensation.
2. Employees classified as non-exempt shall be paid at the rate of one and on-half (1½) times their times their hourly rate for all hours actually worked in excess of ten (10) hours in a workday or forty (40) hours during the normal workweek. Overtime is paid in increments of 30 minutes. Time worked shall be rounded off as one (1) hour for 45 minutes and one-half (1/2) hour for 15 minutes. Overtime shall not accrue until the affected employee has worked at least ten (10) hours in a workday or forty (40) hours during a workweek. No overtime will accrue during any scheduled closure of City Hall if the affected employee is scheduled to work during such period except where the employee works more than ten (10) hours in a workday or more than forty (40) hours during a workweek.

VII. MISCELLANEOUS BENEFITS:

1. Automobile allowance shall be provided on a monthly basis to the following staff occupying these positions:

Position	Amount
Administrative Services Director	\$300
Assistant City Manager	\$300
City Manager	\$300
Community and Economic Development Director	\$400
Community Services Director	\$300
Finance Director	\$300
Public Works Director/City Engineer	\$300
Public Safety Services Director	\$300

2. All regular and probationary full-time and part-time employees, who use one (1) or more alternative transportation methods (including carpool, vanpool, public transportation, bicycle or walking) to get to and from work at least four (4) days for a calendar month, are eligible to receive an incentive of five dollars (\$5.00) per day. Department Heads, elected and appointed officials, temporary and contractual employees, volunteers and any person who receives an automobile or transportation stipend from the City are excluded from participation in this program.
3. Cell phone allowance shall be provided on a monthly basis to the following staff occupying these positions:

Position	Amount
Administrative Services Director	\$100
Assistant City Manager	\$100
City Manager	\$100
Community & Economic Development Director	\$100
Community Services Director	\$100
Finance Director	\$100
Public Works Director/City Engineer	\$100
Public Safety Services Director	\$100

4. The City shall provide employees who are required to utilize a cellular phone for business related purposes and do not receive a cell phone allowance with a City paid cellular telephone as deemed appropriate by the City Manager. The policy is to use this City issued phone for City business only.
5. Employees who have reached three hundred fifty (350) hours of vacation accumulation may sell back vacation time to the City on the basis of two vacation hours for each vacation hour taken off by the employee during that fiscal year (July

1st through June 30th), up to a sell-back limit of eighty (80) hours. The sell back of vacation time shall be limited to one time during the fiscal year.

6. The City shall provide full-time employees a flexible spending account program for eligible health care and dependent care expenses.
7. The City shall offer employees additional voluntary health, dental and life insurance coverage plan options through AFLAC.
8. The City shall offer employees a Deferred Compensation Program. Participation is voluntary and the City does not match or contribute to employees' plan.
9. The City shall provide an Employee Assistance Program available to employees and their dependent family members.
10. The City shall provide a Sick Leave Incentive for the Prudent Use of Sick Leave.
 - a. Regular full-time Regular full-time employees, who have used thirty (30) hours or less of sick leave during the prior fiscal year, shall be credited with twenty (20) vacation hours at the start of the new fiscal year.
 - b. Regular full-time employees, who have used more than thirty (30) hours but not more than sixty (60) hours of sick leave during the prior fiscal year, shall be credited with ten (10) vacation hours at the start of the new fiscal year.
 - c. Part-time employees, who have completed one year of employment with the City, and who have used fifteen (15) hours or less of sick leave during the prior fiscal year, shall be credited with ten (10) vacation hours at the start of the new fiscal year.
 - d. Part-time employees, who have completed one year of employment with the City, and who have used more than fifteen (15) hours but not more than thirty (30) hours of sick leave during the prior fiscal year, shall be credited with five (5) vacation hours at the start of the new fiscal year.
11. Regular employees and part-time employees who have been employed for one (1) year are eligible for educational expense reimbursement. Education reimbursement shall be limited to one thousand two hundred and fifty dollars (\$1,250.00) per fiscal year per regular employee. Part-time employees are entitled to up to six hundred and twenty-five dollars (\$625.00) per fiscal year per employee. Education reimbursement may include books and tuition and shall not be made until such time as proper documentation is received by the Personnel Officer. Reimbursement shall not be made is proper documentation is not submitted within sixty (60) days of completion of the course. Employees who terminate their employment prior to the completion of the authorized course work or prior to the receipt of a payment under this program will not be eligible for any reimbursement for such course work under this program. Employees who terminate employment within one year of the completion of the course will reimburse the City the funds used upon separation.

12. The City shall provide bilingual pay to employees assigned to regularly and frequently speak and/or translate a second language in the amount of forty-six dollars and sixteen cents (\$46.16) for full-time employees and twenty-three dollars and eight cents (\$23.08) for part-time employees, per pay period for each pay period such assignment continues.
13. The City shall provide an employee computer purchase program. Employees can avail of the opportunity to purchase a personal computer with an interest-free two-year loan. Full-time employees, who have completed the one year probationary period or part-time employees who have been employed with the City for over one year, are eligible to participate in this program.
14. The City will provide uniforms (pants and work shirts) for any employee who is required to wear a uniform as a condition of his/her employment.
15. The City shall provide a maximum of two hundred dollars (\$200.00) per year for the reimbursement of safety shoes for any employee who is required to wear safety shoes as a condition of his/her employment.
16. For those not provided with an auto allowance, the City will reimburse an employee the current Internal Revenue Service mileage rate in effect per mile driven for authorized use of an employee's private vehicle on City business. Employees that receive an auto allowance are not eligible for mileage reimbursement and must have a private vehicle available for use on City business.
17. Each employee assigned to on-call duty shall receive two (2) hours pay at thirty-five dollars (\$35.00) per hours for each week such duty is performed. On call duty is defined as that period of time other than regularly scheduled work time during which an employee is subject to call-out to provide services which are the responsibility of the department in which he/she is employed.
18. If an employee, who is not in the Administrative Service, is called back after 10:00 p.m. because of a request made, and the employee has completed his/her normal work shift and left the work station, he/she is entitled to two (2) hours minimum of call-back pay. If an employee is called back between the end of their shift (4:30 p.m. for City Yard and 6:00 p.m. for Civic Center) and 10:00 p.m., the employee will receive one (1) hour minimum of call-back pay. If an employee is called back on his/her normal day off, he/she is entitled to two (2) hours minimum of call back pay. All payments for call-back pay shall be paid at the regular rate of pay unless such additional hours are in excess of forty (40) for the employee's workweek wherein he/she will receive payment at one and one-half (1½) times the regular rate of pay.
19. The City shall continue to provide vacation in lieu (grandfathered benefit) pay in the amount of \$520 per year to eligible employees as authorized prior to 1989.

SECTION 4: The City expressly reserves the right, in its sole discretion, at any time and from time to time, but upon a non-discriminatory basis, to amend or rescind any provision of this Resolution or any benefits or salary provisions, or to terminate any benefits or salary provisions. Such changes may apply to current and/or future employees, retirees or their family members. All benefits in this Resolution shall be reviewed annually in their entirety.

SECTION 5: This Resolution shall become effective immediately upon its passage.

SECTION 6: The City Clerk shall certify to the adoption of this Resolution.

ADOPTED, SIGNED AND APPROVED this 10th day of May, 2022.

DAVID J. SHAWVER, MAYOR

APPROVED AS TO FORM:

HONGDAO NGUYEN, CITY ATTORNEY

ATTEST:

I, Patricia A. Vazquez, City Clerk of the City of Stanton, California DO HEREBY CERTIFY that the foregoing Resolution, being Resolution No. 2022-22 has been duly signed by the Mayor and attested by the City Clerk, all at a regular meeting of the Stanton City Council, held on May 10, 2022, and that the same was adopted, signed and approved by the following vote to wit:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

PATRICIA A. VAZQUEZ, CITY CLERK

[Click here to return to the agenda.](#)

EXHIBIT “A”

Salary Grade	Monthly Step A	Hourly Step A	Monthly Step B	Hourly Step B	Monthly Step C	Hourly Step C	Monthly Step D	Hourly Step D	Monthly Step E	Hourly Step E	Monthly Step F	Hourly Step F
53	\$11,283	\$65.10	\$11,848	\$68.35	\$12,440	\$71.77	\$13,062	\$75.36	\$13,715	\$79.13	\$14,401	\$83.08
52	\$11,008	\$63.51	\$11,559	\$66.68	\$12,137	\$70.02	\$12,743	\$73.52	\$13,381	\$77.20	\$14,050	\$81.06
51	\$10,740	\$61.96	\$11,277	\$65.06	\$11,841	\$68.31	\$12,433	\$71.73	\$13,054	\$75.31	\$13,707	\$79.08
50	\$10,478	\$60.45	\$11,002	\$63.47	\$11,552	\$66.65	\$12,129	\$69.98	\$12,736	\$73.48	\$13,373	\$77.15
49	\$10,222	\$58.97	\$10,733	\$61.92	\$11,270	\$65.02	\$11,834	\$68.27	\$12,425	\$71.68	\$13,046	\$75.27
48	\$9,973	\$57.54	\$10,472	\$60.41	\$10,995	\$63.43	\$11,545	\$66.61	\$12,122	\$69.94	\$12,728	\$73.43
47	\$9,730	\$56.13	\$10,216	\$58.94	\$10,727	\$61.89	\$11,263	\$64.98	\$11,827	\$68.23	\$12,418	\$71.64
46	\$9,492	\$54.76	\$9,967	\$57.50	\$10,465	\$60.38	\$10,989	\$63.40	\$11,538	\$66.57	\$12,115	\$69.89
45	\$9,261	\$53.43	\$9,724	\$56.10	\$10,210	\$58.90	\$10,721	\$61.85	\$11,257	\$64.94	\$11,819	\$68.19
44	\$9,035	\$52.12	\$9,487	\$54.73	\$9,961	\$57.47	\$10,459	\$60.34	\$10,982	\$63.36	\$11,531	\$66.53
43	\$8,815	\$50.85	\$9,255	\$53.40	\$9,718	\$56.07	\$10,204	\$58.87	\$10,714	\$61.81	\$11,250	\$64.90
42	\$8,600	\$49.61	\$9,030	\$52.09	\$9,481	\$54.70	\$9,955	\$57.43	\$10,453	\$60.31	\$10,976	\$63.32
41	\$8,390	\$48.40	\$8,809	\$50.82	\$9,250	\$53.36	\$9,712	\$56.03	\$10,198	\$58.83	\$10,708	\$61.78
40	\$8,185	\$47.22	\$8,595	\$49.58	\$9,024	\$52.06	\$9,475	\$54.67	\$9,949	\$57.40	\$10,447	\$60.27
39	\$7,986	\$46.07	\$8,385	\$48.37	\$8,804	\$50.79	\$9,244	\$53.33	\$9,707	\$56.00	\$10,192	\$58.80
38	\$7,791	\$44.95	\$8,180	\$47.19	\$8,589	\$49.55	\$9,019	\$52.03	\$9,470	\$54.63	\$9,943	\$57.37
37	\$7,601	\$43.85	\$7,981	\$46.04	\$8,380	\$48.35	\$8,799	\$50.76	\$9,239	\$53.30	\$9,701	\$55.97
36	\$7,415	\$42.78	\$7,786	\$44.92	\$8,176	\$47.17	\$8,584	\$49.52	\$9,014	\$52.00	\$9,464	\$54.60
35	\$7,235	\$41.74	\$7,596	\$43.82	\$7,976	\$46.02	\$8,375	\$48.32	\$8,794	\$50.73	\$9,233	\$53.27
34	\$7,058	\$40.72	\$7,411	\$42.76	\$7,782	\$44.89	\$8,171	\$47.14	\$8,579	\$49.50	\$9,008	\$51.97
33	\$6,886	\$39.73	\$7,230	\$41.71	\$7,592	\$43.80	\$7,971	\$45.99	\$8,370	\$48.29	\$8,788	\$50.70
32	\$6,718	\$38.76	\$7,054	\$40.70	\$7,407	\$42.73	\$7,777	\$44.87	\$8,166	\$47.11	\$8,574	\$49.47
31	\$6,554	\$37.81	\$6,882	\$39.70	\$7,226	\$41.69	\$7,587	\$43.77	\$7,967	\$45.96	\$8,365	\$48.26
30	\$6,394	\$36.89	\$6,714	\$38.73	\$7,050	\$40.67	\$7,402	\$42.71	\$7,772	\$44.84	\$8,161	\$47.08
29	\$6,238	\$35.99	\$6,550	\$37.79	\$6,878	\$39.68	\$7,222	\$41.66	\$7,583	\$43.75	\$7,962	\$45.93
28	\$6,086	\$35.11	\$6,391	\$36.87	\$6,710	\$38.71	\$7,046	\$40.65	\$7,398	\$42.68	\$7,768	\$44.81
27	\$5,938	\$34.26	\$6,235	\$35.97	\$6,546	\$37.77	\$6,874	\$39.66	\$7,217	\$41.64	\$7,578	\$43.72
26	\$5,793	\$33.42	\$6,083	\$35.09	\$6,387	\$36.85	\$6,706	\$38.69	\$7,041	\$40.62	\$7,393	\$42.65

Salary Grade	Monthly Step A	Hourly Step A	Monthly Step B	Hourly Step B	Monthly Step C	Hourly Step C	Monthly Step D	Hourly Step D	Monthly Step E	Hourly Step E	Monthly Step F	Hourly Step F
25	\$5,652	\$32.61	\$5,934	\$34.24	\$6,231	\$35.95	\$6,542	\$37.75	\$6,870	\$39.63	\$7,213	\$41.61
24	\$5,514	\$31.81	\$5,789	\$33.40	\$6,079	\$35.07	\$6,383	\$36.82	\$6,702	\$38.67	\$7,037	\$40.60
23	\$5,379	\$31.03	\$5,648	\$32.59	\$5,931	\$34.22	\$6,227	\$35.93	\$6,539	\$37.72	\$6,866	\$39.61
22	\$5,248	\$30.28	\$5,511	\$31.79	\$5,786	\$33.38	\$6,075	\$35.05	\$6,379	\$36.80	\$6,698	\$38.64
21	\$5,120	\$29.54	\$5,376	\$31.02	\$5,645	\$32.57	\$5,927	\$34.20	\$6,224	\$35.90	\$6,535	\$37.70
20	\$4,995	\$28.82	\$5,245	\$30.26	\$5,507	\$31.77	\$5,783	\$33.36	\$6,072	\$35.03	\$6,375	\$36.78
19	\$4,873	\$28.12	\$5,117	\$29.52	\$5,373	\$31.00	\$5,642	\$32.55	\$5,924	\$34.17	\$6,220	\$35.88
18	\$4,755	\$27.43	\$4,992	\$28.80	\$5,242	\$30.24	\$5,504	\$31.75	\$5,779	\$33.34	\$6,068	\$35.01
17	\$4,639	\$26.76	\$4,870	\$28.10	\$5,114	\$29.50	\$5,370	\$30.98	\$5,638	\$32.53	\$5,920	\$34.15
16	\$4,525	\$26.11	\$4,752	\$27.41	\$4,989	\$28.78	\$5,239	\$30.22	\$5,501	\$31.73	\$5,776	\$33.32
15	\$4,415	\$25.47	\$4,636	\$26.75	\$4,868	\$28.08	\$5,111	\$29.49	\$5,367	\$30.96	\$5,635	\$32.51
14	\$4,307	\$24.85	\$4,523	\$26.09	\$4,749	\$27.40	\$4,986	\$28.77	\$5,236	\$30.21	\$5,497	\$31.72
13	\$4,202	\$24.24	\$4,412	\$25.46	\$4,633	\$26.73	\$4,865	\$28.07	\$5,108	\$29.47	\$5,363	\$30.94
12	\$4,100	\$23.65	\$4,305	\$24.84	\$4,520	\$26.08	\$4,746	\$27.38	\$4,983	\$28.75	\$5,233	\$30.19
11	\$4,000	\$23.08	\$4,200	\$24.23	\$4,410	\$25.44	\$4,630	\$26.71	\$4,862	\$28.05	\$5,105	\$29.45
10	\$3,902	\$22.51	\$4,097	\$23.64	\$4,302	\$24.82	\$4,517	\$26.06	\$4,743	\$27.36	\$4,980	\$28.73
9	\$3,807	\$21.96	\$3,997	\$23.06	\$4,197	\$24.22	\$4,407	\$25.43	\$4,628	\$26.70	\$4,859	\$28.03
8	\$3,714	\$21.43	\$3,900	\$22.50	\$4,095	\$23.62	\$4,300	\$24.81	\$4,515	\$26.05	\$4,740	\$27.35
7	\$3,624	\$20.91	\$3,805	\$21.95	\$3,995	\$23.05	\$4,195	\$24.20	\$4,405	\$25.41	\$4,625	\$26.68
6	\$3,535	\$20.40	\$3,712	\$21.42	\$3,898	\$22.49	\$4,092	\$23.61	\$4,297	\$24.79	\$4,512	\$26.03
5	\$3,449	\$19.90	\$3,621	\$20.89	\$3,803	\$21.94	\$3,993	\$23.03	\$4,192	\$24.19	\$4,402	\$25.40
4	\$3,365	\$19.41	\$3,533	\$20.38	\$3,710	\$21.40	\$3,895	\$22.47	\$4,090	\$23.60	\$4,295	\$24.78
3	\$3,283	\$18.94	\$3,447	\$19.89	\$3,619	\$20.88	\$3,800	\$21.92	\$3,990	\$23.02	\$4,190	\$24.17
2	\$3,203	\$18.48	\$3,363	\$19.40	\$3,531	\$20.37	\$3,708	\$21.39	\$3,893	\$22.46	\$4,088	\$23.58
1	\$3,125	\$18.03	\$3,281	\$18.93	\$3,445	\$19.87	\$3,617	\$20.87	\$3,798	\$21.91	\$3,988	\$23.01
1A	\$2,600	\$15.00	\$2,730	\$15.75	\$2,867	\$16.54	\$3,010	\$17.36	\$3,160	\$18.23	\$3,318	\$19.14

[Click here to return to the agenda.](#)

Council Approved: May 10, 2022 (Resolution 2022-22)

RANGE NO.**STEP****POSITION/MONTHLY SALARY**

A	B	C	D	E	F
---	---	---	---	---	---

16

26.11	27.41	28.78	30.22	31.73	33.32
4525	4752	4989	5239	5501	5776

Administrative Services Coordinator
Community Services Coordinator
Outreach Coordinator

18

27.43	28.80	30.24	31.75	33.34	35.01
4755	4992	5242	5504	5779	6068

Building Inspector
Engineering Assistant

19

28.12	29.52	31.00	32.55	34.17	35.88
4873	5117	5373	5642	5924	6220

Administrative Services Supervisor
Code Enforcement Officer
Senior Accounting Technician

20

28.82	30.26	31.77	33.36	35.03	36.78
4995	5245	5507	5783	6072	6375

Management Analyst

21

29.54	31.02	32.57	34.20	35.90	37.70
5120	5376	5645	5927	6224	6535

Assistant Planner
Economic Development Specialist
Housing Specialist
Information Technology Specialist

22

30.28	31.79	33.38	35.05	36.80	38.64
5248	5511	5786	6075	6379	6698

Accountant
Public Works Inspector

26

33.42	35.09	36.85	38.69	40.62	42.65
5793	6083	6387	6706	7041	7393

Associate Engineer
Associate Planner
Code Enforcement/Parking Control Supervisor
Community Services Supervisor
Facilities Maintenance Supervisor
Housing Associate
Human Resources/Risk Management Analyst

31

37.81	39.70	41.69	43.77	45.96	48.26
6554	6882	7226	7587	7967	8365

Senior Public Works Inspector

<u>RANGE NO.</u>	STEP	<u>POSITION/MONTHLY SALARY</u>					
		A	B	C	D	E	F
33		39.73	41.71	43.80	45.99	48.29	50.70
		6886	7230	7592	7971	8370	8788
		<i>Civil Engineer</i>					
		<i>Senior Planner</i>					
35		41.74	43.82	46.02	48.32	50.73	53.27
		7235	7596	7976	8375	8794	9233
		<i>Accounting Manager</i>					
		<i>Administrative Services Manager</i>					
		<i>Assistant to the City Manager</i>					
		<i>Building Official</i>					
		<i>City Clerk</i>					
		<i>Community Services Manager</i>					
		<i>Human Resources Manager</i>					
		<i>Planning Manager</i>					
		<i>Public Works Manager</i>					
43		50.85	53.40	56.07	58.87	61.81	64.90
		8815	9255	9718	10204	10714	11250
		<i>Assistant City Engineer</i>					
		<i>Assistant Community and Economic Development Director</i>					
50		60.45	63.47	66.65	69.98	73.48	77.15
		10478	11002	11552	12129	12736	13373
		<i>Administrative Services Director</i>					
		<i>Community & Economic Development Director</i>					
		<i>Community Services Director</i>					
		<i>Finance Director</i>					
		<i>Public Works Director/City Engineer</i>					
		<i>Public Safety Services Director</i>					
53		65.10	68.35	71.77	75.36	79.13	83.08
		11283	11848	12440	13062	13715	14401
		<i>Assistant City Manager</i>					

The annual salary for the City Manager is \$185,771 (\$15,481.00/mo.) effective 5/16/2022.
The monthly salary for City Council Members is \$850 effective 3/5/2017.

Revision Effective Dates:	11/28/2012	06/12/2018	01/01/2021
	03/10/2015	09/11/2018	07/01/2021
	05/12/2015	03/18/2019	09/14/2021
	03/05/2017	09/24/2019	01/01/2022
	04/25/2017	11/12/2019	03/27/2022
	06/27/2017	01/01/2020	05/16/2022
	09/12/2017	03/24/2020	
	02/27/2018	06/09/2020	
	04/25/2018	07/14/2020	

*Monthly Salary are approximate rates based on the hourly conversion.

Council Approved: May 10, 2022 (Resolution 2022-22)