



AGENDA

City of Lucas City Council Meeting August 5, 2021

7:00 PM

City Hall, Council Chambers and Video Conference 665 Country Club Road – Lucas, Texas

Notice is hereby given that a meeting of the Lucas City Council will be held on Thursday, August 5, 2021 beginning at 7:00 pm at Lucas City Hall, 665 Country Club Road, Lucas, Texas 75002-7651 and by video conference, at which time the following agenda will be discussed. As authorized by Section 551.071 of the Texas Government Code, the City Council may convene into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

On March 16, 2020, Governor Abbott suspended some provisions of the Open Meetings Act in response to the COVID-19 emergency. Planning and Zoning meetings are also available through Zoom from your computer or smartphone. To join the meeting, please click this URL:

<https://zoom.us/j/95534828374?pwd=ZkJ5cTZkVWNEl3o0WFNCQXBjQ0RvZz09> and enter your name and email address.

Join by phone: 1-346-248-7799

Webinar ID: 955 3482 8374

Passcode: 712285

If you would like to watch the meeting live, and not participate via Zoom, you may go to the City's live streaming link at <https://www.lucastexas.us/live-streaming-videos/>.

How to Provide Input at a Meeting:

Speak In Person: Request to Speak forms will be available at the meeting. Please fill out the form and give to the City Secretary prior to the start of the meeting. This form will also allow a place for comments.

Speak Remotely Via Zoom: If you would like to attend a meeting remotely and speak via Zoom, email the City Secretary at shenderson@lucastexas.us by 5:00 pm noting the item you wish to speak on and noting your attendance will be remote. Any requests received after 5:00 pm will not be included at the meeting.

Submit Written Comments: If you are unable to attend a meeting and would like to submit written comments regarding a specific agenda item, email the City Secretary at shenderson@lucastexas.us by no later than 5:00 pm the day of the meeting. The email must contain the person's name, address, phone number, and the agenda item(s) for which comments will be made. Any requests received after 5:00 pm will not be included at the meeting.

Citizen Input

1. Citizen Input

Community Interest

Pursuant to Section 5510415 of the Texas Government Code, the City Council may report on the following items: 1) expression of thanks, congratulations or condolences; 2) information about holiday schedules; 3) recognition of individuals; 4) reminders about upcoming City Council events; 5) information about community events; and 6) announcements involving imminent threat to public health and safety.

2. Items of Community Interest

Consent Agenda

All items listed under the consent agenda are considered routine and are recommended to the City Council for a single vote approval. If discussion is desired, an item may be removed from the consent agenda for a separate vote.

3. Consent Agenda:
 - A. Approval of the minutes of the July 15, 2021, City Council/Budget workshop meeting. **(City Secretary Stacy Henderson)**
 - B. Approval of amending the Fiscal Year 20/21 budget by appropriating \$120,000 from unrestricted General Fund Reserves to account 11-8300-421 Vehicles for the purchase of a new water rescue boat for the Fire-Rescue Water Rescue Program. **(Finance Director Liz Exum)**
 - C. Authorize the Mayor to enter into an interlocal agreement between the City of Lucas and Collin County for animal sheltering services for a one-year period beginning October 1, 2021 through September 30, 2022 in an amount not to exceed \$14,970.00. **(City Secretary Stacy Henderson)**
 - D. Authorize the Mayor to enter into an interlocal agreement between the City of Lucas and Collin County for animal control services for a one-year period beginning October 1, 2021 through September 30, 2022 in an amount not to exceed \$19,030.00. **(City Secretary Stacy Henderson)**
 - E. Approval of Ordinance 2021-08-00935 amending the Code of Ordinances, Chapter 8 titled “offenses and nuisances” amending article 8.05 titled “noise” and by amending Section 8.05.003 titled “Exemption” by removing (7) related to “sound produced from a mechanical loudspeaker or amplifier on a truck or other moving vehicle for the purpose of advertising any show, sale or display of merchandise. **(Development Services Director Joe Hilbourn)**

Regular Agenda

4. Provide update and consider authorizing the City Manager to enter into a professional services agreement with BCC Engineering in the amount of \$12,300.00 for Phase 1 to conduct an evaluation and recommendations for repairs to the Winningkoff Bridge using Unrestricted General Fund Reserves. **(City Manager Joni Clarke, Chris Meszler, BCC Engineering)**

5. Consider authorizing the City Manager to enter into a professional services agreement with BCC Engineering in the amount of \$59,808.00 to provide project management for the maintenance and repairs of the Stinson Road Culvert project and the maintenance and improvements of the Winningkoff Road Culvert project using Unrestricted General Fund Reserves. **(Management Analyst Patrick Hubbard)**
6. Provide direction to the City Manager regarding preparation of Resolutions amending boundary agreements with the Town of Fairview and the cities of Allen and Parker and meet with the staff of each city regarding the same. **(Engineering Intern Eric Henderson)**
7. Consider reactivation of the Lucas Community Emergency Response Team (CERT). **(City Councilmember Tim Johnson)**
8. Discuss and provide direction regarding policy and procedures concerning afterhours work requests. **(City Councilmember Tim Johnson)**
9. Discuss requirements and eligible uses of the Coronavirus Local Fiscal Recovery Fund and provide direction to the City Manager. **(City Manager Joni Clarke)**
10. Consider the submission of City Manager Joni Clarke as a qualified person for election to the TML Health Benefits Pool Board of Trustees for Region 13. **(City Council)**

Executive Agenda

11. Executive Session

As authorized by Section 551.076 of the Texas Government Code, the City Council will convene into closed Executive Session for the purpose of receiving confidential advice relating to implementation of cyber security devices and cyber security audits.

12. Reconvene from Executive Session and take any action necessary as a result of the Executive Session.

13. Adjournment.

Certification

I do hereby certify that the above notice was posted in accordance with the Texas Open Meetings Act on the bulletin board at Lucas City Hall, 665 Country Club Road, Lucas, TX 75002 and on the City's website at www.lucastexas.us on or before 5:00 p.m. on July 29, 2021.

Stacy Henderson, City Secretary

In compliance with the American with Disabilities Act, the City of Lucas will provide for reasonable accommodations for persons attending public meetings at City Hall. Requests for accommodations or interpretive services should be directed to City Secretary Stacy Henderson at 972.912.1211 or by email at shenderson@lucastexas.us at least 48 hours prior to the meeting.



City of Lucas City Council Agenda Request August 5, 2021

Requester: Mayor Jim Olk

Agenda Item Request

Citizen Input

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas City Council Agenda Request August 5, 2021

Requester: Mayor Jim Olk

Agenda Item Request

Items of Community Interest

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas

City Council Agenda Request

August 5, 2021

Item No. 03

Requester: City Secretary Stacy Henderson
Finance Director Liz Exum
Development Services Director Joe Hilbourn

Agenda Item Request

Consent Agenda:

- A. Approval of the minutes of the July 15, 2021, City Council/Budget workshop meeting.
- B. Approval of amending the Fiscal Year 20/21 budget by appropriating \$120,000 from unrestricted General Fund Reserves to account 11-8300-421 Vehicles for the purchase of a new water rescue boat for the Fire-Rescue Water Rescue Program.
- C. Authorize the Mayor to enter into an interlocal agreement between the City of Lucas and Collin County for animal sheltering services for a one-year period beginning October 1, 2021 through September 30, 2022 in an amount not to exceed \$14,970.00.
- D. Authorize the Mayor to enter into an interlocal agreement between the City of Lucas and Collin County for animal control services for a one-year period beginning October 1, 2021 through September 30, 2022 in an amount not to exceed \$19,030.00.
- E. Approval of Ordinance 2021-08-00935 amending the Code of Ordinances, Chapter 8 titled “offenses and nuisances” amending article 8.05 titled “noise” and by amending Section 8.05.003 titled “Exemption” by removing (7) related to “sound produced from a mechanical loudspeaker or amplifier on a truck or other moving vehicle for the purpose of advertising any show, sale or display of merchandise.

Background Information

Agenda Item B:

Lucas Fire-Rescue has submitted a five-year Water Rescue Plan to the City Council which includes the purchase of a water rescue boat, equipment, and training. At the July 15, 2021, budget workshop meeting, the City Council requested that the boat be placed on the August 5, 2021, City Council meeting agenda to formally approve the funding from General Fund Reserves.

Agenda Item C:

The annual cost of the contract for animal sheltering services is \$14,970. This is the same cost as last year, there has been no increase. This is budgeted in line item 11-6999-336.



City of Lucas

City Council Agenda Request

August 5, 2021

Item No. 03

Agenda Item D:

The annual cost of the contract for animal control services is \$19,030. This is the same cost as last year, there has been no increase. This is budgeted in line item 11-6999-336.

Agenda Item E:

At the July 1, 2021 City Council meeting, staff was directed to amend the Code of Ordinances to remove Section 8.05.003 (7) related to “sound produced from a mechanical loudspeaker or amplifier on a truck or other moving vehicle for the purpose of advertising any show, sale or display of merchandise. The ordinance included in this packet removes this section from the Code of Ordinances.

Attachments/Supporting Documentation

1. Minutes of the July 15, 2021, meeting.
2. Collin County Animal Sheltering Services Contract.
3. Collin County Animal Control Services Contract.
4. Proposed Ordinance 2021-08-00935 Amending Code of Ordinances

Budget/Financial Impact

Appropriation of \$120,000 from unrestricted General Fund Reserves to account 11-8300-421 Vehicles in Fiscal Year 20/21.

Recommendation

City Staff recommends approval of the Consent Agenda.

Motion

I make a motion to approve the Consent Agenda as presented.



City of Lucas
City Council Meeting
July 15, 2021
6:05 P.M.

(immediately following the Lucas Fire Control, Prevention and EMS District Board Meeting)

City Hall Council Chambers and Video Conference
665 Country Club Road, Lucas, Texas

MINUTES

City Councilmembers Present:

Mayor Jim Olk *(arrived at 6:06 pm)*
Mayor Pro Tem Kathleen Peele
Councilmember Tim Johnson
Councilmember Tim Baney
Councilmember David Keer
Councilmember Debbie Fisher
Councilmember Phil Lawrence *(attending remotely)*

City Staff Present:

City Manager Joni Clarke
City Secretary Stacy Henderson
Development Services Director Joe Hilbourn
City Engineer Stanton Foerster
Finance Director Liz Exum
Assistant to the City Manager Kent Souriyasak
Assistant Fire Chief Lance Gant
Division Chief Aaron Alderdice
Management Analyst Patrick Hubbard
Purchasing Coordinator Linezka Maduro
Human Resources Generalist Alana Cohen

Mayor Pro Tem Peele called the meeting to order at 6:05 pm.

Mayor Olk arrived at 6:06 pm.

Citizen Input

1. Citizen Input

Wayne Millsap submitted an email that was read into the record.

Community Interest

2. Community Interest.

Mayor Olk and Councilmember Fisher discussed upcoming community interest items related to the farmers market and historical display.

Consent Agenda

3. Consent Agenda:

- A. Approval of the minutes of the July 1, 2021 City Council meeting.
- B. Approval of setting the date for the public hearing regarding the City of Lucas Fiscal Year 21/22 budget for September 2, 2021.

MOTION: A motion was made by Mayor Pro Tem Peele, seconded by Councilmember Johnson to approve the Consent Agenda as presented. The motion passed unanimously by a 7 to 0 vote.

Regular Agenda

4. Discuss the proposed City of Lucas budget for Fiscal Year 21/22.

Finance Director Liz Exum, City Manager Joni Clarke, and City Staff discussed with the Council budget items, revenues, capital projects, compensation, and proposed expenditures for FY 21/22.

After some discussion, City Council direction to staff included the following:

- Use road impact fees for the share of the Bait Shop Intersection project.
- Provide costs for the electronic work order system and telephone system to be considered at midyear.
- Extend the Streaker grant application date.
- No additional law enforcement personnel at this time.
- Move cost-of-living adjustments (COLA) and market compensation/retention to department budgets from non-departmental.
- Fund market compensation/retention to the Fire Department first and then fund COLA.
- Place a future agenda item to discuss creating a City Council subcommittee to review market compensation and provide recommendations to maintain employees at competitive salaries.
- Place an agenda item at the August 5, 2021 City Council meeting to discuss requirements and eligible projects for funding from the American Rescue Plan.
- Provide additional information regarding the human resources software.
- Food provided to the public at special events shall be by donation only. Consider food trucks or other vendors.
- Place an agenda item on the August 5, 2021 City Council meeting to approve funding from FY 20/21 General Fund Reserves to purchase the water rescue boat.
- Provide a report on fireworks patrol that includes costs associated with staffing, vehicles, maintenance, and resources used.

This item was for discussion purposes only, no action was taken.

Executive Session

5. Executive Session.

An Executive Session was not held at this meeting.

6. Adjournment.

MOTION: A motion was made by Councilmember Johnson seconded by Councilmember Keer to adjourn the meeting at 8:57 pm.

APPROVED:

ATTEST:

Mayor Jim Olk

City Secretary Stacy Henderson

***FIRST AMENDED INTERLOCAL AGREEMENT
FOR THE FACILITY CONSTRUCTION AND USE OF
AN ANIMAL SHELTER IN COLLIN COUNTY***

This Interlocal Agreement for the Use of an Animal Shelter in Collin County (“Agreement”) is entered into between Collin County the City of Lucas (sometimes hereinafter collectively referred to as “Parties” or individually referred to as “Party”) through their duly authorized officers or employees, and this Agreement shall be effective on the date it is executed by all Parties hereto (“Effective Date”). This Agreement supersedes and replaces all prior agreements between the parties regarding the construction and use of the animal shelter in Collin County.

RECITALS

WHEREAS, Collin County (“County”) has identified the need to operate an animal shelter in the County for their mutual benefit; and

WHEREAS, the Parties desire to cooperate in operating and maintaining an animal shelter in accordance with Texas law and in a manner intended to realize greater efficiencies in the expenditure of limited public funds; and

WHEREAS, the Parties have agreed to cooperate in the financing of the maintenance and operation of an animal shelter; and

WHEREAS, the Parties have each adopted a resolution supporting the creation of an animal shelter in Collin County to assist in the sheltering and care of the Parties’ homeless domestic animals; and

WHEREAS, the Parties believe at this time it is necessary, appropriate, and in their mutual best interests to express in this Agreement their respective duties, responsibilities, and covenants by and between each Party with respect to the animal shelter; and

WHEREAS, this Agreement is an interlocal agreement authorized and governed by Chapter 791 of the Texas Government Code, the Interlocal Cooperation Act; and

WHEREAS, each Party represents and warrants that in the performance of its respective obligations as set forth in this Agreement, it is carrying out a duly authorized

governmental function that it is authorized to perform individually under the applicable statutes of the State of Texas and/or (as applicable) its charter; and

WHEREAS, each Party has agreed that any compensation to be paid to any other Party as set forth in this Agreement is an amount that fairly compensates the performing Party for the services or functions described herein, and such compensation shall be paid from current revenues available to the paying Party;

NOW, THEREFORE, in consideration of the above recitals, the mutual promises that follow and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

TERMS:

1. **Definitions.** For purposes of this Agreement and all other agreements, contracts and documents executed, adopted or approved pursuant to this Agreement, the following terms shall have the meaning prescribed to them within this section unless the context of their use dictates otherwise:

- (a) **Agreement**—this Agreement together with all attachments and schedules appended hereto.
- (b) **City**—the City of Lucas
- (c) **County**—Collin County, Texas.
- (d) **Quarterly Payment**—Payments made to the County by the City on a quarterly basis.
- (e) **Shelter**—the animal shelter facility, including all buildings and structures located on the Shelter Site, utilized for purposes of housing and/or treating animals on behalf of the Parties.
- (f) **Shelter Services**—the scope of services to be provided at the Shelter, as further described and shown on the attached “Exhibit A”.

2. **Parties.** The Parties to this Agreement (“Parties”) are Collin County and the City of Lucas.

3. **Incorporation of Recitals.** The recitals that appear above are found by the Parties to be true and correct in all respects and are incorporated into this Agreement by reference.

4. **Initial Term/Renewal Term.**
 - 4.01 **Initial Term.** This Agreement shall commence on the Effective Date and shall continue for an initial term of ten (10) years, unless terminated earlier as provided in this Agreement or by law.

 - 4.02 **Automatic Renewal Term(s).** Unless terminated in accordance with this Agreement or by law or modified because of additional construction, this Agreement will automatically renew for a term following the Initial Term, unless a Party expressly declines automatic renewal. The duration of the renewal term shall be for a period of (1) year, upon the same terms and conditions as this Agreement or as modified by subsequent agreements between the Parties, and shall continue from year to year until such time as the Parties explicitly determine not to renew this Agreement. A Party may decline to automatically renew this Agreement at any time during or after the Initial Term, provided that such Party notifies all other Parties in writing of its intent to decline automatic renewal one-hundred eighty days (180) prior to the automatic renewal date.

5. **Housing Limitations.** If the Shelter reaches capacity it will stop accepting animals. If the Shelter reaches capacity, the County will use reasonable efforts to place any of the Party's excess animals in alternate Shelter locations.

6. **Shelter Workers.** Unless otherwise agreed to by the Parties, the persons employed to work at the Shelter shall be County employees, subject to the exclusive direction and control of the County. The County shall be responsible for all wages, benefits and taxes associated with all of the Shelter workers. Actions of the Shelter workers will not create any liability to the Cities.

7. **Shelter Services.** The scope of services to be provided at the Shelter is more fully defined in "Exhibit A". If at any time a Party believes that the County, or any City operating the Shelter, has failed to adequately provide appropriate Shelter Services, that Party shall provide written notice of the alleged deficiency to all other Parties to this Agreement. Once notified, the County, or City operating the Shelter, shall have a reasonable amount of time, which shall

be no more than six (6) months, to address the complaining Party's claim. The failure of the County, or City operating the Shelter, to appropriately address a Party's complaint concerning inadequate Shelter Services, after notice and an opportunity to cure, shall be treated as a material breach of this Agreement pursuant to Section 10.

8. **Total Fees** The total cost of Animal Sheltering for FY08 (includes all fees associated with Sheltering) to be paid by to the County will be FOURTEEN THOUSAND FIVE HUNDRED AND SEVENTY DOLLARS AND NO CENTS (\$14,570.00). Payments are to made quarterly.
9. **Renewal Rates** The Animal Sheltering fee amount for each subsequent fiscal year will be sent to the City no later than 90 days before the end of the fiscal year in the form of a statement accompanied by a renewal contract that must be signed and returned no later than 60 days before the end of the fiscal year.
10. **Nonappropriation.** Notwithstanding any other provision(s) to the contrary in this Agreement, the Parties specifically recognizes that the continuation of this Agreement after the close of any given fiscal year shall be subject to approval by the governing body. The Parties expressly agree that this Agreement shall automatically terminate, without any penalty or liability to participating City, in the event the governing body of such City fails to approve or appropriate funds for any continuation period of this Agreement.
 - 10.01 **Notice of Non-appropriation.** If for any fiscal year Party fails to appropriate or commit funds to satisfy its Quarterly Payments and/or any other financial obligations under this Agreement, Party shall promptly give written notice to all other Parties of the non-appropriation of funds. Party shall make a reasonable effort to ensure that funds are appropriated to fully perform its obligations under this Agreement. Party shall provide all other Parties with at least sixty (60) days' notice of such Party's intent to not appropriate the funds necessary to satisfy its obligations under this Agreement.
 - 10.02 **Loss of Rights.** Any Party who fails to fully appropriate the funds necessary to cover such Party's obligations under this Agreement shall, upon the effective date of such non-appropriation, immediately lose all rights to house any animals in the Shelter or have any use thereof.

11. **Termination.** Notwithstanding any other provision, this Agreement may be terminated as provided in this section.
- 11.01 **Mutual Agreement.** This Agreement may be terminated by mutual agreement of all of the Parties, as evidenced by a written termination agreement.
- 11.02 **By the County.** If a Party fails or refuses to make its Quarterly Payments as required by this Agreement, the County, upon consultation with the Operating Committee, may terminate this Agreement as to that Party by giving notice in accordance with section 13.15 of this Agreement. A Party that receives notice of termination through this subsection will have sixty (60) days to become current with its Quarterly Payment obligation and avoid termination of its rights through this Agreement. If a Party's rights are terminated because it has failed or refused to make its Quarterly Payments as required under this Agreement, such Party shall not be entitled to a refund of any payments made prior to termination.
- 11.03 **By a City.** The City may voluntarily terminate its rights and obligations under the Agreement, if at any time the City determines that adhering to the Agreement is no longer in its best interest. To invoke its right to terminate the Agreement, a City must give at least one hundred eighty (180) days' notice of its intent to terminate its rights and obligations under the Agreement to all other Parties. No prior payments shall be refunded to the City that voluntarily terminates its rights and obligations under this Agreement, and all payments made prior to termination shall be exclusively used in accordance with the terms of this Agreement.
- 11.04 **Non-appropriation of funds.** The County may cease all operation of the Shelter and thereby terminate this Agreement if Party fails to appropriate the funds necessary to perform its obligations under this Agreement and such non-appropriation losses cannot be mitigated adequately by efforts of the County, in consultation with the Operating Committee, and such non-appropriation results in a lack of committed funding for the continued operation of the Shelter. In such event, the County shall provide all Parties with reasonable notice of its intent to terminate this Agreement in accordance with this provision and shall provide the other Parties with a reasonable opportunity to mitigate any damages caused because of a Party's non-appropriation of funds. No prior payments shall be refunded to any Party but shall be exclusively used for decommissioning the use of the Shelter.

12. **Additional Rights Upon Default.** This Agreement may be enforced in law or in equity, including a suit for specific performance and/or for damages. The Parties agree that specific performance should be an available remedy due to the difficulty in determining the damages that may accrue as a result of a material breach of the Agreement by any other Party. In the alternative, should any Party breach any of the terms of this Agreement, the non-breaching Parties to this Agreement may obtain a judgment against any breaching Party to remedy such breach. Such rights upon breach shall be supplemental to those procedures set forth in Section 12 below. The Parties hereby expressly waive their immunity from suit and for liability and/or damages in connection with any actions brought by another Party to this Agreement solely to enforce a term of this Agreement.

13. **Dispute Resolution Process.**

13.01 **Dispute Resolution Process.** Before commencing formal legal proceedings concerning any dispute arising under or relating to this Agreement, or any breach thereof, the Parties agree to observe the following procedures (“Dispute Resolution Process”).

13.02 **Notice.** The aggrieved Party shall notify the responding Party of the dispute by way of a meeting or a writing which contains sufficient detail to clearly identify the problems giving rise to the dispute, and the responding Party shall attend said meeting or respond to the writing within a reasonable time as may be determined by the circumstances alleged.

13.03 **First Resolution Meeting.** After consulting with and obtaining input from the appropriate individuals so as to facilitate a complete discussion and proposed solution of the problem, the Parties shall schedule a meeting and designate representatives to attend such meeting to attempt to effect an agreed resolution of the issue.

13.04 **Second Resolution Meeting.** If the Parties’ designated representatives reach an impasse concerning the dispute, the following representative shall meet to discuss the dispute: (a) if the Party is a City, the City Manager and/or the Mayor; (b) if the Party is the County, a County Commissioner and/or County Judge.

13.05 **Successful Resolution.** If the Parties reach an accord at any stage of the meeting, they shall reduce their agreement to writing. Such writing shall be presented for approval by the Parties’ respective governing boards. If approval of the writing is

obtained, such writing shall constitute an amendment to this Agreement with respect to the subject matter of the notice of the dispute. The terms and conditions of such amendment shall not supersede the terms and conditions of this Agreement with respect to any matter other than the subject matter submitted to the Dispute Resolution Process.

13.06 **Unsuccessful Resolution.** If the Parties are unable to reach a resolution of the dispute within a reasonable time, either Party may pursue such legal and equitable remedies as are available to it under Texas law.

14. **Miscellaneous.**

14.01 **Interpretation of Agreement.** Although drawn by one Party, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either Party.

14.02 **Administration of Agreement.** The County shall administer this Agreement on behalf of the County. The City Council of City of Lucas shall administer this Agreement on behalf of the City. Each Party may designate a new administrator on written notice to the other.

14.03 **Governing law.** This Agreement shall be governed by the laws of Texas without regard to the principles of conflict of laws.

14.04 **Venue.** Any litigation in any way relating to this Agreement shall be brought in State court in Collin County, Texas.

14.05 **Non-Assignability.** A Party shall not assign, sublet or transfer its interest in this Agreement without the written consent of the other Parties.

14.06 **Notices.** Any notice or request required to be given pursuant to the terms of this Agreement shall be in writing and mailed or delivered to the respective Parties at the address set forth for each Party below, or any other address which the respective Parties hereafter may designate in writing to the other party for such purposes, and such notice or request shall be deemed to have been duly given if (1) delivered personally to such Party, or to an officer or duly authorized agent of such Party; or (2) served by enclosing the request or notice in a registered or certified mail, with return receipt requested, postpaid envelope properly addressed to the Party to be notified

and depositing the envelope in a post office or official depository under the care and custody of the United States Postal Service; or (3) delivered by telecopy, when appropriate, addressed to the Party to be notified. Notice deposited in the mail in the manner herein above described shall be effective from and after such deposit if it is received by its intended recipient within ten (10) business days of the mailing. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For purposes of notice, the addresses of the Parties shall, until changed as herein provided, be as follows:

For Collin County, Texas:

Keith Self, Collin County Judge
210 S. McDonald Street, Suite 626
McKinney, Texas 75069

For the City of Lucas, Texas:

Bill Carmickle, Mayor
151 Country Club Road
Lucas, Texas 75002-7663

The Parties shall have the right from time to time to change their respective addresses by giving at least fifteen (15) days' written notice to all other Parties.

14.07 **Severability.** Should any provision of this Agreement or the application thereof be held invalid or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected thereby and shall continue to be valid and enforceable to the fullest extent, consistent with the intent of the Parties as evidenced by this Agreement.

14.08 **Non-waiver.** Failure of a Party to exercise any right or remedy in the event of default by any other Party shall not constitute a waiver of such right or remedy for any subsequent breach or default.

14.09 **Authority of Signatories.** The Parties represent that the individuals signing this Agreement on their behalf possess full power and authority to enter into this

Agreement from their respective governing boards in compliance with the laws of the State of Texas.

14.10 **Further Assurances.** Each Party agrees to perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement.

14.11 **Retention of Defenses.** The Parties agree that neither this Agreement nor the operation or use of the Shelter by the Parties shall affect, impair or limit their respective immunities and limitations of liability to the claims of third parties, including claims predicated upon Shelter Site defects.

14.12 **Modification.** If the Parties desire to modify this Agreement during or after the initial term, any modifications may be either incorporated herein by written amendment or set forth in a new written agreement.

14.13 **Entire Agreement.** This Agreement constitutes the entire agreement of the Parties. This Agreement may not be altered or amended except by mutual written agreement as provided herein.

14.14 **No Third-Party Beneficiaries.** This Agreement does not confer any rights or remedies upon any person or entity other than the Parties.

DATED to be effective this the 6th day of December, 2007.

COLLIN COUNTY, TEXAS

210 S. McDonald Street, Suite 626
McKinney, Texas 75609

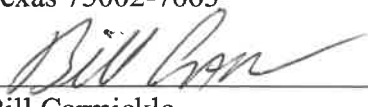
BY: 
Keith Self

TITLE: County Judge

DATE: 1/11/08

CITY OF LUCAS, TEXAS

151 Country Club Road
Lucas, Texas 75002-7663

BY: 
Bill Carmickle

TITLE: Mayor

DATE: December 6, 2007



ATTEST: Georgia D. Shepherd

TITLE: Administrative Secretary

ATTEST: Kathy Wingo

TITLE: City Secretary

Animal Shelter – Scope of Services

- Public Operating days/hours – **9a-6p M-F, 10a-2p Saturday and closed to the public on Sunday (Personnel on site for 3-4 hours on Sunday for cleaning, feeding and care only).**
 - 4 Animal Control Officers – 160 hours per week total
 - 1 Shelter Supervisor – 40 hours per week
 - 1 Administrative Assistant/Dispatcher – 40 hours per week
- 24/7 access to McKinney and Frisco ACOs for live animal drop-off.
 - 24/7 access to small freezer for deceased, small animals.
 - 24/7 access to large freezer for deceased, large animals.
- House, feed and care for (or locate appropriate care and housing for) any type of animal surrendered to the shelter, ensuring that their basic needs are met.
- Hold received animals for 5 days.
 - Verify current rabies vaccination for all owner-reclaimed animals.
 - Arrange for vaccination of non-vaccinated animals prior to release from the shelter.
 - Microchip and enroll in national database all un-chipped, owner reclaimed animals prior to leaving the shelter.
 - Counsel and provide information on the importance of spay and neuter to all affected owners reclaiming animals.
 - Pre-evaluate for adoption potential – advise SPCA of findings (contract with SPCA to come to the shelter on a daily basis to collect non-reclaimed, adoptable animals after their 5-day holding period has expired).
 - Humanely euthanize, in accordance with law, animals not selected for adoption and not reclaimed by owner.
 - Dispose of, in accordance with law, all euthanized animals.
- Reduce disease transmission between animals by placing animals suspected of communicable illness in a separate isolation area.
- Place animals involved in biting incidents in rabies quarantine area and observe for signs of rabies for the specified amount of time.
- Build and maintain a database of information about each animal that enters and leaves the shelter.
 - Using the same records input by McKinney and Frisco ACOs (if on the same computer system) continue to build the record with information about the animal during its stay in the shelter and finalized with detailed information regarding the final disposition of the animal.
 - Produce reports for each entity detailing information about animals sheltered and final dispositions.

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

INTERLOCAL AGREEMENT FOR ANIMAL CONTROL SERVICES

This Interlocal Agreement for Animal Control Services ("Agreement") is entered into by and between Collin County, Texas (sometimes referred to herein as the "County") and the City of Lucas (sometimes hereinafter referred to as "City Party" or "City" or "Party") through their duly authorized officers and/or governing boards. This Agreement shall be effective on the date when approved and executed by both Parties hereto ("Effective Date").

RECITALS

WHEREAS, the County is authorized to provide animal control services within the County, including but not limited to vaccination of animals, reporting of human exposure to rabies, quarantine and testing of biting animals, reduction of the stray animal population, restraint of dangerous animals, prohibition of dogs running at large and of inhumane treatment of animals, and other related services; and to prescribe penalties for violation of such provisions in accordance with Chapters 822, 825 and 826 of the Texas Health & Safety Code, and Chapter 142 Agriculture Code; and

WHEREAS, the City Party to this Agreement is separately authorized to provide animal control services pursuant to Chapters 822, 825 and 826 of the Texas Health & Safety Code, in addition to such authority that may be granted under their home-rule charters (as applicable); and

WHEREAS, pursuant to their authority as vested by the Interlocal Cooperation Act, ch. 791 Texas Government Code, the County and City Party have agreed to cooperate in the provision of animal control services to residents of the City Party; and

WHEREAS, the County and City Party seek to set forth in this Interlocal Agreement their respective obligations, responsibilities and duties regarding certain animal control services covered by this Agreement; and

WHEREAS, each Party to this Agreement represents and warrants that in the performance of its respective obligations as set forth in this Agreement, it is carrying out a duly authorized governmental function that it is authorized to perform individually under the applicable statutes of the State of Texas and/or (as applicable) its municipal charter. Further, each Party represents and warrants that any compensation to be made to any other Party as set forth in this Agreement are in amounts that fairly compensate the performing Party for the services or functions described herein, and are made from current revenues available to the paying Party;

NOW, THEREFORE, in consideration of the above recitals, the mutual promises that follow and other good and valuable consideration, the receipt and legal sufficiency of which are

hereby acknowledged, the Parties do hereby agree as follows:

1. **Incorporation of Recitals.** The above recitals, having been found by the Parties to be true and correct in all respects are incorporated into this Agreement by reference.
2. **County Obligations.** In consideration for the promises of the City Party and payment of the sums hereinafter set forth, the County agrees to perform those animal control services as are expressly set forth in the documents entitled "Scope of Services" which is attached hereto as Exhibit "A" and incorporated herein by reference.
3. **City Obligations.** In consideration for the performance of the animal control services detailed in Exhibit "A" by County, City agrees to:
 - 3.1 make payment to the County in the respective amounts as set forth in the spreadsheet attached as Exhibit "B" hereto from funds appropriated in the current fiscal year budget of such Cities. City's payment shall be made on a quarterly basis to the County during the term of this Agreement and any renewal terms, with the first quarterly payment to be made within ten (10) days from the receipt of an invoice from the County, such invoice expected to be issued approximately thirty (30) days prior to the completion of the new County Animal Shelter. It is anticipated that the County Animal Shelter will be completed in June 2006. City agrees that any payment due to the County hereunder which is not paid on or before the due date shall bear interest at the rate of interest prescribed by the Texas Prompt Payment Act (Section 2252.025, Tex. Gov't Code) from the date due until paid;
 - 3.2 pay the sum of SIXTEEN THOUSAND FOUR HUNDRED AND THIRTY DOLLARS AND NO CENTS (\$16,430.00) for Animal Control Services for FY08. (The Animal Control fee amount for each subsequent fiscal year will be sent to the City no later than 90 days before the end of the fiscal year in the form of a statement accompanied by a renewal contract that must be signed and returned no later than 60 days before the end of the fiscal year).
 - 3.3 amend their animal control Ordinances as necessary to conform such Ordinances with the services outlined in Exhibit "A" hereto (including the duly adopted animal control policies established by the County), so as to avoid any conflict with the terms of this Agreement.
4. **City Rights Preserved.** Nothing in this Agreement shall divest, diminish or affect the City Party's authority to issue notices of violations and court citations for alleged violations of City Ordinances, however City delegates to County the authority to perform the animal control services described in Exhibit "A" hereto on the City's behalf and as the City's agent in the provision of such services.
5. **Term / Renewal Terms.** This Agreement shall commence on the Effective Date and shall continue for an initial term of one (1) year, unless terminated earlier as provided in this Agreement or

by law. Unless terminated in accordance with this Agreement or by law, upon expiration of the initial term, this Agreement shall renew automatically for renewal terms of one (1) year upon the same terms and conditions, subject to the Parties' right to terminate due to the failure of their governing boards to appropriate funds in amounts sufficient to compensate the County for the continuation of the services described in Exhibit "A". Prior to each renewal of this Agreement, the County shall prepare and circulate a new budget and cost-sharing spreadsheet indicating the proposed cost to each City for continued participation in this Agreement for animal control services. Prior to or on the renewal date(s), each City shall make its quarterly payment to the County for the continuation of animal control services for the renewal term. The remaining terms and conditions of this Agreement shall continue in force and effect unless amended by the Parties in the manner set forth herein.

6. **Animal Control Account.** The County shall designate, create and maintain an account within its financial records and accounts for purposes of reflecting the payments made by the City Parties in connection with this Agreement, as well as the disbursements made by the County in connection with the animal control services provided to the City Party as more fully described in Exhibit "A"; however, no City shall have any right to a refund of any amount paid to County for the animal control services provided by County except as set forth in section 9.3 herein.

7. **County Records.** The County shall keep such books and records as is necessary to fully and accurately account for the deposit and disbursement of funds from the Animal Control Account as well as the services provided by County as set forth in Exhibit "A" which shall be made available to any Party upon request.

8. **Notice of Nonappropriation.** If, for any fiscal year, City's governing board fails to appropriate funds in amounts sufficient to pay the County for the performance of its obligations under this Agreement such City shall promptly give notice to the other Parties of the nonappropriation of funds. City shall make a reasonable effort to ensure that funds are appropriated to fully perform on its obligations as set forth in this Agreement. City shall endeavor to provide the other Parties with at least one hundred twenty (120) days notice of its intent not to appropriate the necessary funds for the City's performance of its obligations under this Agreement.

9. **Termination.** Notwithstanding any other provision, this Agreement may be terminated as provided in this section.

9.1. **By Mutual Agreement.** This Agreement may be terminated by mutual agreement of all of the Parties, as evidenced by a written termination agreement.

9.2 **For Nonappropriation of funds.** If Party fails to appropriate the funds necessary to for such Party's performance of its obligations under this Agreement and such nonappropriation cannot be mitigated adequately by efforts of the County in adjusting its budget for continued performance of animal control services, the County may cease the provision of animal control services to the City Party thereby terminating this Agreement. In

such event, the County shall provide Party with reasonable notice of its intent to terminate this Agreement in accordance with this provision and shall provide the other Parties with a reasonable opportunity to mitigate any damages caused through any Party's nonappropriation of funds. No prior payments shall be refunded to any Party but shall be exclusively used for decommissioning the provision of animal control services on the City Parties' behalf.

9.3 By the County. The County may terminate this Agreement with reasonable advance written notice to the City Party of its intent to do so in the event the costs and expenses of providing such services exceeds and/or is reasonably forecasted to exceed by Twenty-Five percent (25%) or greater the aggregate payments provided by the City Party and the County for such services as such amounts are referenced in the spreadsheet attached Exhibit "B" hereto. Likewise, the County shall have the right to terminate this Agreement during any renewal terms in the event the costs and expenses to the County for providing such services exceed and/or is reasonably forecasted to exceed by Twenty-Five percent (25%) or greater the then applicable budget for the provision of such services during such renewal term. In the event the County exercises its rights to terminate this Agreement under this section and County is in possession of unexpended payments contributed by the City Party, then after County has absorbed those expenses necessary in reducing its workforce and other termination-related expenses, the County shall, within a reasonable time, refund to the City Party the unspent portion of their payments on a pro rata basis in proportion to the amounts paid by City, respectively, for services during such term.

9.4 By a City. City may terminate this Agreement: 1) for cause in the event the County fails to perform any of its obligations as set forth herein, including the scope of services listed in Exhibit "A" after providing written notice to the County and a reasonable opportunity to cure such defect in performance; and/or 2) due the City's failure to appropriate funds in amounts sufficient to meet its obligations hereunder.

10. **Additional Rights Upon Default.** Following exhaustion of the dispute resolution process set forth in section 11 below, this Agreement may be enforced in law or in equity, including a suit for specific performance and/or for damages. The Parties agree that specific performance should be an available remedy due to the difficulty in determining the damages that may accrue as a result of a material breach of the Agreement by any other Party. In the alternative, should any Party breach any of the terms of this Agreement, the non-breaching Parties to this Agreement may obtain a judgment against any breaching Party for damages incurred as a result of such breach. The successful Party in such litigation shall be entitled to a recovery of its costs and attorneys' fees.

11. **Dispute Resolution Process.**

11.1. Dispute Resolution Process. Before commencing formal legal proceedings concerning any dispute arising under or relating to this Agreement, or any breach thereof, the Parties agree to observe the following procedures ("Dispute Resolution Process").

11.1.1. Notice. The aggrieved Party shall notify the responding Party of the dispute, by way of a writing which contains sufficient detail to clearly identify the problems giving rise to the dispute, and the responding Party shall have a reasonable opportunity to respond.

11.1.2. First Resolution Meeting. After consulting with and obtaining input from the appropriate individuals so as to facilitate a complete discussion and proposed solution of the problem, the Parties shall schedule a meeting and designate representatives to attend such meeting to attempt to affect an agreed resolution of the issue.

11.1.3. Second Resolution Meeting. If the Parties' designated representatives reach an impasse concerning the dispute, the following representative shall meet to discuss the dispute: (a) if the Party is a City, the City Manager and/or the Mayor; (b) if the Party is the County, a County Commissioner and/or County Judge.

11.1.4. Successful Resolution. If the Parties reach an accord at any stage of the meeting, they shall reduce their agreement to writing. Such writing shall be presented for approval by the Parties' respective governing boards. If approval of the writing is obtained, such writing shall constitute an amendment to this Agreement with respect to the subject matter of the notice of the dispute. The terms and conditions of such amendment shall not supersede the terms and conditions of this Agreement with respect to any matter other than the subject matter submitted to the Dispute Resolution Process.

11.1.5. Unsuccessful Resolution. If the Parties are unable to reach a resolution of the dispute within a reasonable time, either Party may pursue such legal and equitable remedies as are available to it under Texas law.

12. **Miscellaneous.**

12.1. Interpretation of Agreement. Although drawn by one Party, this Agreement shall, in the event of any dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against any other Party.

12.2. Administration of Agreement. The County shall administer this Agreement on behalf of the County. The City Council of Party City shall administer this Agreement on behalf of City. Each Party may designate a new administrator on written notice to the other.

12.3. Governing law. This Agreement shall be governed by the laws of Texas, without regard to the principles of conflict of laws.

12.4. Venue. Any litigation in any way relating to this Agreement shall be brought in State court in Collin County, Texas.

12.5. Non-Assignability. A Party shall not assign, sublet or transfer its interest in this Agreement without the written consent of the other Parties.

12.6. Notices. Any notice or request required by this Agreement must be in writing, and may be given or be served by depositing the same in the United States Postal Service, postal prepaid, and certified and addressed to the Party to be notified, with return receipt requested, or by delivering the same in person to such Party, or to an officer of such Party, or by telecopy, when appropriate, addressed to the Party to be notified. Notice deposited in the mail in the manner herein above described shall be effective from and after such deposit if it received by its intended recipient within 10 business days of the mailing. Notice given in any other manner shall be effective only if and when received by the Party to be notified. For purposes of notice, the addresses of the Parties shall, until changed as herein provided, be as follows:

For the County:

Keith Self, Collin County Judge
Collin County Government Center
210 S. McDonald, Suite 626
McKinney, Texas 75069

For the City of Lucas, Texas:

Bill Carmickle, Mayor
151 Country Club Road
Lucas, Texas 75002-7663

However, the Parties hereto shall have the right from time to time to change their respective addresses by giving at least fifteen (15) days' written notice to the other Party.

12.7. Severability. Should any provision of this Agreement or the application thereof be held invalid or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected thereby and shall continue to be valid and enforceable to the fullest extent, consistent with the intent of the Parties as evidenced by this Agreement.

12.8. Non-waiver. Failure of a Party to exercise any right or remedy in the event of default by any other Party shall not constitute a waiver of such right or remedy for any subsequent breach or default.

12.9. Authority of Signatories. The Parties represent that the individuals signing this Agreement on their behalf possess full power and authority to enter into this Agreement from

their respective governing boards in compliance with the laws of the State of Texas.

12.10. Further Assurances. Each Party agrees to perform all other acts and execute and deliver all other documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement.

12.11. Retention of Defenses. The Parties agree that, neither this Agreement nor the performance thereunder shall affect, impair nor limit their respective immunities and limitations of liability to the claims of third parties, including claims related to the animal control services provided by County hereunder. Notwithstanding each Party's acknowledgment that this Agreement is duly authorized, validly existing and binding on all Parties hereto, the Parties agree that no Party has waived its sovereign immunity to the claims of third parties by entering into and performing its obligations under this Agreement.

12.12 Modification. If the Parties desire to modify this Agreement during or after the initial term, any modifications may be either incorporated herein by written amendment or set forth in a new written agreement.

12.13. Entire Agreement. This Agreement is the entire agreement of the Parties. This Agreement may not be altered or amended except by mutual written agreement as provided herein.

12.14. Counterparts. This Agreement may be executed in a number of identical counterparts, each of which will be deemed an original for all purposes.

12.15. No Third-Party Beneficiaries. This Agreement does not confer any rights or remedies upon any person or entity other than the Parties.

DATED to be effective this the 6th day of December, 2007.

COLLIN COUNTY, TEXAS

210 S. McDonald Street, Suite 626
McKinney, Texas 75609

BY: 
Keith Self

TITLE: County Judge

DATE: 1/11/08

ATTEST: 

TITLE: Administrative Secretary

CITY OF LUCAS, TEXAS

151 Country Club Road
Lucas, Texas 75002-7663

BY: 
Bill Carmickle

TITLE: Mayor

DATE: December 6, 2007

ATTEST: 

TITLE: City Secretary



EXHIBIT "A"

Animal Control – Scope of Services

- Normal Operating days/hours – 8a-5p M-F.
 - 3 Animal Control Officers - 6,240 hours per year less vacation, holiday, sick and administrative leave
 - 1 Animal Control Supervisor – 2,080 hours per year less vacation, holiday, sick or administrative leave
- 24 hour/7 day on-call services for emergencies. The following situations will be considered emergencies:
 - Any/all Fire and Police/Sheriff calls for assistance
 - Provide support to police/Sheriff personnel when called for assistance in cases that may include estrays. This includes all aspects from capture and impoundment to final disposition.
 - Personnel responding to stray calls shall be trained and equipped to handle euthanasia.
 - Gravely injured animal.
 - Vicious/dangerous animal.
 - Animal attack/bite against a human.
 - Livestock loose/Estray.
 - Suspicion of rabid animal.
- Response times: 45-minute response time to calls (measured from time of call to arrival on scene) – in general. Circumstances may arise to delay response time (i.e., inclement weather, prior calls, heavy call volume, travel to remote locations, etc.). If 45-minute response time cannot be met, the responding officer shall provide a reasonable estimated time of arrival. Maximum response time of 2 hours.
- Shall comply with the regulations contained in the most recently adopted Collin County Rabies/Animal Control Regulations Court Order (currently 96-117-02-26), most recently adopted Additional Provisions to the Rabies/Animal Control Regulations (currently 97-544-08-11), and the most recently adopted Prohibition of Possessing Wild Animals in Unincorporated Areas Court Order (currently 97-641-09-22 attachment A); and Vernon's Texas Annotated Codes, Volume 2 Agricultural Code, Chapter 142 Estray Statutes. Compliance shall include but not be limited to the regulations/codes listed.
- Enforce the most recently adopted Collin County Animal Control Regulations (currently 96-117-02-26, 97-544-08-11 and 97-641-09-22).
- Enforce Vernon's Texas Annotated Codes, Volume 2 Agricultural Code, Chapter 142 Estray Statutes and definitions included in the Parks and Wildlife Code, Chapter 71.001. This shall include animals in the above statutes plus skunks, raccoons and snakes.
- Investigate and respond to all covered complaints.

- Enforce all applicable regulations through issuance of citations or filing of civil and/or criminal charges. Appear in Court as State's witness in all cases filed.
- As needed or required by law, perform humane destruction of animals in the field and removal of carcasses. Shall remain at scene with animal until verified destroyed.
- Submit any suspect animal's head to Department of State Health Services for rabies diagnosis, in the event of human contact.
- Capture of stray injured or aggressive animals as described in the most recently adopted Animal Control Ordinance and Vernon's Texas Annotated Codes, Volume 2 Agricultural Code, Chapter 142 Estray Statutes on a complaint basis.
- Provide monthly activity reports, per entity, showing activity of services provided during pervious month. Submit to each entity an annual audit report detailing services for the pervious twelve (12) month period, no later than March 31st of each year. The report shall include, but not be limited to, the following: date/time/destination of call, type of call, and any/all actions taken.



**ORDINANCE 2021-08-00935
[AMENDING ARTICLE 8.05 NOISE]**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 8 TITLED “OFFENSES AND NUISANCES” BY AMENDING ARTICLE 8.05 TITLED “NOISE” BY AMENDING SECTION 8.05.003 TITLED “EXEMPTION”; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. The Code of Ordinances of the City of Lucas, Texas, is hereby amended by amending Chapter 8 titled “Offenses and Nuisances” by amending Article 8.05 titled “Noise” by amending Section 8.05.003 titled “Exemption” to read as follows:

“CHAPTER 8

OFFENSES AND NUISANCES

ARTICLE 8.05 NOISE

REMOVING (7) AND RENUMBERING REMAINDER OF ORDINANCE

Sec. 8.05.003 Exemption

The following activities are exempt from this article:

- (1) The emission of any sound was for the purpose of alerting persons to the existence of an emergency, danger, or attempted crime.
- (2) The sound was produced by an authorized emergency vehicle.
- (3) The sound was produced by emergency work necessary to restore public utilities, or to restore property to a safe condition, or to protect persons or property from imminent danger, following a fire, accident, or natural disaster.
- (4) The sound was generated:
 - (A) At a lawfully scheduled stadium event;

- (B) By a parade and spectators and participants on the parade route during a permitted parade;
 - (C) By spectators and participants at a lawfully scheduled amphitheater event;
 - (D) By a pyrotechnic display that was inspected and approved by the fire chief or his designee;
 - (E) By spectators and participants of any outdoor event, fun run, race, festival, fiesta, or concert which was sponsored, cosponsored, or permitted by the city; or
 - (F) Any other lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution.
- (5) The sound was produced by aircraft in flight or in operation at an airport, or railroad equipment in operation on railroad rights-of-way.
 - (6) The sound was produced by church bells or church chimes when used as part of a religious observance or service which did not exceed five (5) continuous minutes in duration during any one-hour period.
 - ~~(7) The sound was produced from a mechanical loudspeaker or amplifier on a truck or other moving vehicle for the purpose of advertising any show, sale or display of merchandise.~~
 - (87) The sound was produced from livestock, farm animals or fowl.

SECTION 2. That all ordinances of the City of Lucas in conflict with the provisions of this Ordinance shall be, and same are hereby, repealed, provided, however, that all other provisions of said Ordinances are not in conflict herewith shall remain in full force and effect.

SECTION 3. That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Lucas Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Lucas Code of Ordinances, as amended hereby, which shall remain in full force and effect.

SECTION 4. That an offense committed before the effective date of the Ordinance is governed by prior law and the provisions of the City of Lucas Code of Ordinances in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances, as amended, and upon conviction in the municipal court shall be punished by a fine not to exceed the

sum of Five Hundred Dollars (\$500.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. That this Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Lucas, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNSEL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, ON THIS 5th DAY OF AUGUST, 2021.

APPROVED:

Jim Olk, Mayor

APPROVED AS TO FORM:

ATTEST:

Joseph J. Gorfida, Jr., City Attorney
(07-29-2021:TM 123817)

Stacy Henderson, City Secretary



City of Lucas

City Council Agenda Request

August 5, 2021

Requester: City Manager Joni Clarke
Chris Meszler, BCC Engineering

Agenda Item Request

Provide update and consider authorizing the City Manager to enter into a professional services agreement with BCC Engineering in the amount of \$12,300.00 for Phase 1 to conduct an evaluation and recommendations for repairs to the Winningkoff Bridge using Unrestricted General Fund Reserves.

Background Information

In July 2019, BCC Engineering completed a structural inspection bridge report of the Winningkoff bridge. The report was a complete overview of the condition of the bridge that included structural elements. During that inspection, BCC Engineering noted that the approach slabs were undermined and needed emergency repairs to secure them. The emergency repair secured the approach slabs and made them safe. BCC Engineering also recommended revetment (protection with riprap) to reduce chances for future erosion (same thing happening again). No action has been taken to protect the emergency repair and the recommendation will remain to protect the approaches.

Since the emergency repair was not able to return the approach slabs to their original position, the ride quality has suffered and there is a noticeable bump when driving over the bridge. Because of this, BCC Engineering had a survey taken of the bridge that shows the current riding surface of the bridge and believe that the roadway adjacent to the bridge may have also been affected, contributing to poor ride quality, but that is yet to be determined. The survey shows that the bridge does not match the as-builts. The evaluation proposed is to determine the extent the roadway is affected, if the ride quality is within tolerance, and investigate possible solutions to correct the approach slabs rotation/settling and ride quality. Options to be presented will include an option to maintain the current status, in which it would be recommended to protect what is there, as long as we don't find the impact loading to cause problems.

Attachments/Supporting Documentation

1. Proposal for the Winningkoff Bridge evaluation by BCC Engineering.

Budget/Financial Impact

\$12,300.00 from Unrestricted General Fund Reserves.

Recommendation

NA



City of Lucas
City Council Agenda Request
August 5, 2021

Motion

I make a motion to approve/deny authorizing the City Manager to enter into a professional services agreement with BCC Engineering in the amount of \$12,300.00 for Phase 1 to conduct an evaluation and recommendations for repairs to the Winningkoff Bridge using Unrestricted General Fund Reserves.



July 26, 2021

Delivered via email jclarke@lucastexas.us

Joni Clarke
City Manager
City of Lucas
665 Country Club Road
Lucas, Texas 75002-7651

**Subject: Winningkoff Bridge Evaluation, Maintenance, and Repairs
Phase 1 & Phase 2**

Dear Ms. Clarke:

We are pleased to submit this proposal for a two-phase approach to the Winningkoff Bridge Evaluation, Maintenance, and Repairs. The Winningkoff Bridge approaches have been stabilized with expansive structural foam under an emergency maintenance activity near the end of 2019. The scope of this proposal includes the evaluation of the current bridge condition regarding ride quality, approach slab protection, and long-term scour protection. A survey has been completed of the bridge deck and roadway approaches. Once phase 1 is completed as described below, we will present a fee proposal for phase 2 of the project.

Scope

Phase 1

Task 1: Interpret survey findings, evaluate ride quality, explore potential corrective alternatives, and bridge maintenance recommendations.

Task 2: Prepare sketches/exhibits and cost estimates for each viable alternative. Present alternatives and recommend one alternative for Council action.

Phase 2

Task 1: Design and prepare construction plans for the selected repair alternative and revetment to protect the bridge and approach slabs.

Task 2: Prepare bid documents, host pre-bid meeting, and assist in evaluation of bid respondents.

Task 3: Manage and inspect construction activities, including pre-construction meetings, RFI responses, inspect construction activities for conformance to plans and specifications, supervise onsite testing and analyze results, review of material submittals and shop drawings, review and advise on change orders, and review contractor pay applications



Proposed Fee

Phase 1		\$ 12,300.00	LUMP SUM
Phase 2	Fee to be determined after the completion and approval of Phase 1.	\$ TBD	TBD

(Additional services not identified above may be added upon request at an hourly rate of \$ 145.00/hr)

We kindly ask for your review and approval of the scope and fee proposed above. Should you have any questions, please do not hesitate in contacting us. We look forward to providing engineering services for the City of Lucas.

Sincerely,
BCC Engineering, LLC

A handwritten signature in blue ink, appearing to read 'Chris Meszler'.

Chris Meszler, P.E.
Texas Director of Engineering



City of Lucas

City Council Agenda Request

August 5, 2021

Item No. 05

Requester: Management Analyst Patrick Hubbard

Agenda Item Request

Consider authorizing the City Manager to enter into a professional services agreement with BCC Engineering in the amount of \$59,808.00 to provide project management for the maintenance and repairs of the Stinson Road Culvert project and the maintenance and improvements of the Winningkoff Road Culvert project using Unrestricted General Fund Reserves.

Background Information

On July 1, 2021, the City Council discussed reports on two maintenance projects for culverts and approved funding for the following two projects:

1. Maintenance and Repairs of the Stinson Road Culvert
2. Maintenance and Improvements of the Winningkoff Road Culvert

In addition to the approved funding, City Council sought a proposal for a professional services agreement with BCC Engineering to provide project management for these construction projects. This item presents the proposed agreement with a total proposed cost of \$59,808.00 to provide project management and construction engineering and inspection for both projects.

Through this proposal BCC Engineering would provide for the following scope:

Assist with bid document preparation and contractor bid evaluation, prepare a construction plan (layout and connection details) for the Winningkoff South Culvert, host pre-bid and pre-construction meetings, manage the project including contract and schedule oversight, inspect construction activities for conformance to plans and specifications, supervise onsite testing and analyze results, review material submittals and shop drawings, respond to requests for information, review and advise on change orders, and review contractor pay applications.

Attachments/Supporting Documentation

1. Proposal for Project Management & Construction Engineering and Inspection – BCC Engineering

Budget/Financial Impact

The proposal for the total cost of project management services is \$59,808.00. This can be funded through Unrestricted General Fund Reserves.



City of Lucas

City Council Agenda Request

August 5, 2021

Recommendation

The Engineering Department recommends approving funding for the professional services agreement for project management for the two previously funded culvert projects.

Motion

I make a motion to approve/deny authorizing the City Manager to enter into a professional services agreement with BCC Engineering in the amount of \$59,808.00 to provide project management for the Maintenance and Repairs of the Stinson Road Culvert project and the Maintenance and Improvements of the Winningkoff Road Culvert project using Unrestricted General Fund Reserves.



July 23, 2021

Delivered via email jclarke@lucastexas.us

Joni Clarke
City Manager
City of Lucas
665 Country Club Road
Lucas, Texas 75002-7651

Subject: Proposal for Project Management & Construction Engineering and Inspection
Stinson Culvert Maintenance & Repairs; Winningkoff South Culvert Improvements

Dear Ms. Clarke:

We are pleased to submit this proposal for the Project Management, and Construction Engineering and Inspection of the Stinson Culvert Maintenance & Repairs and the Winningkoff South Culvert Improvements.

Scope

Assist with bid document preparation and contractor bid evaluation, prepare a construction plan (layout and connection details) for the Winningkoff South Culvert, host pre-bid and pre-construction meetings, manage the project including contract and schedule oversight, inspect construction activities for conformance to plans and specifications, supervise onsite testing and analyze results, review material submittals and shop drawings, respond to RFI's, review and advise on change orders, and review contractor pay applications.

Proposed Fee

<i>PM & CEI (2 maintenance projects)</i>	\$ 59,808.00	LUMP SUM
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(Additional services may be added upon request at an hourly rate of \$ 145.00/hr or negotiated fee.)

Anticipated Schedule

The above scope and fee are based on the two projects being bid and awarded concurrently and constructed simultaneously or in close sequence. The estimated schedule for the above fee, from bid package preparation to final acceptance, is three months. Any changes to duration causing longer than four months may require adjustments to the proposed fee.

We kindly ask for your review and approval of the scope and fee proposed above. Should you have any questions, please do not hesitate in contacting us. We look forward to providing these services to the City of Lucas.

Sincerely,
BCC Engineering, LLC

A handwritten signature in blue ink, appearing to read 'Chris Meszler'.

Chris Meszler, P.E.
Texas Director of Engineering



City of Lucas

City Council Agenda Request

August 5, 2021

Item No. 06

Requester: Engineering Intern Eric Henderson

Agenda Item Request

Provide direction to the City Manager regarding preparation of Resolutions amending boundary agreements with the Town of Fairview and the cities of Allen and Parker and meet with the staff of each city regarding the same.

Background Information

As part of Eric Henderson's internship, he was given two tasks: 1) review City boundary agreements with the Town of Fairview, City of Allen, and the City of Parker, and 2) determine if there were any inconsistencies within these agreements. The following discrepancies were found:

Town of Fairview Boundary Agreement:

In 2007, the Town of Fairview and City of Lucas passed a joint Resolution (Lucas Resolution R-2007-08-00299) defining the boundary between the two cities. In reviewing the approved boundary Resolution, it was determined that one of the metes and bounds near the intersection of West Forest Grove Road and Elisabeth Way was missing from the approved boundary agreement.

City of Allen Boundary Agreement:

In 1984, the Cities of Allen and Lucas passed a joint Resolution (Lucas Resolution R-1984-04-00023) defining a common boundary between the two cities. In general, the boundary follows the following rights-of-way:

- East side of Country Club Road
- East side of Rock Ridge Road
- South side of Estates Parkway
- East side of Angel Parkway

In 1991, the Lucas City Council adopted Ordinance 1991-06-00277 annexing a 3.658-acre tract of land located on the east side of Angel Parkway, north side of Estates Parkway, and the west side of Rock Ridge Road. This 3.658-tract is currently part of the City of Lucas Wastewater System Master Plan and needs to be included within the City of Lucas boundary agreement with the City of Allen.



City of Lucas

City Council Agenda Request

August 5, 2021

Item No. 06

City of Parker Boundary Agreement:

Ordinance 1998-04-00372 outlines the boundary between the Cities of Parker and Lucas. This Ordinance cites the subdivision of Lonesome Dove Estates which is no longer valid. The boundary description needs to be updated to include the current platted subdivisions in place.

Attachments/Supporting Documentation

1. Resolution R-2007-08-00299 (Town of Fairview agreement)
2. Updated Legal Description for the Town of Fairview and City of Lucas
3. Resolution No. R-1984-04-00023 (City of Allen agreement)
4. Ordinance 1991-06-00277 (Annexation of 3.658-acre tract)
5. Updated Legal Description for the City of Allen and City of Lucas
6. Ordinance 1998-04-00372 (Parker)
7. Updated Legal Description for the City of Parker and City of Lucas

Budget/Financial Impact

NA

Recommendation

City staff recommends the City Council move forward with the revised boundary agreements between the Town of Fairview and the Cities of Allen and Parker.

Motion

There is no motion required for this item.

**Resolution # R-2007-08-00299
Boundary Issues with Town of Fairview**

**JOINT RESOLUTION BETWEEN
THE TOWN OF FAIRVIEW, TEXAS AND
THE CITY OF LUCAS, TEXAS**

WHEREAS, the municipalities of Lucas and Fairview, Texas, desire to establish with certainty their common borders and extraterritorial jurisdiction boundary line, consistent with relevant Texas statutes; and

WHEREAS, it is in the best interest and welfare of both Fairview and Lucas, Texas to establish by agreement their current and future common boundaries; and

WHEREAS, a majority of both municipalities' councils are in favor of this action to establish by mutual agreement the current and future common boundaries of Lucas and Fairview; and

WHEREAS, the City of Lucas hereby agrees to disannex two tracts east of County Road 317 (Orr Road) which are described as being within the Town of Fairview's extraterritorial jurisdiction by a joint resolution between the two municipalities executed in March and April 1977;

NOW, THEREFORE, BE IT RESOLVED that the following is a true and accurate description of the agreed upon final boundary and extraterritorial jurisdiction boundary line between Fairview and Lucas:

Being in the Gabe Fitzhugh Survey, Abstract 318; the Robert Fitzhugh Survey, Abstract 317; and the Calvin Boles Survey, Abstract 28;

Beginning at an iron rod set at the southwest corner of Lot 1, Block 2 of the Summer Hill Farms subdivision in Fairview, Texas;

THENCE, South 89°38'55" East, with the south line of said Lot 1, Block 2, for a distance of 320.73 feet;

THENCE, South 89°53'24" East, continuing with the south line of said Lot 1, Block 2, for a distance of 1,964.20 feet to the westernmost line of the Fairview Farms Subdivision in Fairview, Texas;

THENCE, South 0°07'0" West for a distance of 329.0 feet;

THENCE, North 89°13'36" East for a distance of 1,329.61 feet;

THENCE, North 89°13'26" East a distance of 155.7 feet;

THENCE, North 89°18'0" East a distance of 1,152.4 feet;

THENCE, North 0°30'15" East a distance of 781.8 feet;

THENCE, South 89°41'0" East a distance of 1,737.54 feet to the westernmost line of the Thompson Springs Subdivision in Fairview, Texas;

THENCE, South 02°37'52" West a distance of 388.85 feet to a five-eighths inch rod at the northwest corner of The Enclave Addition in Lucas, Texas;

THENCE, South 88°07'34" East a distance of 1,808.95 feet;

THENCE, South 88° 49'29" East a distance of 696.89 feet;

THENCE, South 88°58'01" East a distance of 290.06 feet to a one-half inch iron rod located at the southeast corner of the Thompson Springs Subdivision in Fairview, Texas, and being generally located on the centerline of Forest Grove Road;

THENCE, North 01°15'58" East a distance of 932.19 feet along the western line of a 99.24 acre tract owned by Don F. Kendall, et ux;

THENCE, North 01°15'58" East a distance of 295.59 feet;

THENCE, North 01°01'24" East a distance of 699.95 feet;

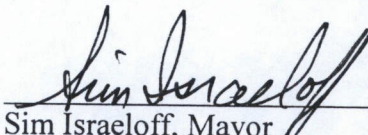
THENCE, North 01°33'41" East a distance of 588.05 feet;

THENCE, along the north boundary of said 99.24 acre Kendall tract to the northeast corner of said tract;

THENCE, southeast along the western line of County Road 317 (aka Orr Road) to its northwestern intersection with Forest Grove Road;

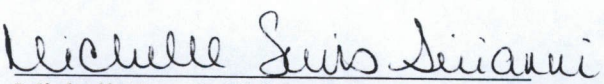
THENCE due east to the take line of Lake Lavon.

PASSED AND APPROVED by the Town Council of the Town of Fairview, Texas this the 7th day of August, 2007.



Sim Israeloff, Mayor
Town of Fairview, Texas

ATTEST:


Michelle Lewis Sirianni, Interim Town Secretary
Town of Fairview, Texas



PASSED AND APPROVED by the City Council of the City of Lucas, Texas this the 16 of Aug, 2007.



Bill Carmickle
Bill Carmickle, Mayor
City of Lucas, Texas

ATTEST:

Kathy Wingo
Kathy Wingo, City Secretary
City of Lucas, Texas

Town of Fairview and City of Lucas Boundary Description

Being in the Gabe Fitzhugh Survey, Abstract 318; the Robert Fitzhugh Survey, Abstract 317; and the Calvin Boles Survey, Abstract 28;

Beginning at an iron rod set at the southwest corner of Lot 1, Block 2 of the Summer Hill Farms subdivision in Fairview, Texas;

THENCE, South 89°38'55" East, with the south line of said Lot 1, Block 2, for a distance of 320.73 feet;

THENCE, South 89°53'24" East, continuing with the south line of said Lot 1, Block 2, for a distance of 1,964.20 feet to the westernmost line of the Fairview Farms Subdivision in Fairview, Texas;

THENCE, South 0°07'0" West for a distance of 329.0 feet;

THENCE, North 89°13'36" East for a distance of 1,329.61 feet;

THENCE, North 89°13'26" East a distance of 155.7 feet;

THENCE, North 89°18'0" East a distance of 1,152.4 feet;

THENCE, North 0°30'15" East a distance of 781.8 feet;

THENCE, South 89°41'0" East a distance of 1,737.54 feet to the westernmost line of the Thompson Springs Subdivision in Fairview, Texas;

THENCE, South 02°37'52" West a distance of 388.85 feet to a five-eighths inch rod at the northwest corner of The Enclave Addition in Lucas, Texas;

THENCE, South 88°07'34" East a distance of 1,808.95 feet;

THENCE, South 88° 49'29" East a distance of 696.89 feet;

THENCE, South 88°58'01" East a distance of 290.06 feet to a one-half inch iron rod located at the southeast corner of the Thompson Springs Subdivision in Fairview, Texas, and being generally located on the centerline of Forest Grove Road;

THENCE, South 88°14'18" East a distance of 704.63 feet;

THENCE, North 01°15'58" East a distance of 932.19 feet along the western line of a 99.24-acre tract owned by Don F. Kendall, et ux;

THENCE, North 01°15'58" East a distance of 295.59 feet;

THENCE, North 01°01'24" East a distance of 699.95 feet;

THENCE, North 01°33'41" East a distance of 588.05 feet;

THENCE, along the north boundary of said 99.24-acre Kendall tract to the northeast corner of said tract;

THENCE, southeast along the western line of County Road 317 (aka Orr Road) to its northwestern intersection with Forest Grove Road;

THENCE due east to the take line of Lake Lavon.

Denotes metes and bounds that have changed.

RESOLUTION NO. 9842

Doc # 25823

A RESOLUTION OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, AUTHORIZING THE MAYOR OF THE CITY OF LUCAS TO EXECUTE AN AGREEMENT ADJUSTING THE ULTIMATE CITY LIMIT BOUNDARY LINES BETWEEN THE CITY OF LUCAS AND THE CITY OF ALLEN, COLLIN COUNTY, TEXAS.

WHEREAS, the City of Lucas, Texas, and the City of Allen, Texas, agree that proper planning for orderly growth and development will be enhanced by adjusting ultimate boundary lines between the two municipalities; and,

WHEREAS, the municipalities acting by and through their duly authorized representatives are desirous of entering into an agreement adjusting those boundary lines;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS:

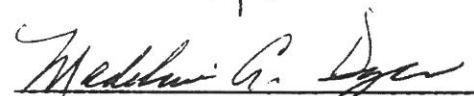
1. The mayor was authorized to execute an agreement between the City of Lucas and the City of Allen establishing the ultimate city limit boundary lines between the two municipalities and the City Council of the City of Lucas hereby ratifies the act of the mayor by so executing the attached agreement.

SECTION 2. A copy of that agreement to be executed by the mayors of Lucas and Allen is attached hereto and made a part of this Resolution.

SECTION 3. The City Secretary is directed to mail a copy of the executed agreement to the proper city officials of the City of Allen and to the Collin County Clerk for filing in the Deed Records of Collin County, Texas.

EXECUTED THIS THE 2nd DAY OF Apr. 2, 1984.


MILTON GOSNEY, Mayor


MADELINE DYER, City Secretary

CITY LIMITS BOUNDARY AGREEMENT

THE STATE OF TEXAS §
 §
COUNTY OF COLLIN §

WHEREAS, the City of Allen, Texas, and the City of Lucas, Texas, acting by and through their duly authorized representatives, are desirous of entering into an agreement establishing the ultimate city limit boundary lines between the two municipalities; and,

WHEREAS, each of the two municipalities believes that it is in the best interest of those persons owning property in and around the current boundary limits of each of the municipalities if a mutual agreement were entered into establishing ultimate boundary lines between the two municipalities; and,

WHEREAS, each of the municipalities agrees that proper planning for orderly growth and development will be enhanced by establishing ultimate boundary lines between the two municipalities at this time; and,

WHEREAS, each of the municipalities, upon due consideration, enacted a resolution authorizing its Mayor, with the attestation of its City Secretary, to execute this contract;

NOW, THEREFORE, this contract and agreement, in consideration of the mutual covenants and agreements contained herein, is made and entered into by and between the City of Allen, Texas, and the City of Lucas, Texas, to-wit:

I. Each party to this agreement, one with the other, agrees that its ultimate mutual city limit boundary line shall be shown and described in Exhibits "A" and "B" attached hereto and made a part hereof for all purposes.

II. The extraterritorial jurisdiction of each of the cities to this agreement shall remain as provided and allowed by the Municipal Annexation Act of 1963, as amended, Article 970(a), Vernon's Annotated Texas Civil Statutes; provided, however, if there should now exist, or if at any time after execution of this contract there should exist, an overlap of extraterritorial jurisdiction between the two cities, then in such event, neither city shall have or make an extraterritorial jurisdiction claim of any portion of the overlapped area which

should lie beyond its ultimate city limit boundary line as established by this agreement; and this agreement shall constitute a present and continuing waiver by each such city to any such rights or claims of extraterritorial jurisdiction to any overlapping extraterritorial area which lies beyond its ultimate boundary.

III. Nothing herein contained is intended to authorize either party hereto to levy or assess an ad valorem tax on property situated between current city boundary limits and the agreed mutual ultimate city boundary limits until such time as the property, or a portion thereof, is legally annexed by one of the parties to this agreement.

IV. Each party to the agreement, one with the other, agrees that after the execution of this agreement by both parties, upon platting of property adjacent or sufficiently near to the city boundary limit described in Exhibit "A", each city will require the dedication of right-of-way necessary to implement the existing and future Collin County Thoroughfare Plan which is described in Exhibit "C" attached hereto and made a part hereof for all purposes.

V. Should any provision of this agreement be declared void by a court of competent jurisdiction, the remaining provisions of this contract shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto, acting under authority of their respective governing bodies, have caused this contract to be duly executed, in duplicate originals, each of which shall constitute an original on the date of their respective acknowledgements.

CITY OF ALLEN, TEXAS

ATTEST:

Marty Hendrix
Marty Hendrix, City Secretary

By Mickey Pierson
Mickey Pierson, Mayor

CITY OF LUCAS, TEXAS

ATTEST:

Madelyn McDaniel
Madelyn McDaniel, City Secretary

By Milton Gosney
Milton Gosney, Mayor

THE STATE OF TEXAS §
§
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared MICKEY PIERSON, Mayor of the City of Allen, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated as the act and deed of said municipality.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 3rd day of February, A.D., 1984.

[S E A L]

My Commission Expires:
4-1-85

Marty Hendrix
Notary Public, State of Texas
Marty Hendrix
Printed or Typed Name of Notary

THE STATE OF TEXAS §
§
COUNTY OF COLLIN §

BEFORE ME, the undersigned authority, on this day personally appeared MILTON GOSNEY, Mayor of the City of Lucas, Texas, a municipal corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated as the act and deed of said municipality.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 23rd day of January, A.D., 1984.

[S E A L]

My Commission Expires:
2/20/84

Madelin A. Jyer
Notary Public, State of Texas
MADÉLINE A. JYER
Printed or Typed Name of Notary

EXHIBIT "A"

BOUNDARY LINE AGREEMENT
BETWEEN
CITY OF ALLEN, TEXAS
AND
CITY OF LUCAS, TEXAS

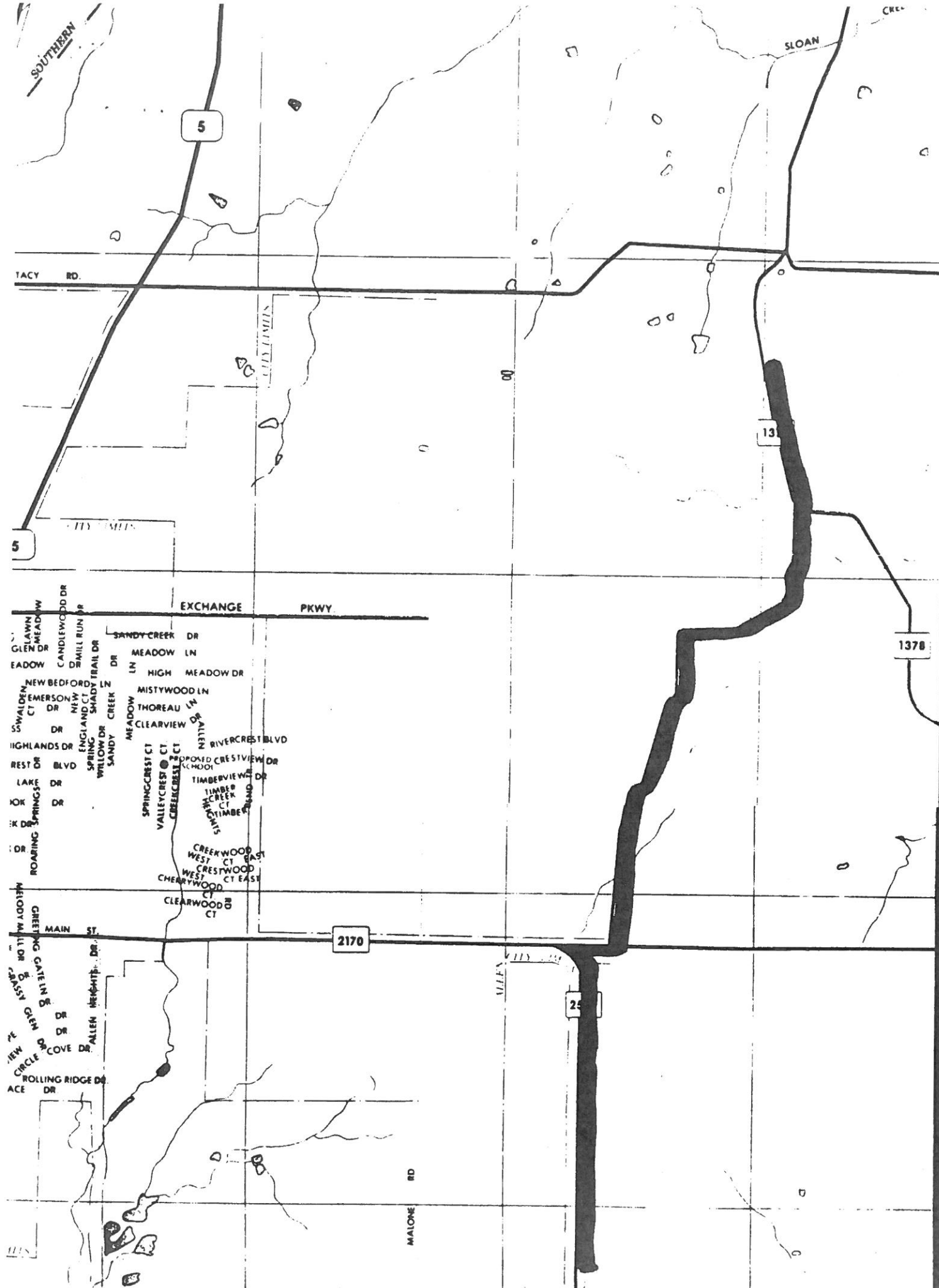
BEGINNING at the Southwest corner of a 131.772 acre tract owned by Jack Carter reference Volume 982, Page 273 of the Collin County Deed Records;

THENCE in a southerly direction along the east right-of-way line of the existing and future F.M. 1378 to the intersection of Rock Ridge Road;

THENCE in a southerly direction along the east right-of-way line of the existing and future Rock Ridge Road to its intersection with F.M. 2170;

THENCE in a westerly direction along the south right-of-way line of the existing and future F.M. 2170 to the intersection of F.M. 2551;

THENCE in a southerly direction along the east right-of-way line of the existing and future F.M. 2551 to the intersection of Bandy Lane.



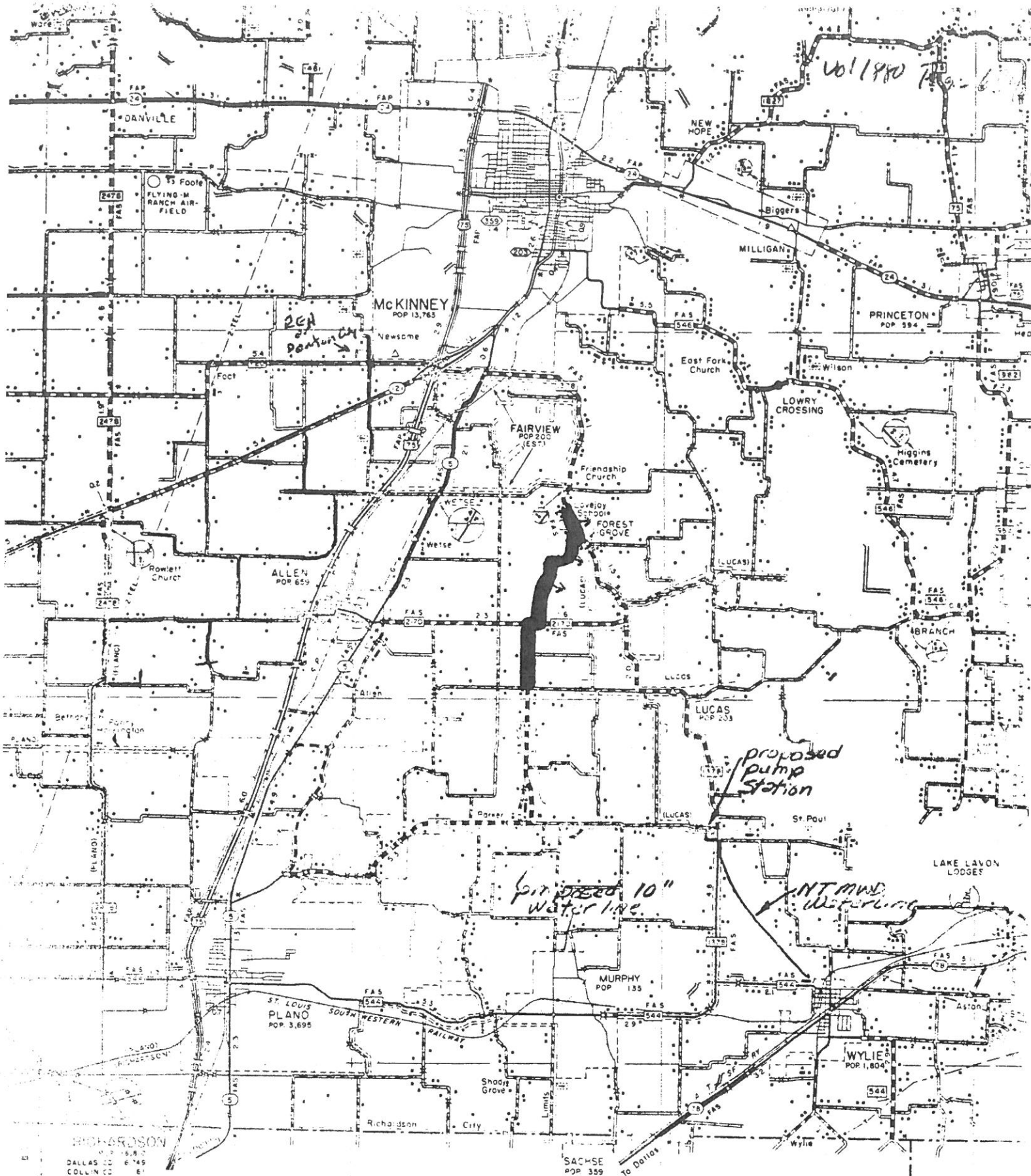
3

4

5

6

Vol 1980 7/9-6



3594 248

030919

J.R. & R. Allen Partnership
3.658 Acre Tract

108

New Ordinance #
1991-06-00277

ORDINANCE NO. 91-6-3

AN ORDINANCE PURSUANT TO SECTION 43.028 OF THE TEXAS LOCAL GOVERNMENT CODE **ANNEXING** THE HEREINAFTER DESCRIBED TERRITORY TO THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID HEREINAFTER DESCRIBED PROPERTY WITHIN THE CITY LIMITS, AND GRANTING TO SAID TERRITORY AND TO ALL FUTURE INHABITANTS OF SAID PROPERTY ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF THE SAID CITY.

WHEREAS, a petition by Michael M. Jezari and Cyrus Raoufpur for J.R. & R. Allen for **annexation** has been duly signed and acknowledged by each and every person or corporation having an interest in the following described territory, to-wit:

Situated in Collin County, Texas in the W. Fisher Survey Abstract No. 323 and being part of an 8.610 acre tract as described in a deed from Gene McCutchin to Michael Klepak dated August 15, 1983, and recorded in Volume 1716 Page 307 of the Collin County Land records being more particularly described by metes and bounds in Exhibit "A" attached hereto and included herein for all purposes;

WHEREAS, said tract of land is contiguous and adjacent to the City of Lucas, Texas, and is not more than one-half (1/2) mile in width;

WHEREAS, the subject tract is vacant and without residents or fewer than three (3) qualified voters reside on the subject tract;

WHEREAS, said petition was signed by all the owners of the subject tract and acted thereon in accordance with the law;

WHEREAS, after two (2) hearings on the petition and receiving and considering the arguments for and against the same, if any, the City Council has voted to grant such petition and to annex said territory to the City of Lucas, Texas; and

WHEREAS, a service plan has been prepared and approved by the City for the purpose of providing the territory to be annexed the same level of services provided to the City as a whole within sixty (60) days after the adoption of this Ordinance. Attached to this Ordinance as Exhibit "B" is the service plan as approved and adopted and it is included herein for all purposes.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS:

That the following described 3.658 acres, to-wit:

Situated in Collin County, Texas in the W. Fisher Survey Abstract No. 323 and being part of an 8.610 acre tract as described in a deed from Gene McCutchin to Michael Klepak dated August 15, 1983, and recorded in Volume 1716 Page 307 of the Collin County Land records being more particularly described by metes and bounds in Exhibit "A" attached hereto and included herein for all purposes;

be and the same is hereby annexed into the City of Lucas, Collin County, Texas, zoned commercial "C" and that the boundary limits of the City of Lucas, Texas, be and the same are hereby extended to include the above-described territory within the city limits of the City of Lucas, Texas, and that same shall hereafter be included within the territorial limits of said City and said land and the future inhabitants thereof shall hereafter be entitled to all rights and privileges of other citizens of the City of Lucas, Texas, and shall be bound by the acts and ordinances of said City.

The City Secretary is hereby directed to file a certified copy of this Ordinance with the County Clerk of Collin County, Texas, and with the Collin County Central Appraisal District.

ADOPTED by an affirmative vote of the members of the City Council of the City of Lucas, Texas, on this 3rd day of June, 1991.



APPROVED:

by: Gerry Ann Guzman
Gerry Ann Guzman, Mayor

ATTEST:

Annette Alexander
Annette Alexander, City Secretary

APPROVED AS TO FORM:

John E. Rapiet
John E. Rapiet, City Attorney

ORIGINAL

EXHIBIT "A"

Situated in Collin County, Texas in the W. Fisher Survey Abstract No. 323 and being part of an 8.610 acre tract as described in a deed from Gene McCutchin to Michael Klepak dated August 15, 1983, and recorded in Volume 1716 Page 307 of the Collin County Land Records and being more fully described as follows:

BEGINNING at an iron pin in the Southwest corner of the said tract in the North right of way line of F.M. Highway 2170.

THENCE North 2 deg 06 min 24 sec East, with an established fence line and hedge row 309.87 ft. to an iron pin. Said iron pin being the Southwest corner of a 7.000 acre tract as described in a deed from Michael Klepak to Vernon E. Day recorded in Volume 1767 Page 194 of the Collin County Land Records.

THENCE South 88 deg 00 min 01 sec East, with the South line of the said 7.000 acre tract 528.03 ft. to an iron pin at the Southeast corner thereof and the center line of a public road.

THENCE South 5 deg 25 min West, with the center line of said road 279.47 ft. to an iron pin in the North right of way line of F.M. Highway 2170.

THENCE in a Westerly direction with the North right of way line of said highway as follows:

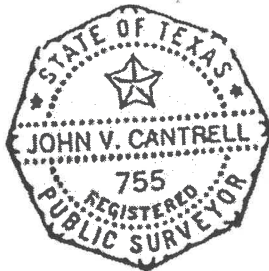
- NORTH 84 deg 19 min 47 sec West, 22.38 ft. to a wooden marker.
- SOUTH 48 deg 26 min 06 sec West, 45.03 ft. to a wooden marker.
- NORTH 88 deg 12 min 55 sec West, 432.58 ft. to an iron pin.
- NORTH 87 deg 14 min 30 sec West, 24.38 ft. to the place of beginning and containing 3.658 acres of land.

This is to certify that I have this date made an on the ground survey of the property herein described and hereon platted. THERE ARE NO ENCROACHMENTS, CONFLICTS OR PROTRUSIONS.

February 2, 1984
Recertified And Correct
April 26, 1984

John V. Cantrell

John V. Cantrell
Registered Public Surveyor



RECEIVED
CITY OF LUCAS

APR 19 1991

BY _____

EXHIBIT "B"

SERVICE PLAN

Within thirty (30) days of the effective date of the foregoing annexation ordinance, the City of Lucas will provide the following services to the territory or property annexed herein:

1. It is understood that water service will be initially provided by the City of Allen, but that water service in accordance with Chapter 7 of the Code of Ordinances of the City of Lucas will be provided when the Lucas water system is extended to the subject property;

2. Voluntary fire department service in accordance with Chapter 5 of the Code of Ordinances of the City of Lucas and state and federal law; and

3. Enforcement of all zoning ordinances, building codes, and miscellaneous penal ordinances including but not limited to regulation of animals, roads and streets, fireworks, alcoholic beverages, firearms, littering and dumping, etc.

FILED
1991 JUN 11 PM 3:14
CLERK COUNTY COURT
COLLIN COUNTY, TEXAS
BY [signature] DEPUTY

CITY OF LUCAS
352 WEST LUGER ROAD
LUCAS, TX 75858

Exhibit "A"
Boundary Line Agreement
Between
City of Allen, Texas
And
City of Lucas

BEGINNING at the southwest corner of the 131.772 acre tract owned by Jack Carter reference Volume 982, Page 273 of the Collin County Deed Records;

THENCE in a southerly direction along the east right-of-way line of the existing and future FM 1378 to its intersection of Rock Ridge Road;

THENCE in a southerly direction along the east right-of-way line of the existing and future Rock Ridge Road to a point of intersection with the extension of the south line of a 7.000 acre tract as described in a deed from Michael Klepak to Vernon E Day Recorded in 19831102000588410 (V1767 P194) and the north line of a J.R. & R. Allen Partnership 3.658 acre tract as described in a City of Lucas Annexation Ordinance Number 1991-06-00277 and recorded in Collin County 19910611000309190 (V3594 P248);

THENCE North 88 Degrees 00 Minutes 01 Seconds West 568 feet along the south line of a 7.000 acre tract as described in a deed from Michael Klepak to Vernon E Day Recorded in 19831102000588410 (V1767 P194) and the north line of a J.R. & R. Allen Partnership 3.658 acre tract as described in a City of Lucas Annexation Ordinance Number 1991-06-00277 and recorded in Collin County 19910611000309190 (V3594 P248);

THENCE in a southerly direction along the east right-of-way line of the existing and future Angel Parkway and FM 2551 to its intersection with southern right-of-way line of West Lucas Road.

Denotes metes and bounds that have been changed

ORDINANCE NO. 98-04-01

New Ordinance #
1998-04-00372

AN ORDINANCE OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS, AMENDING ORDINANCE NO. 9742, REPEALING ORDINANCE NO. 98-01-05, AND ESTABLISHING A REVISED COMMON EXTRATERRITORIAL JURISDICTION BOUNDARY LINE BETWEEN THE CITY OF LUCAS AND THE CITY OF PARKER NORTH OF PARKER ROAD, AND PROVIDING FOR CONFLICTS, SEVERABILITY, RECORDING AND AN EFFECTIVE DATE.

WHEREAS, on November 11, 1974, the Lucas City Council adopted Ordinance No. 9742 which established a common extraterritorial jurisdiction boundary line ("the ETJ Line") between the cities of Parker and Lucas;

WHEREAS, in the last few months, development activity has occurred in the area of the ETJ Line between W. Lucas Road and Parker Road;

WHEREAS, on January 5, 1998, the Lucas City Council adopted Ordinance No. 98-01-05 that repealed Ordinance No. 9742 and adopted a new ETJ Line;

WHEREAS, the effective date of Ordinance No. 98-01-05 was contingent upon the adoption by the Parker City Council of an ordinance which adopted the same ETJ Line;

WHEREAS, the Parker City Council adopted Parker's Ordinance No. 433 that adopted the same ETJ line from Parker Road to W. Lucas Road, however, Parker's Ordinance No. 433 relates to other issues that required the adoption of this ordinance;

WHEREAS, the cities of Lucas and Parker have determined that the portion of the current ETJ Line that lies between W. Lucas Road and Parker Road is not practical; and

WHEREAS, the cities of Lucas and Parker have negotiated a revised ETJ Line between W. Lucas Road and Parker Road that meets the legitimate interest of both the City of Lucas and the City of Parker.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUCAS, COLLIN COUNTY, TEXAS AS FOLLOWS:

SECTION 1. REPEAL OF ORDINANCE NO. 98-01-05.

The City of Lucas hereby repeals Lucas' Ordinance No. 98-01-05 in its entirety.

ORIGINAL

SECTION 2. AMENDMENT OF ORDINANCE NO. 9742.

The City of Lucas hereby amends Ordinance No. 9742 adopted by the Lucas City Council on November 11, 1974, and filed in Volume 978 at page 106 of the Real Property Records of Collin County, Texas, as follows:

Pursuant to Chapters 42 and 43 of the Local Government Code and in consideration of the adoption of the same revised ETJ Line by the Parker City Council, the Lucas City Council hereby adopts a revised ETJ Line described in Exhibits "A" and "B" attached hereto and included herein by reference as an amendment to that portion of the ETJ Line as a municipal boundary of the cities of Lucas and Parker or their respective ETJs.

SECTION 3. CONFLICTS.

All ordinances and provisions of the City of Lucas, Texas that are in conflict with this Ordinance shall be, and the same are, hereby repealed, and all ordinances and provisions of ordinances of said City not so repealed are hereby retained in full force and effect.

SECTION 4. SEVERABILITY.

It is the intent of the City Council that if any paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be deemed severable and, should any such paragraph, sentence, subdivision, clause, phrase, or section be declared invalid or unconstitutional for any reason, such declaration of invalidity or unconstitutionality shall not be construed to affect the validity of those provisions of this Ordinance left standing, nor the validity of any ordinances of the City of Lucas.

SECTION 5. RECORDING.

This ordinance shall be recorded in the real estate records of Collin County, Texas.

SECTION 6. EFFECTIVE DATE.

This Ordinance will be effective upon its adoption.

SECTION 7. DRAINAGE PROVISIONS.**A. General Items:**

- 1) The Cities of Parker and Lucas agree to submit to each other for review and comment any zoning request, preliminary plat, or final plat on any property adjacent to any portion of the total Parker/Lucas boundary line.
- 2) The Cities of Parker and Lucas agree to submit to each other for review and comment their thoroughfare plans in the area between Parker Road and W. Lucas Road, east of F.M. 2551, to determine the need for major thoroughfares in the area, and to consider amendment of their thoroughfare plans as needed, in order that both Cities' plans are consistent in the area.
- 3) The Cities of Parker and Lucas agree to require all future developments that receive drainage from, or discharge drainage to, either City to coordinate drainage improvements with both Cities.
- 4) The Cities of Parker and Lucas agree that any future water and/or sanitary sewer facilities installed in Lewis Lane will be installed with consideration for future drainage improvements.

B. Drainage Improvements in Poco Estados / Kirkland Estates Area:

- 1) The Cities of Parker and Lucas agree that improvement of drainage in the Poco Estados / Kirkland Estates area is of paramount importance. Both Cities agree that drainage in the area should be developed in general accordance with the report and plans prepared by O'Brien Engineering (the "O'Brien Plans" circa. 1990/1991), subject to (a) a timely engineering review of said reports and plans, and (b) any modifications to said plans made necessary by the timely engineering review. The plans for these items are attached, and include the following:
 - * Attachment No. 1:
(1 page), "Drainage Requirements (partial) Poco Estados and Kirkland Estates," January 25, 1991.
 - * Attachment No. 2:
(12 pages), "Construction Plans for Drainage Improvements in Kirkland Estates and Poco Estados Subdivisions," April, 1991.
 - * Attachment No. 3:
(2 pages), Construction plans of "Parker Road Drainage Improvements," November, 1990.

2) The Cities of Parker and Lucas acknowledge the need for the remaining work to be done in accordance with the previously proposed O'Brien drainage improvements (subject to any necessary modifications as noted in #1 above), and agree to make positive effort toward construction of the drainage facilities in each City. These improvement items consist of the following:

- a) Construction of a 20 foot wide ditch from Lewis Lane to Turner Branch (see Attachment No. 1 for location, and Attachment No. 2, Turner cut-off channel, page 7 of 8, and page 8 of 8 of plans).
- b) Construction of a ditch along the north side of Parker Road from Lewis Lane to Turner Branch (see Attachment No. 1 for location, and Attachment No. 3, pages 1 of 2, and 2 of 2 of plans).
- c) Construction of a 20 foot wide ditch along the east side of Lewis Lane from north of Estados Drive to Parker Road (see Attachment No. 1 for location, and Attachment No. 2, pages 6 of 8, and 8 of 8 of plans).

ADOPTED by the City Council of the City of Lucas, Collin County, Texas, this 21st day of April, 1998.



APPROVED:

by: *Andrea Calve*
 Andrea Calve, Mayor

ATTEST:

John Hubbard
 John Hubbard, City Secretary

APPROVED AS TO FORM:

John E. Rapier
 John E. Rapier, City Attorney

4190 0054

Exhibit "A"

Revised common extraterritorial jurisdiction line between the City of Lucas and the City of Parker, Collin County, Texas:

Beginning at the southwest corner of the Kirkland Estates West, a subdivision to the City of Lucas, Collin County, Texas; said point being in the north right-of-way of Parker Road, and the east right-of-way of Lewis Lane, said point also being the same point as called in the original agreement recorded in Volume 1610, Page 337, Deed Records Collin County, Texas (D.R.C.C.T.) which shall be considered as an integral part of this agreement line to this point.

Thence northerly along the east right-of-way of Lewis Lane, as it may exist by future dedications, or as it presently exists along the following described courses: North 09 degrees, 01 minute, 30 seconds west, 797.03 feet, north 05 degrees, 21 minutes, 04 seconds east, 570.00 feet, and north 01 degree, 48 minutes, 09 seconds west, 457.00 feet to a point for corner;

Thence continuing northerly along the said east right-of-way line, as it presently or may exist by additional dedications to a point in the south property line of 50.5 acre tract of land, as conveyed to Barrett B. Newman, as recorded in Volume 3246, Page 783, D.R.C.C.T., being a point in the south line of the Ann S. Hurt Survey, Abstract No. 428;

Thence easterly along the south line of the aforementioned Newman tract, to the south east corner thereof, being the common corner of Lonesome Dove Estates, an addition to the City of Lucas, as recorded in Volume 03943, Page 02481, 02485 M.R.C.C.T.;
and Instrument 98-0063682

Thence northerly along the east line of said Newman tract, and the common line of Lonesome Dove Estates, to the north east corner of said Newman tract, an ell corner of said Lonesome Dove Estates;

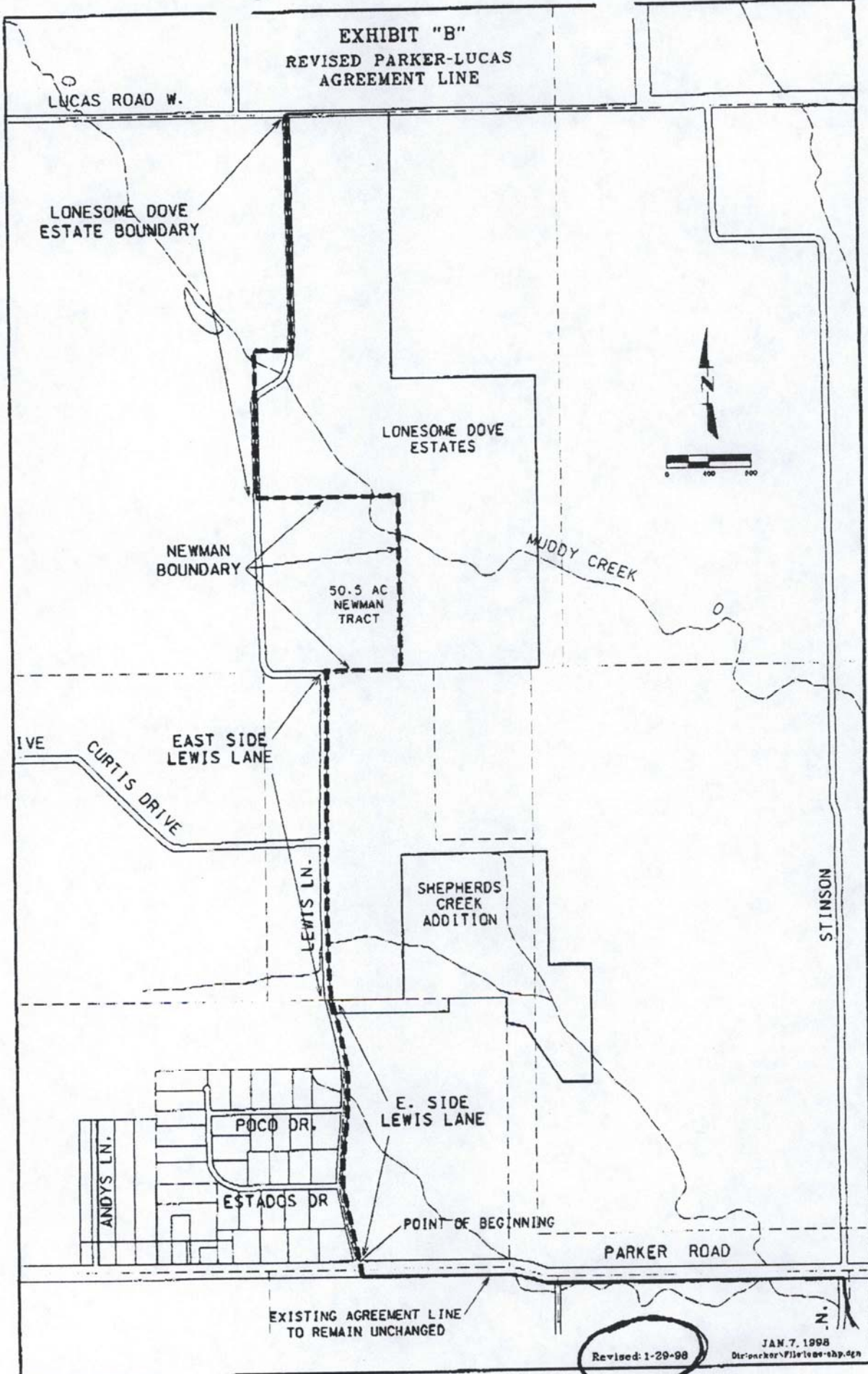
4190 0056

Thence westerly along the north line of the aforementioned Newman tract, and the common line of said Lonesome Dove Estates to the north west corner of said Newman tract;

Thence northerly along the most westerly west line of said Lonesome Dove Estates to the most southerly northwest corner thereof;

Thence easterly along the boundary line of Lonesome Dove Estates to an ell corner in the west right-of-way of Lewis Lane;

Thence northerly along the west right-of-way of Lewis Lane as shown on the Lonesome Dove Estates, or as it may exist by future roadway dedications for Lewis Lane, to a point at the south right-of-way line of west Lucas Road, and the west right-of-way line of Lewis Lane.



Revised: 1-29-98

JAN. 7, 1998
Director's File/100-shp.dgn

City of Parker and City of Lucas Boundary Description

BEGINNING at the intersection of the South existing and future FM 2514 (also known as Parker Road) right-of-way line and existing and future centerline of the Bois D'Arc Lane right-of-way in the Squire T. Lewis Survey, Abstract No. 529;

THENCE Westerly along the South existing and future FM 2514 right-of-way to a point in the east existing and future right-of-way of Lewis Lane said point being the Southwest corner of the Kirkland Estates West, a subdivision of the City of Lucas, Collin County, Texas;

THENCE Northerly along the existing and future East Lewis Lane right-of-way to the said Newman Living Trust, according to the Warranty Deed recorded in County Clerk file number 2004-0003770;

THENCE East 90°0'0" along the south line of the Newman Living Trust tract and a south line of a tract of land conveyed to the previously mentioned John Braley, along with the north line of a tract of land conveyed to Young Dean Homestead Ltd. according to the Warranty Deed recorded on County Clerk file number 2002-0068655 (LRCCT), for a distance of 1320.00 feet (more or less) to a point on the southeastern corner of the Newman Living Trust tract and the southwest corner of Lot 19 of Block A of Stinson Highlands Phase 3 subdivision;

THENCE North 90°0'0" along the east line of the Newman Living Trust tract, and continuing along a westerly line of Lots 18 & 19 of Block A of Stinson Highlands Phase 3 subdivision and along the westerly line of Lots 13R & 14R of Block D of Estates at Austin Trail Phase 1, an addition to the City of Lucas recorded in Cabinet N, Page 709 (DRCCT), for a distance of 1666.71 feet (more or less) to the northeast corner of the Newman Living Trust tract;

THENCE North 89°49'12" West continuing along the north line of the Newman Living Trust tract and along a south addition line of said Estates at Austin Trail Phase 1, and south addition line of Lots 14R & 15R of Block D, a distance of 311.63 feet to the most easterly corner of the John P. Taddiken tract according to the Warranty Deed recorded in County Clerk file number 2002-0092125;

THENCE South 89°56'34" West along the north line of the Newman Living Trust tract and along the south line of the John P. Taddiken tract, for a distance of 613.21 feet to the northeast corner of said Rodney S. Warne and Betsy L. Warne according to the General Warranty Deed recorded on County Clerk file number 2002-0092125;

THENCE North 89°56'34" East along the north line of the Rodney S. Warne and Betsy L. Warne tract and the south line of the John P. Taddiken tract, a distance of 372.38 feet to the West existing and future Lewis Lane right-of-way;

THENCE Northerly along the West existing and future Lewis Lane right-of-way to the iron rod set at the Southwest corner of Lot 23, Block A of the Kings Crossing Phase 1 subdivision;

THENCE North $89^{\circ}50'37''$ East with the south line of said Lot 23, Block A, for a distance 333.10 feet of the subdivision Kings Crossing Phase 1 to the West Lewis Lane right-of-way;

THENCE Northerly along the West existing and future Lewis Lane to the point of intersection with the South existing and future West Lucas Road;

THENCE Westerly along the South existing and future West Lucas Road to the point of intersection with the East existing and future FM 2551 (also known as Angel Parkway).

The entire description has been revised and rewritten



City of Lucas

City Council Agenda Request

August 5, 2021

Item No. 07

Requester: City Councilmember Tim Johnson

Agenda Item Request

Consider reactivation of the Lucas Community Emergency Response Team (CERT).

Background Information

The Federal Emergency Management Agency, using the model created by the Los Angeles City Fire Department, began promoting nationwide use of the Community Emergency Response Team (CERT) concept in 1994. Since then, CERTs have been established in hundreds of communities. (Including Lucas, Allen, Plano, McKinney, and many other neighboring cities).

CERT training promotes a partnering effort between emergency services and the people that they serve. The goal is for emergency personnel to train members of neighborhoods, community organizations, or workplaces in basic response skills. CERT members are then integrated into the emergency response capability for their area.

If a disastrous event overwhelms or delays the community's professional response, CERT members can assist others by applying the basic response and organizational skills that they learned during training. These skills can help save and sustain lives following a disaster until help arrives. CERT skills also apply to daily emergencies.

CERT members maintain and refine their skills by participating in exercises and activities. They can attend supplemental training opportunities offered by the sponsoring agency and others that further their skills base. CERT members can also volunteer for projects that improve community emergency preparedness. The Community Emergency Response Team (CERT) program educates volunteers about disaster preparedness for the hazards that may impact their area and trains them in basic disaster response skills, such as fire safety, light search and rescue, team organization, and disaster medical operations.

CERT offers a consistent, nationwide approach to volunteer training and organization that professional responders can rely on during disaster situations, allowing them to focus on more complex tasks.

Lucas already has a registered CERT that is currently inactive, trained volunteers and others interested in serving their city.

Reactivating the Lucas CERT will benefit the health, safety and welfare of the city and its citizens through greater community involvement, enhanced disaster preparedness, and by relieving our first responders of lesser priority tasks during emergencies.



City of Lucas
City Council Agenda Request
August 5, 2021

Item No. 07

Attachments/Supporting Documentation

NA

Budget/Financial Impact

To be determined.

Recommendation

Councilmember Johnson recommends tasking the City's Emergency Management Coordinator with evaluating and developing a plan, including a cost analysis, to reactivate, train and utilize the Lucas Community Emergency Response Team (CERT), and to report those findings to the City Council.

Motion

I make a motion to approve/deny tasking the City's Emergency Management Coordinator with evaluating and developing a plan, including a cost analysis, to reactivate, train and utilize the Lucas Community Emergency Response Team (CERT), and to report those findings to the city Council.



City of Lucas City Council Agenda Request August 5, 2021

Item No. 08

Requestor: City Councilmember Tim Johnson

Agenda Item Request

Discuss and provide direction regarding policy and procedures concerning afterhours work requests.

Background Information

On Thursday June 24th at about 3:10 AM, Lucas citizens were awakened by the sounds of vehicles and workers staging on Ford Lane for a concrete pour at a new house being built at 1335 Ford Lane. Work commenced at about 3:35 AM and was completed at about 6:30 AM.

On investigation, a neighbor discovered that a permit had been issued for staging and work, to commence no earlier than 4:15 AM. This permit was verbally requested two days prior and granted less than 12 hours prior to the permitted start time ... without any notification to adjacent homes. Another neighbor, unaware of the permit called the Sheriff reporting the disturbance.

While this may have been convenient for the builder, it was not convenient for the neighbors (exasperated by the builder's non-compliance with the permitted start time), having had no forewarning of the early morning work. Lucas citizens deserve better.

Attachments/Supporting Documentation

1. Ordinance 2000-10-00435

Budget/Financial Impact

NA

Recommendation

Provide direction to City Staff regarding policy and procedures for accepting, reviewing, approving, and making notifications concerning afterhours work requests. With the goals of better differentiating last minute requests for unforeseen circumstances or poor planning; to better notify neighbors of afterhours work; and to establish consequences for non-compliance with an issued permit.

Motion

There is no motion required, this item is for discussion and to provide direction to City staff.

ORIGINALORDINANCE NO. 00-28-10 (A)New Ordinance #
2000-10-00435

AN ORDINANCE OF THE CITY OF LUCAS, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF LUCAS, BY AMENDING SECTION 3-11, DECLARATION OF NUISANCE; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUCAS, TEXAS:

SECTION 1. That Section 3-11 of the Code of Ordinances be, and the same is hereby, amended in part to read as follows:

“Section 3-11. Declaration of Nuisance, Construction Hours.

- A. Any development, construction, site preparation, enlargement or structural alteration in violation of any provision of this Chapter or the Lucas Building Code is hereby declared to be a common nuisance and may be abated by the City in any manner authorized by law, including injunction and an action for damages.
- B. Loading, unloading and handling of construction material and the use of any tools or equipment used in construction, drilling or demolition work shall be permitted and lawful only between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday, except by written special permission given by the building department. A person in control of the activity or the owner of such property commits an offense if he fails to prevent such construction during the prohibited hours.”

SECTION 2. That all provisions of the ordinances of the City of Lucas in conflict with the provisions of this Ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Lucas not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3. An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. That any person, firm or corporation violating any of the provisions of this ordinance or of the Code of Ordinances, as amended hereby, shall be deemed guilty of a misdemeanor and, upon conviction in the Municipal Court of the City of Lucas, Texas, shall be subject to a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense, and each and every day said violation is continued shall constitute a separate offense.

SECTION 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the laws in such case provide.

DULY APPROVED AND PASSED by the City Council of the City of Lucas, Collin County, Texas on the 23 day of October, 2000.

APPROVED:




ANDREA U. CALVE, MAYOR

ATTEST:



CITY SECRETARY

APPROVED AS TO FORM:



CITY ATTORNEY
(JCM/jld 10/23/2000)(36751)



NICHOLS, JACKSON, DILLARD, HAGER & SMITH, L.L.P.

Jason C. Marshall
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Fax (214) 965-0010
E-mail NJDHS@NJDHS.com

ROBERT L. DILLARD, JR.
H. LOUIS NICHOLS
LAWRENCE W. JACKSON
OF COUNSEL

October 30, 2000

Ms. Linda Shoup
City Administrator
City of Lucas
151 Country Club Road
Lucas, Texas 75002

RE: Ordinance

Dear Linda:

Enclosed please find an Ordinance for the City of Lucas amending Section 3-11, Declaration of Nuisance, of the Code of Ordinances.

Thank you for your attention to this matter. Please feel free to call if you have any questions.

Very truly yours,

NICHOLS, JACKSON, DILLARD,
HAGER & SMITH, L.L.P.

By: Jason C. Marshall/jld
Jason C. Marshall

JCM/jld
Enclosure

RECEIVED
CITY OF LUCAS

OCT 31 2000

BY JRS



City of Lucas

City Council Agenda Request

August 5, 2021

Requester: City Manager Joni Clarke

Agenda Item Request

Discuss requirements and eligible uses of the Coronavirus Local Fiscal Recovery Fund and provide direction to the City Manager.

Background Information

The American Rescue Plan Act of 2021 (ARPA) appropriates \$19.53 billion to States for distribution to non-entitlement units of local governments (NEUs). NEUs are defined as local governments typically serving populations of less than 50,000. The U.S. Department of the Treasury released guidance on the distribution of funds, eligible NEUs, calculation of initial allocations, process of requests for payment, process of declining funding allocation and transferring to the State, and post-distribution of funds.

The Texas Division of Emergency Management (TDEM) will manage the application process, payment of funds, and communications from the U.S. Department of the Treasury to NEUs in Texas. NEUs will be required to submit a project and expenditure report annually. Annual reports must be submitted to the U.S. Department of the Treasury by October 31 each year. Financial records and supporting documents must be kept for five years after all funds are expended.

Under Section 602 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, these funds may only be used to cover the following costs incurred by December 31, 2024:

1. To respond to the public health emergency with respect to the Coronavirus Disease 2019 (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;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the NEU that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
3. For the provision of government services to the extent of the reduction in revenue of the NEU government due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the NEU prior to the emergency; or
4. To make necessary investments in water, sewer, and broadband infrastructure.

Ineligible uses of the Coronavirus Local Fiscal Recovery Fund include:

- Offsetting tax cuts
- Depositing into pension funds or rainy-day funds
- Funding debt service, legal settlements, or matching funds unless allowed by the federal program
- General infrastructure spending (outside of broadband and water/sewer) unless under revenue loss provision



City of Lucas

City Council Agenda Request

August 5, 2021

Attachments/Supporting Documentation

1. Frequently Asked Questions – Coronavirus State and Local Fiscal Recovery Funds (as of July 19, 2021, U.S. Department of the Treasury)
2. Coronavirus Local Fiscal Recovery Fund: Guidance on Distribution of Funds to Non-Entitlement Units of Local Government (U.S. Department of the Treasury)
3. Rules and Regulations – Coronavirus State and Local Fiscal Recovery Funds (U.S. Department of the Treasury)
4. Allocations for Non-Entitlement Units of Local Governments in Texas (Texas Division of Emergency Management)

Budget/Financial Impact

The Texas Division of Emergency Management (TDEM) has determined the funding allocation to the City of Lucas in the total amount of \$2,119,313.22. The total funding would be divided in two tranches: 1) \$1,059,656.61 (first initial allocation) and 2) \$1,059,656.61 (12 months after the initial allocation).

Recommendation

NA

Motion

There is no motion required.

Coronavirus State and Local Fiscal Recovery Funds

Frequently Asked Questions

AS OF JULY 19, 2021

This document contains answers to frequently asked questions regarding the Coronavirus State and Local Fiscal Recovery Funds (CSFRF / CLFRF, or Fiscal Recovery Funds). Treasury will be updating this document periodically in response to questions received from stakeholders. Recipients and stakeholders should consult the [Interim Final Rule](#) for additional information.

- For overall information about the program, including information on requesting funding, please see <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments>
- For general questions about CSFRF / CLFRF, please email SLFRP@treasury.gov
- Treasury is seeking comment on all aspects of the Interim Final Rule. Stakeholders are encouraged to submit comments electronically through the Federal eRulemaking Portal (<https://www.regulations.gov/document/TREAS-DO-2021-0008-0002>) on or before July 16, 2021. Please be advised that comments received will be part of the public record and subject to public disclosure. Do not disclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Questions added 5/27/21: 1.5, 1.6, 2.13, 2.14, 2.15, 3.9, 4.5, 4.6, 10.3, 10.4 (noted with “[5/27]”)

Questions added 6/8/21: 2.16, 3.10, 3.11, 3.12, 4.7, 6.7, 8.2, 9.4, 9.5, 10.5 (noted with “[6/8]”)

Questions added 6/17/21: 6.8, 6.9, 6.10, 6.11 (noted with “[6/17]”)

Questions added 6/23/21: 1.7, 2.17, 2.18, 2.19, 2.20, 3.1 (appendix), 3.13, 4.8, 6.12 (noted with “[6/23]”)

Question added 6/24/21: 2.21 (noted with “[6/24]”)

Questions added 7/14/21: 1.8, 3.14, 3.15, 4.9, 4.10, 4.11, 4.12, 6.13, 6.14, 6.15, 6.16, 6.17, 10.3 updated (noted with “[7/14]”)

Answers to frequently asked questions on distribution of funds to non-entitlement units of local government (NEUs) can be found in this [FAQ supplement](#), which is regularly updated.

1. Eligibility and Allocations

1.1. Which governments are eligible for funds?

The following governments are eligible:

- States and the District of Columbia
- Territories
- Tribal governments
- Counties
- Metropolitan cities
- Non-entitlement units, or smaller local governments

1.2. Which governments receive funds directly from Treasury?

Treasury will distribute funds directly to each eligible state, territory, metropolitan city, county, or Tribal government. Smaller local governments that are classified as non-entitlement units will receive funds through their applicable state government.

1.3. Are special-purpose units of government eligible to receive funds?

Special-purpose units of local government will not receive funding allocations; however, a state, territory, local, or Tribal government may transfer funds to a special-purpose unit of government. Special-purpose districts perform specific functions in the community, such as fire, water, sewer or mosquito abatement districts.

1.4. How are funds being allocated to Tribal governments, and how will Tribal governments find out their allocation amounts?¹

\$20 billion of Fiscal Recovery Funds was reserved for Tribal governments. The American Rescue Plan Act specifies that \$1 billion will be allocated evenly to all eligible Tribal governments. The remaining \$19 billion will be distributed using an allocation methodology based on enrollment and employment.

There will be two payments to Tribal governments. Each Tribal government's first payment will include (i) an amount in respect of the \$1 billion allocation that is to be divided equally among eligible Tribal governments and (ii) each Tribal government's pro rata share of the Enrollment Allocation. Tribal governments will be notified of their allocation amount and delivery of payment 4-5 days after completing request for funds in the Treasury Submission Portal. The deadline to make the initial request for funds is June 21, 2021.

The second payment will include a Tribal government's pro rata share of the Employment Allocation. There is a \$1,000,000 minimum employment allocation for Tribal governments. In late-June, Tribal governments will receive an email notification to re-enter the Treasury Submission Portal to confirm or amend their 2019 employment numbers that were submitted to the Department of the Treasury for the CARES Act's Coronavirus Relief Fund. To receive an Employment Allocation, including the minimum employment allocation, Tribal governments must confirm employment numbers by July

¹ The answer to this question was updated on July 19, 2021.

23, 2021. Treasury will calculate employment allocations for those Tribal governments that confirmed or submitted amended employment numbers by the deadline. In August, Treasury will communicate to Tribal governments the amount of their portion of the Employment Allocation and the anticipated date for the second payment.

1.5. My county is a unit of general local government with population under 50,000. Will my county receive funds directly from Treasury? [5/27]

Yes. All counties that are units of general local government will receive funds directly from Treasury and should apply via the [online portal](#). The list of county allocations is available [here](#).

1.6. My local government expected to be classified as a non-entitlement unit. Instead, it was classified as a metropolitan city. Why? [5/27]

The American Rescue Plan Act defines, for purposes of the Coronavirus Local Fiscal Recovery Fund (CLFRF), metropolitan cities to include those that are currently metropolitan cities under the Community Development Block Grant (CDBG) program but also those cities that relinquish or defer their status as a metropolitan city for purposes of the CDBG program. This would include, by way of example, cities that are principal cities of their metropolitan statistical area, even if their population is less than 50,000. In other words, a city that is eligible to be a metropolitan city under the CDBG program is eligible as a metropolitan city under the CLFRF, regardless of how that city has elected to participate in the CDBG program.

Unofficial allocation estimates produced by other organizations may have classified certain local governments as non-entitlement units of local government. However, based on the statutory definitions, some of these local governments should have been classified as metropolitan cities.

1.7. In order to receive and use Fiscal Recovery Funds, must a recipient government maintain a declaration of emergency relating to COVID-19? [6/23]

No. Neither the statute establishing the CSFRF/CLFRF nor the Interim Final Rule requires recipients to maintain a local declaration of emergency relating to COVID-19.

1.8. Can non-profit or private organizations receive funds? If so, how? [7/14]

Yes. Under section 602(c)(3) of the Social Security Act, a State, territory, or Tribal government may transfer funds to a “private nonprofit organization . . . , a Tribal organization . . . , a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government.” Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations). The Interim Final Rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive, and recipients may transfer funds to constituent units of government or private entities beyond those

specified in the statute. A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be considered to be a subrecipient and will be expected to comply with all subrecipient reporting requirements.

The ARPA does not authorize Treasury to provide CSFRF/CLFRF funds directly to non-profit or private organizations. Thus, non-profit or private organizations should seek funds from CSFRF/CLFRF recipient(s) in their jurisdiction (e.g., a State, local, territorial, or Tribal government).

2. Eligible Uses – Responding to the Public Health Emergency / Negative Economic Impacts

2.1. What types of COVID-19 response, mitigation, and prevention activities are eligible?

A broad range of services are needed to contain COVID-19 and are eligible uses, including 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; and other public health responses. Capital investments in public facilities to meet pandemic operational needs are also eligible, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics.

2.2. If a use of funds was allowable under the Coronavirus Relief Fund (CRF) to respond to the public health emergency, may recipients presume it is also allowable under CSFRF/CLFRF?

Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under CSFRF/CLFRF, with the following two exceptions: (1) the standard for eligibility of public health and safety payrolls has been updated; and (2) expenses related to the issuance of tax-anticipation notes are not an eligible funding use.

2.3. If a use of funds is not explicitly permitted in the Interim Final Rule as a response to the public health emergency and its negative economic impacts, does that mean it is prohibited?

The Interim Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of Fiscal Recovery Funds not explicitly listed. The Interim Final Rule also provides flexibility for recipients to use Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but which meet the objectives of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID-19 public health emergency with respect to COVID-19 or its negative economic impacts.

2.4. May recipients use funds to respond to the public health emergency and its negative economic impacts by replenishing state unemployment funds?

Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020, or to pay back advances received for the payment of benefits between January 27, 2020 and the date when the Interim Final Rule is published in the Federal Register.

2.5. What types of services are eligible as responses to the negative economic impacts of the pandemic?

Eligible uses in this category include assistance to households; small businesses and non-profits; and aid to impacted industries.

Assistance to households includes, but is not limited to: food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance; emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker's occupation or level of training.

Assistance to small business and non-profits includes, but is 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, such as physical plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and
- Technical assistance, counseling, or other services to assist with business planning needs

2.6. May recipients use funds to respond to the public health emergency and its negative economic impacts by providing direct cash transfers to households?

Yes, provided the recipient considers whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. Additionally, cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID-19 public health emergency or its negative impacts. In particular, when considering appropriate size of permissible cash transfers made in response to the COVID-19 public health emergency, state, local, territorial, and Tribal governments may consider and take guidance from the per person amounts previously provided by the federal government in response to the COVID crisis.

2.7. May funds be used to reimburse recipients for costs incurred by state and local governments in responding to the public health emergency and its negative economic impacts prior to passage of the American Rescue Plan?

Use of Fiscal Recovery Funds is generally forward looking. The Interim Final Rule permits funds to be used to cover costs incurred beginning on March 3, 2021.

2.8. May recipients use funds for general economic development or workforce development?

Generally, not. Recipients must demonstrate that funding uses directly address a negative economic impact of the COVID-19 public health emergency, including funds used for economic or workforce development. For example, job training for unemployed workers may be used to address negative economic impacts of the public health emergency and be eligible.

2.9. How can recipients use funds to assist the travel, tourism, and hospitality industries?

Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel and hospitality industries and to districts that were closed during the COVID-19 public health emergency, as well as aid a planned expansion or upgrade of tourism, travel and hospitality facilities delayed due to the pandemic.

Tribal development districts are considered the commercial centers for tribal hospitality, gaming, tourism and entertainment industries.

2.10. May recipients use funds to assist impacted industries other than travel, tourism, and hospitality?

Yes, provided that recipients consider the extent of the impact in such industries as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, nationwide the leisure and hospitality industry has experienced an

approximately 17 percent decline in employment and 24 percent decline in revenue, on net, due to the COVID-19 public health emergency. Recipients should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

Recipients should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

2.11. How does the Interim Final Rule help address the disparate impact of COVID-19 on certain populations and geographies?

In recognition of the disproportionate impacts of the COVID-19 virus on health and economic outcomes in low-income and Native American communities, the Interim Final Rule identifies a broader range of services and programs that are considered to be in response to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services are eligible uses when provided in a Qualified Census Tract (QCT), to families 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. In identifying these disproportionately-impacted communities, recipients should be able to support their determination for how the pandemic disproportionately impacted the populations, households, or geographic areas to be served.

Eligible services include:

- Addressing health disparities and the social determinants of health, including: community health workers, public benefits navigators, remediation of lead paint or other lead hazards, and community violence intervention programs;
- Building stronger neighborhoods and communities, including: supportive housing and other services for individuals experiencing homelessness, development of affordable housing, and housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity;
- Addressing educational disparities exacerbated by COVID-19, including: early learning services, increasing resources for high-poverty school districts, educational services like tutoring or afterschool programs, and supports for students' social, emotional, and mental health needs; and
- Promoting healthy childhood environments, including: child care, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

2.12. May recipients use funds to pay for vaccine incentive programs (e.g., cash or in-kind transfers, lottery programs, or other incentives for individuals who get vaccinated)?

Yes. Under the Interim Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds to respond to the COVID-19 public health emergency, including expenses related to COVID-19 vaccination programs. See 31 CFR 35.6(b)(1)(i). 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 use of funds so long as such costs are reasonably proportional to the expected public health benefit.

2.13. May recipients use funds to pay “back to work incentives” (e.g., cash payments for newly employed workers after a certain period of time on the job)? [5/27]

Yes. Under the Interim Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds to provide assistance to unemployed workers. See 31 CFR 35.6(b)(4). This assistance can include job training or 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.

2.14. The Coronavirus Relief Fund (CRF) included as an eligible use: "Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency." What has changed in CSFRF/CLFRF, and what type of documentation is required under CSFRF/CLFRF? [5/27]

Many of the expenses authorized under the Coronavirus Relief Fund are also eligible uses under the CSFRF/CLFRF. However, in the case of payroll expenses for public safety, public health, health care, human services, and similar employees (hereafter, public health and safety staff), the CSFRF/CLFRF does differ from the CRF. This change reflects the differences between the ARPA and CARES Act and recognizes that the response to the COVID-19 public health emergency has changed and will continue to change over time. In particular, funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, including first responders, to the extent that the employee's time that is dedicated to responding to the COVID-19 public health emergency.

For administrative convenience, the recipient may consider a public health and safety employee to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated (e.g., more than half of the employee's time is dedicated) to responding to the COVID-19 public health emergency.

Recipients may use presumptions for assessing whether an employee, division, or operating unit is primarily dedicated to COVID-19 response. The recipient should

maintain records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on the COVID-19 response. Recipients need not routinely track staff hours. Recipients should periodically reassess their determinations.

2.15. What staff are included in “public safety, public health, health care, human services, and similar employees”? Would this include, for example, 911 operators, morgue staff, medical examiner staff, or EMS staff? [5/27]

As discussed in the Interim Final Rule, funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, for the portion of the employee’s time that is dedicated to responding to the COVID-19 public health emergency.

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 employees 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.

2.16. May recipients use funds to establish a public jobs program? [6/8]

Yes. The Interim Final Rule permits a broad range of services to unemployed or underemployed workers and other individuals that suffered negative economic impacts from the pandemic. That can include 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. The broad range of permitted services can also include other employment supports, such as childcare assistance or assistance with transportation to and from a jobsite or interview.

The Interim Final Rule includes as an eligible use re-hiring public sector staff up to the government’s level of pre-pandemic employment. “Public sector staff” would not include individuals participating in a job training or subsidized employment program administered by the recipient.

2.17. The Interim Final Rule states that “assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.” Are recipients

required to demonstrate that each individual or business experienced a negative economic impact for that individual or business to receive assistance? [6/23]

Not necessarily. The Interim Final Rule allows recipients to demonstrate a negative economic impact on a population or group and to provide assistance to households or businesses that fall within that population or group. In such cases, the recipient need only demonstrate that the household or business is within the population or group that experienced a negative economic impact.

For assistance to households, the Interim Final Rule states, “In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic.” This would allow, for example, an internet access assistance program for all low- or moderate-income households, but would not require the recipient to demonstrate or document that each individual low- or moderate income household experienced a negative economic impact from the COVID-19 public health emergency apart from being low- or moderate income.

For assistance to small businesses, the Interim Final Rule states that assistance may be provided to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, to respond to the negative economic impacts of the COVID-19 public health emergency. In providing assistance to small businesses, recipients must design a program that responds to the negative economic impacts of the COVID-19 public health emergency, including by identifying how the program addresses the identified need or impact faced by small businesses. This can include assistance to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency.

As part of program design and to ensure that the program responds to the identified need, recipients may consider additional criteria to target assistance to businesses in need, including to small businesses. Assistance may be targeted to businesses facing financial insecurity, with substantial declines in gross receipts (e.g., comparable to measures used to assess eligibility for the Paycheck Protection Program), or facing other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. For example, a recipient could find based on local data or research that the smallest businesses faced sharply increased risk of bankruptcy and develop a program to respond; such a program would only need to document a population or group-level negative economic impact, and eligibility criteria to limit access to the program to that population or group (in this case, the smallest businesses).

In addition, recognizing the disproportionate impact of the pandemic on disadvantaged communities, the Interim Final Rule also identifies a set of services that are presumptively eligible when provided in a Qualified Census Tract (QCT); to families and individuals living in QCTs; to other populations, households, or geographic areas

identified by the recipient as disproportionately impacted by the pandemic; or when these services are provided by Tribal governments. For more information on the set of presumptively eligible services, see the Interim Final Rule section on *Building Stronger Communities through Investments in Housing and Neighborhoods* and FAQ 2.11.

2.18. Would investments in improving outdoor spaces (e.g. parks) be an eligible use of funds as a response to the public health emergency and/or its negative economic impacts? [6/23]

There are multiple ways that investments in improving outdoor spaces could qualify as eligible uses; several are highlighted below, though there may be other ways that a specific investment in outdoor spaces would meet eligible use criteria.

First, in recognition of the disproportionate negative economic impacts on certain communities and populations, the Interim Final Rule identifies certain types of services that are eligible uses when provided in a Qualified Census Tract (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.

These programs and services include services designed to build stronger neighborhoods and communities and to address health disparities and the social determinants of health. The Interim Final Rule provides a non-exhaustive list of eligible services to respond to the needs of communities disproportionately impacted by the pandemic, and recipients may identify other uses of funds that do so, consistent with the Rule’s framework. For example, 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 and outdoor recreation and socialization to mitigate the spread of COVID-19.

Second, recipients may provide assistance to small businesses in all communities. Assistance to small businesses could include support to enhance outdoor spaces for COVID-19 mitigation (e.g., restaurant patios) or to improve the built environment of the neighborhood (e.g., façade improvements).

Third, many governments saw significantly increased use of parks during the pandemic that resulted in damage or increased maintenance needs. The Interim Final Rule recognizes that “decrease[s to] a state or local government’s ability to effectively administer services” can constitute a negative economic impact of the pandemic.

2.19. Would expenses to address a COVID-related backlog in court cases be an eligible use of funds as a response to the public health emergency? [6/23]

The Interim Final Rule recognizes that “decrease[s to] a state or local government’s ability to effectively administer services,” such as cuts to public sector staffing levels, can constitute a negative economic impact of the pandemic. During the COVID-19 public

health emergency, many courts were unable to operate safely during the pandemic and, as a result, now face significant backlogs. Court backlogs resulting from inability of courts to safely operate during the COVID-19 pandemic decreased the government's ability to administer services. Therefore, steps to reduce these backlogs, such as implementing COVID-19 safety measures to facilitate court operations, hiring additional court staff or attorneys to increase speed of case resolution, and other expenses to expedite case resolution are eligible uses.

2.20. Can funds be used to assist small business startups as a response to the negative economic impact of COVID-19? [6/23]

As discussed in the Interim Final Rule, recipients may provide assistance to small businesses that responds to the negative economic impacts of COVID-19. The Interim Final Rule provides a non-exclusive list of potential assistance mechanisms, as well as considerations for ensuring that such assistance is responsive to the negative economic impacts of COVID-19.

Treasury acknowledges a range of potential circumstances in which assisting small business startups could be responsive to the negative economic impacts of COVID-19, including for small businesses and individuals seeking to start small businesses after the start of the COVID-19 public health emergency. For example:

- A recipient could assist small business startups with additional costs associated with COVID-19 mitigation tactics (e.g., barriers or partitions; enhanced cleaning; or physical plant changes to enable greater use of outdoor space).
- A recipient could identify and respond to a negative economic impact of COVID-19 on new small business startups; for example, if it could be shown that small business startups in a locality were facing greater difficulty accessing credit than prior to the pandemic, faced increased costs to starting the business due to the pandemic, or that the small business had lost expected startup capital due to the pandemic.
- The Interim Final Rule also discusses 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 startups and individuals seeking to start small businesses.

2.21. Can funds be used for eviction prevention efforts or housing stability services? [6/24]

Yes. Responses to the negative economic impacts of the pandemic include “rent, mortgage, or utility assistance [and] counseling and legal aid to prevent eviction or homelessness.” This includes 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 supports their ability to access or maintain housing.

This also includes 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.

Recipients may transfer funds to, or execute grants or contracts with, court systems, non-profits, and a wide range of other organizations to implement these strategies.

3. Eligible Uses – Revenue Loss

3.1. How is revenue defined for the purpose of this provision? [appendix added 6/23]

The Interim Final Rule adopts a definition of “General Revenue” that is based on, but not identical, to the Census Bureau’s concept of “General Revenue from Own Sources” in the Annual Survey of State and Local Government Finances.

General Revenue includes revenue from taxes, current charges, and miscellaneous general revenue. It excludes refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and revenue generated by utilities and insurance trusts. General revenue also includes intergovernmental transfers between state and local governments, but excludes intergovernmental transfers from the Federal government, including Federal transfers made via a state to a locality pursuant to the CRF or the Fiscal Recovery Funds.

Tribal governments may include all revenue from Tribal enterprises and gaming operations in the definition of General Revenue.

Please see the appendix for a diagram of the Interim Final Rule’s definition of General Revenue within the Census Bureau’s revenue classification structure.

3.2. Will revenue be calculated on an entity-wide basis or on a source-by-source basis (e.g. property tax, income tax, sales tax, etc.)?

Recipients should calculate revenue on an entity-wide basis. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the net impact of the COVID- 19 public health emergency on a recipient’s revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.

3.3. Does the definition of revenue include outside concessions that contract with a state or local government?

Recipients should classify revenue sources as they would if responding to the U.S. Census Bureau’s Annual Survey of State and Local Government Finances. According to the Census Bureau’s [Government Finance and Employment Classification manual](#), the following is an example of current charges that would be included in a state or local government’s general revenue from own sources: “Gross revenue of facilities operated by a government (swimming pools, recreational marinas and piers, golf courses, skating rinks, museums, zoos, etc.); auxiliary facilities in public recreation areas (camping areas, refreshment stands, gift shops, etc.); lease or use fees from stadiums, auditoriums, and community and convention centers; and rentals from concessions at such facilities.”

3.4. What is the time period for estimating revenue loss? Will revenue losses experienced prior to the passage of the Act be considered?

Recipients are permitted to calculate the extent of reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. This approach recognizes that some recipients may experience lagged effects of the pandemic on revenues.

Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

3.5. What is the formula for calculating the reduction in revenue?

A reduction in a recipient’s General Revenue equals:

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{\left(\frac{n_t}{12}\right)}] - \text{Actual General Revenue}_t ; 0 \}$$

Where:

Base Year Revenue is General Revenue collected in the most recent full fiscal year prior to the COVID-19 public health emergency.

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient’s average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient’s actual general revenue collected during 12-month period ending on each calculation date.

Subscript *t* denotes the calculation date.

3.6. Are recipients expected to demonstrate that reduction in revenue is due to the COVID-19 public health emergency?

In the Interim Final Rule, any diminution in actual revenue calculated using the formula above would be presumed to have been “due to” the COVID-19 public health emergency. This presumption is made for administrative ease and in recognition of the broad-based economic damage that the pandemic has wrought.

3.7. May recipients use pre-pandemic projections as a basis to estimate the reduction in revenue?

No. Treasury is disallowing the use of projections to ensure consistency and comparability across recipients and to streamline verification. However, in estimating the revenue shortfall using the formula above, recipients may incorporate their average annual revenue growth rate in the three full fiscal years prior to the public health emergency.

3.8. Once a recipient has identified a reduction in revenue, are there any restrictions on how recipients use funds up to the amount of the reduction?

The Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. Government services can include, but are not limited to, maintenance of infrastructure or pay-go spending for building new infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services.

However, paying interest or principal on outstanding debt, replenishing rainy day or other reserve funds, or paying settlements or judgments would not be considered provision of a government service, since these uses of funds do not entail direct provision of services to citizens. This restriction on paying interest or principal on any outstanding debt instrument, includes, for example, short-term revenue or tax anticipation notes, or paying fees or issuance costs associated with the issuance of new debt. In addition, the overarching restrictions on all program funds (e.g., restriction on pension deposits, restriction on using funds for non-federal match where barred by regulation or statute) would apply.

3.9. How do I know if a certain type of revenue should be counted for the purpose of computing revenue loss? [5/27]

As discussed in FAQ #3.1, the Interim Final Rule adopts a definition of “General Revenue” that is based on, but not identical, to the Census Bureau’s concept of “General Revenue from Own Sources” in the Annual Survey of State and Local Government Finances.

Recipients should refer to the definition of “General Revenue” included in the Interim Final Rule. See 31 CFR 35.3. If a recipient is unsure whether a particular revenue source is included in the Interim Final Rule’s definition of “General Revenue,” the recipient may consider the classification and instructions used to complete the Census Bureau’s Annual Survey.

For example, parking fees would be classified as a Current Charge for the purpose of the Census Bureau’s Annual Survey, and the Interim Final Rule’s concept of “General Revenue” includes all Current Charges. Therefore, parking fees would be included in the Interim Final Rule’s concept of “General Revenue.”

The Census Bureau’s Government Finance and Employment Classification manual is available [here](#).

3.10. In calculating revenue loss, are recipients required to use audited financials? [6/8]

Where audited data is not available, recipients are not required to obtain audited data. Treasury expects all information submitted to be complete and accurate. See 31 CFR 35.4(c).

3.11. In calculating revenue loss, should recipients use their own data, or Census data? [6/8]

Recipients should use their own data sources to calculate general revenue, and do not need to rely on published revenue data from the Census Bureau. Treasury acknowledges that due to differences in timing, data sources, and definitions, recipients’ self-reported general revenue figures may differ somewhat from those published by the Census Bureau.

3.12. Should recipients calculate revenue loss on a cash basis or an accrual basis? [6/8]

Recipients may provide data on a cash, accrual, or modified accrual basis, provided that recipients are consistent in their choice of methodology throughout the covered period and until reporting is no longer required.

3.13. In identifying intergovernmental revenue for the purpose of calculating General Revenue, should recipients exclude all federal funding, or just federal funding related to the COVID-19 response? How should local governments treat federal funds that are passed through states or other entities, or federal funds that are intermingled with other funds? [6/23]

In calculating General Revenue, recipients should exclude all intergovernmental transfers from the federal government. This includes, but is not limited to, federal transfers made via a state to a locality pursuant to the Coronavirus Relief Fund or Fiscal Recovery Funds. To the extent federal funds are passed through states or other entities or intermingled with other funds, recipients should attempt to identify and exclude the

federal portion of those funds from the calculation of General Revenue on a best-efforts basis.

3.14. What entities constitute a government for the purpose of calculating revenue loss? [7/14]

In determining whether a particular entity is part of a recipient's government for purposes of measuring a recipient's government revenue, recipients should identify all the entities included in their government and the general revenue attributable to these entities on a best-efforts basis. Recipients are encouraged to consider how their administrative structure is organized under state and local statutes. In cases in which the autonomy of certain authorities, commissions, boards, districts, or other entities is not readily distinguishable from the recipient's government, recipients may adopt the Census Bureau's criteria for judging whether an entity is independent from, or a constituent of, a given government. For an entity to be independent, it generally meets all four of the following conditions:

- The entity is an organized entity and possesses corporate powers, such as perpetual succession, the right to sue and be sued, having a name, the ability to make contracts, and the ability to acquire and dispose of property.
- The entity has governmental character, meaning that it provides public services, or wields authority through a popularly elected governing body or officers appointed by public officials. A high degree of responsibility to the public, demonstrated by public reporting requirements or by accessibility of records for public inspection, also evidences governmental character.
- The entity has substantial fiscal independence, meaning it can determine its budget without review and modification by other governments. For instance, the entity can determine its own taxes, charges, and debt issuance without another government's supervision.
- The entity has substantial administrative independence, meaning it has a popularly elected governing body, or has a governing body representing two or more governments, or, in the event its governing body is appointed by another government, the entity performs functions that are essentially different from those of, and are not subject to specification by, its creating government.

If an entity does not meet all four of these conditions, a recipient may classify the entity as part of the recipient's government and assign the portion of General Revenue that corresponds to the entity.

To further assist recipients in applying the forgoing criteria, recipients may refer to the Census Bureau's [*Individual State Descriptions: 2017 Census of Governments*](#) publication, which lists specific entities and classes of entities classified as either independent (defined by Census as "special purpose governments") or constituent (defined by Census as "dependent agencies") on a state-by-state basis. Recipients should note that the Census Bureau's lists are not exhaustive and that Census classifications are based on an analysis of state and local statutes as of 2017 and subject to the Census Bureau's judgement. Though not included in the Census Bureau's publication, state

colleges and universities are generally classified as dependent agencies of state governments by the Census Bureau.

If an entity is determined to be part of the recipient's government, the recipient must also determine whether the entity's revenue is covered by the Interim Final Rule's definition of "general revenue." For example, some cash flows may be outside the definition of "general revenue." In addition, note that the definition of general revenue includes Tribal enterprises in the case of Tribal governments. Refer to FAQ 3.1 (and the Appendix) for the components included in General Revenue.

3.15. The Interim Final Rule's definition of General Revenue excludes revenue generated by utilities. Can you please clarify the definition of utility revenue? [7/14]

As noted in FAQs 3.1 and 3.9, the Interim Final Rule adopts a definition of "general revenue" that is based on, but not identical to, the Census Bureau's concept of "General Revenue from Own Sources" in the Annual Survey of State and Local Government Finances. Recipients should refer to the definition of "general revenue" included in the Interim Final Rule. See 31 CFR 35.3. If a recipient is unsure whether a particular revenue source is included in the Interim Final Rule's definition of "general revenue," the recipient may consider the classification and instructions used to complete the Census Bureau's Annual Survey.

According to the Census Bureau's [Government Finance and Employment Classification manual](#), utility revenue is defined as "[g]ross receipts from sale of utility commodities or services to the public or other governments by publicly-owned and controlled utilities." This includes revenue from operations of publicly-owned and controlled water supply systems, electric power systems, gas supply systems, and public mass transit systems (see pages 4-45 and 4-46 of the manual for more detail).

Except for these four types of utilities, revenues from all commercial-type activities of a recipient's government (e.g., airports, educational institutions, lotteries, public hospitals, public housing, parking facilities, port facilities, sewer or solid waste systems, and toll roads and bridges) are covered by the Interim Final Rule's definition of "general revenue." If a recipient is unsure whether a particular entity performing one of these commercial-type activities can be considered part of the recipient's government, please see FAQ 3.14.

4. Eligible Uses – General

4.1. May recipients use funds to replenish a budget stabilization fund, rainy day fund, or similar reserve account?

No. Funds made available to respond to the public health emergency and its negative economic impacts are intended to help meet pandemic response needs and provide immediate stabilization for households and businesses. Contributions to rainy day funds

and similar reserves funds would not address these needs or respond to the COVID-19 public health emergency, but would rather be savings for future spending needs. Similarly, funds made available for the provision of governmental services (to the extent of reduction in revenue) are intended to support direct provision of services to citizens. Contributions to rainy day funds are not considered provision of government services, since such expenses do not directly relate to the provision of government services.

4.2. May recipients use funds to invest in infrastructure other than water, sewer, and broadband projects (e.g. roads, public facilities)?

Under 602(c)(1)(C) or 603(c)(1)(C), recipients may use funds for maintenance of infrastructure or pay-go spending for building of new infrastructure as part of the general provision of government services, to the extent of the estimated reduction in revenue due to the public health emergency.

Under 602(c)(1)(A) or 603(c)(1)(A), a general infrastructure project typically would not be considered a response to the public health emergency and its negative economic impacts unless the project responds to a specific pandemic-related public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact of the pandemic (e.g., affordable housing in a Qualified Census Tract).

4.3. May recipients use funds to pay interest or principal on outstanding debt?

No. Expenses related to financing, including servicing or redeeming notes, would not address the needs of pandemic response or its negative economic impacts. Such expenses would also not be considered provision of government services, as these financing expenses do not directly provide services or aid to citizens.

This applies to paying interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or paying fees or issuance costs associated with the issuance of new debt.

4.4. May recipients use funds to satisfy nonfederal matching requirements under the Stafford Act? May recipients use funds to satisfy nonfederal matching requirements generally?

Fiscal Recovery Funds are subject to pre-existing limitations in other federal statutes and regulations and may not be used as non-federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, expenses for the state share of Medicaid are not an eligible use. For information on FEMA programs, please [see here](#).

4.5. Are governments required to submit proposed expenditures to Treasury for approval? [5/27]

No. Recipients are not required to submit planned expenditures for prior approval by Treasury. Recipients are subject to the requirements and guidelines for eligible uses contained in the Interim Final Rule.

4.6. How do I know if a specific use is eligible? [5/27]

Fiscal Recovery Funds must be used in one of the four eligible use categories specified in the American Rescue Plan Act and implemented in the Interim Final Rule:

- 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.

Recipients should consult Section II of the Interim Final Rule for additional information on eligible uses. For recipients evaluating potential uses under (a), the Interim Final Rule contains a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of Fiscal Recovery Funds not explicitly listed. See Section II of the Interim Final Rule for additional discussion.

For recipients evaluating potential uses under (c), the Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. See FAQ #3.8 for additional discussion.

For recipients evaluating potential uses under (b) and (d), see Sections 5 and 6.

4.7. Do restrictions on using Coronavirus State and Local Fiscal Recovery Funds to cover costs incurred beginning on March 3, 2021 apply to costs incurred by the recipient (e.g., a State, local, territorial, or Tribal government) or to costs incurred by households, businesses, and individuals benefiting from assistance provided using Coronavirus State and Local Fiscal Recovery Funds? [6/8]

The Interim Final Rule permits funds to be used to cover costs incurred beginning on March 3, 2021. This limitation applies to costs incurred by the recipient (i.e., the state, local, territorial, or Tribal government receiving funds). However, recipients may use Coronavirus State and Local Fiscal Recovery Funds to provide assistance to households, businesses, and individuals within the eligible use categories described in the Interim

Final Rule for economic harms experienced by those households, businesses, and individuals prior to March 3, 2021. For example,

- Public Health/Negative Economic Impacts – Recipients may use Coronavirus State and Local Fiscal Recovery Funds to provide assistance to households – such as rent, mortgage, or utility assistance – for economic harms experienced or costs incurred by the household prior to March 3, 2021 (e.g., rental arrears from preceding months), provided that the cost of providing assistance to the household was not incurred by the recipient prior to March 3, 2021.
- Premium Pay – Recipients may provide premium pay retrospectively for work performed at any time since the start of the COVID-19 public health emergency. Such premium pay must be “in addition to” wages and remuneration already received and the obligation to provide such pay must not have been incurred by the recipient prior to March 3, 2021.
- Revenue Loss – The Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. The calculation of lost revenue begins with the recipient’s revenue in the last full fiscal year prior to the COVID-19 public health emergency and includes the 12-month period ending December 31, 2020. However, use of funds for government services must be forward looking for costs incurred by the recipient after March 3, 2021.
- Investments in Water, Sewer, and Broadband – Recipients may use Coronavirus State and Local Fiscal Recovery Funds to make necessary investments in water, sewer, and broadband. See FAQ Section 6. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, provided that the project costs covered by the Coronavirus State and Local Fiscal Recovery Funds were incurred after March 3, 2021.

4.8. How can I use CSFRF/CLFRF funds to prevent and respond to crime, and support public safety in my community? [6/23]

Under Treasury’s Interim Final Rule, there are many ways in which the State and Local Fiscal Recovery Funds (“Funds”) under the American Rescue Plan Act can support communities working to reduce and respond to increased violence due to the pandemic. Among the eligible uses of the Funds are restoring of public sector staff to their pre-pandemic levels and responses to the public health crisis and negative economic impacts resulting from the pandemic. The Interim Final Rule provides several ways for recipients to “respond to” this pandemic-related gun violence, ranging from community violence intervention programs to mental health services to hiring of public safety personnel.

Below are some examples of how Fiscal Recovery Funds can be used to address public safety:

- In all communities, recipients may use resources to rehire police officers and other public servants to restore law enforcement and courts to their pre-pandemic levels.

Additionally, Funds can be used for expenses to address COVID-related court backlogs, including hiring above pre-pandemic levels, as a response to the public health emergency. See FAQ 2.19.

- In communities where an increase in violence or increased difficulty in accessing or providing services to respond to or mitigate the effects of violence, is a result of the pandemic they may use funds to address that harm. This spending may include:
 - Hiring law enforcement officials – even above pre-pandemic levels – or paying overtime where the funds are directly focused on advancing community policing strategies in those communities experiencing an increase in gun violence associated with the pandemic
 - Community Violence Intervention (CVI) programs, including capacity building efforts at CVI programs like funding and training additional intervention workers
 - 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
 - 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

As discussed in the Interim Final Rule, uses of CSFRF/CLFRF funds that respond to an identified harm 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.

- Recipients may also use funds up to the level of revenue loss for government services, including those outlined above.

Recognizing that the pandemic exacerbated mental health and substance use disorder needs in many communities, eligible public health services include mental health and other behavioral health services, which are a critical component of a holistic public safety approach. This could include:

- Mental health services and substance use disorder services, including for individuals experiencing trauma exacerbated by the pandemic, such as:
 - Community-based mental health and substance use disorder programs that deliver evidence-based psychotherapy, crisis support services, medications for opioid use disorder, and/or recovery support
 - School-based social-emotional support and other mental health services
- Referrals to trauma recovery services for crime victims.

Recipients also may use Funds to respond to the negative economic impacts of the public health emergency, including:

- Assistance programs to households or populations facing negative economic impacts of the public health emergency, including:

- Assistance to support economic security, including for the victims of crime;
 - Housing assistance, including rent, utilities, and relocation assistance;
 - Assistance with food, including Summer EBT and nutrition programs; and
 - Employment or job training services to address negative economic or public health impacts experienced due to a worker's occupation or level of training.
- Assistance to unemployed workers, including:
 - Subsidized jobs, including for young people. Summer youth employment programs directly address the negative economic impacts of the pandemic on young people and their families and communities;
 - Programs that provide paid training and/or work experience targeted primarily to (1) formerly incarcerated individuals, and/or (2) communities experiencing high levels of violence exacerbated by the pandemic;
 - Programs that provide workforce readiness training, apprenticeship or pre-apprenticeship opportunities, skills development, placement services, and/or coaching and mentoring; and
 - Associated wraparound services, including for housing, health care, and food.

Recognizing the disproportionate impact of the pandemic on certain communities, a broader range of services are eligible in those communities than would otherwise be available in communities not experiencing a pandemic-related increase in crime or gun violence. These eligible uses aim to address the pandemic's exacerbation of public health and economic disparities and include services to address health and educational disparities, support neighborhoods and affordable housing, and promote healthy childhood environments. The Interim Final Rule provides a non-exhaustive list of eligible services in these categories.

These services automatically qualify as eligible uses when provided in Qualified Census Tracts (QCTs), low-income areas designated by HUD; to families in QCTs; or by Tribal governments. Outside of these areas, recipient governments can also identify and serve households, populations, and geographic areas disproportionately impacted by the pandemic.

Services under this category could include:

- Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, childhood health and welfare, including:
 - Summer education and enrichment programs in these communities, which include many communities currently struggling with high levels of violence;
 - Programs that address learning loss and keep students productively engaged;
 - Enhanced services for foster youths and home visiting programs; and
 - Summer camps and recreation.
- Programs or services that provide or facilitate access to health and social services and address health disparities exacerbated by the pandemic. This includes Community Violence Intervention (CVI) programs, such as:
 - 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 CVI 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.

Please refer to Treasury's Interim Final Rule for additional information.

4.9. May recipients pool funds for regional projects? [7/14]

Yes, provided that the project is itself an eligible use of funds and that recipients can track the use of funds in line with the reporting and compliance requirements of the CSFRF/CLFRF. In general, when pooling funds for regional projects, recipients may expend funds directly on the project or transfer funds to another government that is undertaking the project on behalf of multiple recipients. To the extent recipients undertake regional projects via transfer to another government, recipients would need to comply with the rules on transfers specified in the Interim Final Rule, Section V. A recipient may transfer funds to a government outside its boundaries (e.g., county transfers to a neighboring county), provided that the recipient can document that its jurisdiction receives a benefit proportionate to the amount contributed.

4.10. May recipients fund a project with both ARP funds and other sources of funding (e.g., blending, braiding, or other pairing funding sources), including in conjunction with financing provided through a debt issuance? [7/14]

Cost sharing or matching funds are not required under CSFRF/CLFRF. Funds may be used in conjunction with other funding sources, 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 CSFRF/CLFRF projects, and with any requirements and restrictions on the use of funds from the supplemental funding sources and the CSFRF/CLFRF program. Specifically,

- All funds provided under the CSFRF/CLFRF program must be used for projects, investments, or services that are eligible under the CSFRF/CLFRF statute, Treasury's Interim Final Rule, and guidance. See 31 CFR 35.6-8; FAQ 4.6. CSFRF/CLFRF funds may not be used to fund an activity that is not, in its entirety, an eligible use under the CSFRF/CLFRF statute, Treasury's Interim Final Rule, and guidance. For example,
 - CSFRF/CLFRF funds may be used in conjunction with other sources of funds to make an investment in water infrastructure, which is eligible under the CSLFRF statute, and Treasury's Interim Final Rule.
 - CSFRF/CLFRF 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 Interim Final Rule. However, the recipient could use CSFRF/CLFRF 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” under this program would be only the eligible use component of the larger project.

- In addition, because CSFRF/CLFRF funds must be obligated by December 31, 2024, and expended by December 31, 2026, recipients must be able to, at a minimum, determine and report to Treasury on the amount of CSFRF/CLFRF funds obligated and expended and when such funds were obligated and expended.

**4.11. May Coronavirus State and Local Fiscal Recovery Funds be used to make loans or other extensions of credit (“loans”), including loans to small businesses and loans to finance necessary investments in water, sewer, and broadband infrastructure?
[7/14]**

Yes. Coronavirus State and Local Fiscal Recovery Funds (“Funds”) may be used to make loans, provided that the loan is an eligible use and the cost of the loan is tracked and reported in accordance with the points below. See 31 CFR 35.6. For example, a recipient may use Coronavirus State and Local Fiscal Recovery Funds to make loans to small businesses. See 31 CFR 35.6(b)(6). In addition, a recipient may use Funds to finance a necessary investment in water, sewer or broadband, as described in the Interim Final Rule. See 31 CFR 35.6(e).

Funds must be used to cover “costs incurred” by the recipient between March 3, 2021, and December 31, 2024, and Funds must be expended by December 31, 2026. See Section III.D of the Interim Final Rule; 31 CFR 35.5. Accordingly, recipients must be able to determine the amount of Funds used to make a loan.

- 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 the approach to loans taken in the Coronavirus Relief Fund.
 - Recipients may use Fiscal Recovery 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 subject to restrictions on timing of 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 IFR. 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 may use Fiscal Recovery Funds for only the projected cost of the loan. Recipients may estimate the subsidy cost of the loan, which equals the expected cash flows associated

with the loan discounted at the recipient's cost of funding. A recipient's cost of funding can be determined based on the interest rates of securities with a similar maturity to the cash flow being discounted that were either (i) recently issued by the recipient or (ii) recently issued by a unit of state, local, or Tribal government similar to the recipient. Recipients that have adopted the Current Expected Credit Loss (CECL) standard may also treat the cost of the loan as equal to the CECL-based expected credit losses over the life of the loan. Recipients may measure projected losses either once, at the time the loan is extended, or annually over the covered period.

Under either approach for measuring the amount of funds used to make loans with maturities longer than December 31, 2026, recipients would not be subject to restrictions under 2 CFR 200.307(e)(1) and need not separately track repayment of principal or interest.

Any contribution of Fiscal Recovery Funds to a revolving loan fund must follow the approach described above for loans with maturities longer than December 31, 2026. In other words, a recipient could contribute Fiscal Recovery Funds to a revolving loan fund, provided that the revolving loan fund makes loans that are eligible uses and the Fiscal Recovery Funds contributed represent the projected cost of loans made over the life of the revolving loan fund.

4.12. May funds be used for outreach to increase uptake of federal assistance like the Child Tax Credit or federal programs like SNAP? [7/14]

Yes. Eligible uses to address negative economic impacts include work “to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.” See 31 CFR 35.6(b)(10). Of note, per the CSFRF/CLFRF [Reporting Guidance](#), allowable use of funds for evaluations may also include other types of program evaluations focused on program improvement and evidence building. In addition, recipients may use funds to facilitate access to health and social services in populations and communities disproportionately impacted by the COVID-19 pandemic, including benefits navigators or marketing efforts to increase consumer uptake of federal tax credits, benefits, or assistance programs that respond to negative economic impacts of the pandemic. See 31 CFR 35.6(b)(12).

5. Eligible Uses – Premium Pay

5.1. What criteria should recipients use in identifying essential workers to receive premium pay?

Essential workers are those in critical infrastructure sectors who regularly perform in-person work, interact with others at work, or physically handle items handled by others.

Critical infrastructure sectors include healthcare, education and childcare, transportation, sanitation, grocery and food production, and public health and safety, among others, as provided in the Interim Final Rule. Governments receiving Fiscal Recovery Funds have the discretion to add additional sectors to this list, so long as the sectors are considered critical to protect the health and well-being of residents.

The Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

5.2. What criteria should recipients use in identifying third-party employers to receive grants for the purpose of providing premium pay to essential workers?

Any third-party employers of essential workers are eligible. Third-party contractors who employ essential workers in eligible sectors are also eligible for grants to provide premium pay. Selection of third-party employers and contractors who receive grants is at the discretion of recipients.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided.

5.3. May recipients provide premium pay retroactively for work already performed?

Yes. Treasury encourages recipients to consider providing premium pay retroactively for work performed during the pandemic, recognizing that many essential workers have not yet received additional compensation for their service during the pandemic.

6. Eligible Uses – Water, Sewer, and Broadband Infrastructure

6.1. What types of water and sewer projects are eligible uses of funds?

The Interim Final Rule generally aligns eligible uses of the Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).

Under the DWSRF, categories of [eligible projects](#) include: treatment, transmission and distribution (including lead service line replacement), source rehabilitation and decontamination, storage, consolidation, and new systems development.

Under the CWSRF, categories of [eligible projects](#) include: construction of publicly-owned treatment works, nonpoint source pollution management, national estuary program projects, decentralized wastewater treatment systems, stormwater systems, water

conservation, efficiency, and reuse measures, watershed pilot projects, energy efficiency measures for publicly-owned treatment works, water reuse projects, security measures at publicly-owned treatment works, and technical assistance to ensure compliance with the Clean Water Act.

As mentioned in the Interim Final Rule, eligible projects under the DWSRF and CWSRF support efforts to address climate change, as well as to meet cybersecurity needs to protect water and sewer infrastructure. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury also encourages recipients to consider projects to replace lead service lines.

6.2. May construction on eligible water, sewer, or broadband infrastructure projects continue past December 31, 2024, assuming funds have been obligated prior to that date?

Yes. Treasury is interpreting the requirement that costs be incurred by December 31, 2024 to only require that recipients have obligated the funds by such date. The period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with Fiscal Recovery Funds.

6.3. May recipients use funds as a non-federal match for the Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF)?

Recipients may not use funds as a state match for the CWSRF and DWSRF due to prohibitions in utilizing federal funds as a state match in the authorizing statutes and regulations of the CWSRF and DWSRF.

6.4. Does the National Environmental Policy Act (NEPA) apply to eligible infrastructure projects?

NEPA does not apply to Treasury's administration of the Funds. Projects supported with payments from the Funds may still be subject to NEPA review if they are also funded by other federal financial assistance programs.

6.5. What types of broadband projects are eligible?

The Interim Final Rule requires eligible projects to reliably deliver minimum speeds of 100 Mbps download and 100 Mbps upload. In cases where it is impracticable due to geography, topography, or financial cost to meet those standards, projects must reliably deliver at least 100 Mbps download speed, at least 20 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

Projects must also be designed to serve unserved or underserved households and businesses, defined as those that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

6.6. For broadband investments, may recipients use funds for related programs such as cybersecurity or digital literacy training?

Yes. Recipients may use funds to provide assistance to households facing negative economic impacts due to Covid-19, including digital literacy training and other programs that promote access to the Internet. Recipients may also use funds for modernization of cybersecurity, including hardware, software, and protection of critical infrastructure, as part of provision of government services up to the amount of revenue lost due to the public health emergency.

6.7. How do I know if a water, sewer, or broadband project is an eligible use of funds? Do I need pre-approval? [6/8]

Recipients do not need approval from Treasury to determine whether an investment in a water, sewer, or broadband project is eligible under CSFRF/CLFRF. Each recipient should review the Interim Final Rule (IFR), along with the preamble to the Interim Final Rule, in order to make its own assessment of whether its intended project meets the eligibility criteria in the IFR. A recipient that makes its own determination that a project meets the eligibility criteria as outlined in the IFR may pursue the project as a CSFRF/CLFRF project without pre-approval from Treasury. Local government recipients similarly do not need state approval to determine that a project is eligible under CSFRF/CLFRF. However, recipients should be cognizant of other federal or state laws or regulations that may apply to construction projects independent of CSFRF/CLFRF funding conditions and that may require pre-approval.

For water and sewer projects, the IFR refers to the EPA [Drinking Water](#) and [Clean Water](#) State Revolving Funds (SRFs) for the categories of projects and activities that are eligible for funding. Recipients should look at the relevant federal statutes, regulations, and guidance issued by the EPA to determine whether a water or sewer project is eligible. Of note, the IFR does not incorporate any other requirements contained in the federal statutes governing the SRFs or any conditions or requirements that individual states may place on their use of SRFs.

6.8. For broadband infrastructure investments, what does the requirement that infrastructure “be designed to” provide service to unserved or underserved households and businesses mean? [6/17]

Designing infrastructure investments to provide service to unserved or underserved households or businesses means prioritizing deployment of infrastructure that will bring service to households or businesses that are not currently serviced by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed. To meet this requirement, states and localities should use funds to deploy broadband infrastructure projects whose objective is to provide service to unserved or underserved households or businesses. These unserved or underserved households or businesses do not need to be the only ones in the service area funded by the project.

6.9. For broadband infrastructure to provide service to “unserved or underserved households or businesses,” must every house or business in the service area be unserved or underserved? [6/17]

No. It suffices that an objective of the project is to provide service to unserved or underserved households or businesses. Doing so may involve a holistic approach that provides service to a wider area in order, for example, to make the ongoing service of unserved or underserved households or businesses within the service area economical. Unserved or underserved households or businesses need not be the *only* households or businesses in the service area receiving funds.

6.10. May recipients use payments from the Funds for “middle mile” broadband projects? [6/17]

Yes. Under the Interim Final Rule, recipients may use payments from the Funds for “middle-mile projects,” but Treasury encourages recipients to focus on projects that will achieve last-mile connections—whether by focusing on funding last-mile projects or by ensuring that funded middle-mile projects have potential or partnered last-mile networks that could or would leverage the middle-mile network.

6.11. For broadband infrastructure investments, what does the requirement to “reliably” meet or exceed a broadband speed threshold mean? [6/17]

In the Interim Final Rule, the term “reliably” is used in two places: to identify areas that are eligible to be the subject of broadband infrastructure investments and to identify expectations for acceptable service levels for broadband investments funded by the Coronavirus State and Local Fiscal Recovery Funds. In particular:

- The IFR defines “unserved or underserved households or businesses” to mean one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speeds and 3 Mbps of upload speeds.
- The IFR provides that a recipient may use Coronavirus State and Local Fiscal Recovery Funds to make investments in broadband infrastructure that are designed to provide service to unserved or underserved households or businesses and that are designed to, upon completion: (i) reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or (ii) in limited cases, reliably meet or exceed 100 Mbps download speed and between 20 Mbps and 100 Mbps upload speed and be scalable to a minimum of 100 Mbps download and upload speeds.

The use of “reliably” in the IFR provides recipients with significant discretion to assess whether the households and businesses in the area to be served by a project have access to wireline broadband service that can actually and consistently meet the specified thresholds of at least 25Mbps/3Mbps—i.e., to consider the actual experience of current

wireline broadband customers that subscribe to services at or above the 25 Mbps/3 Mbps threshold. Whether there is a provider serving the area that advertises or otherwise claims to offer speeds that meet the 25 Mbps download and 3 Mbps upload speed thresholds is not dispositive.

When making these assessments, recipients may choose to consider any available data, including but not limited to documentation of existing service performance, federal and/or state-collected broadband data, user speed test results, interviews with residents and business owners, 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 service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency or jitter, or deterioration of the existing connections make the 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).

The IFR also provides recipients with significant discretion as to how they will assess whether the project itself has been designed to provide households and businesses with broadband services that meet, or even exceed, the speed thresholds provided in the rule.

6.12. May recipients use Funds for pre-project development for eligible water, sewer, and broadband projects? [6/23]

Yes. To determine whether Funds can be used on pre-project development for an eligible water or sewer project, recipients should consult whether the pre-project development use or cost is eligible under the Drinking Water and Clean Water State Revolving Funds (CWSRF and DWSRF, respectively). Generally, the CWSRF and DWSRF often allow for pre-project development costs that are tied to an eligible project, as well as those that are reasonably expected to lead to a project. For example, the DWSRF [allows](#) for planning and evaluations uses, as well as numerous pre-project development costs, including costs associated with obtaining project authorization, planning and design, and project start-up like training and warranty for equipment. Likewise, the CWSRF [allows](#) for broad pre-project development, including planning and assessment activities, such as cost and effectiveness analyses, water/energy audits and conservation plans, and capital improvement plans.

Similarly, pre-project development uses and costs for broadband projects should be tied to an eligible broadband project or reasonably expected to lead to such a project. For example, pre-project costs associated with planning and engineering for an eligible broadband infrastructure build-out is considered an eligible use of funds, as well as technical assistance and evaluations that would reasonably be expected to lead to commencement of an eligible project (e.g., broadband mapping for the purposes of finding an eligible area for investment).

All funds must be obligated within the statutory period between March 3, 2021 and December 31, 2024, and expended to cover such obligations by December 31, 2026.

6.13. May State and Local Fiscal Recovery Funds be used to support energy or electrification infrastructure that would be used to power new water treatment plants and wastewater systems? [7/14]

The EPA’s [Overview of Clean Water State Revolving Fund Eligibilities](#) describes eligible energy-related projects. This includes a “[p]ro rata share of capital costs of offsite clean energy facilities that provide power to a treatment works.” Thus, State and Local Fiscal Recovery Funds may be used to finance the generation and delivery of clean power to a wastewater system or a water treatment plant on a pro-rata basis. If the wastewater system or water treatment plant is the sole user of the clean energy, the full cost would be considered an eligible use of funds. If the clean energy provider provides power to other entities, only the proportionate share used by the water treatment plant or wastewater system would be an eligible use of State and Local Fiscal Recovery Funds.

6.14. How should states and local governments assess whether a stormwater management project, such as a culvert replacement, is an eligible project for State and Local Fiscal Recovery Funds? [7/14]

FAQ 6.7 describes the overall approach that recipients may take to evaluate the eligibility of water or sewer projects. For stormwater management projects specifically, as noted in the EPA’s [Overview of Clean Water State Revolving Fund Eligibilities](#), “Stormwater projects must have a water quality benefit.” Thus, to be eligible under CSFRF/CLFRF, stormwater management projects should be designed to incorporate water quality benefits consistent with the goals of the Clean Water Act. [Summary of the Clean Water Act.](#)

6.15. May recipients use Funds for road repairs and upgrades that occur in connection with an eligible water or sewer project? [7/14]

Yes, recipients may use State and Local Fiscal Recovery Funds for road repairs and upgrades directly related to an eligible water or sewer project. For example, a recipient could use Funds to repair or re-pave a road following eligible sewer repair work beneath it. However, use of Funds for general infrastructure projects is subject to the limitations described in FAQ 4.2. Water and sewer infrastructure projects are often a single component of a broader transportation infrastructure project, for example, the implementation of stormwater infrastructure to meet Clean Water Act established water quality standards. In this example, the components of the infrastructure project that interact directly with the stormwater infrastructure project may be funded by Fiscal Recovery Funds.

6.16. May Funds be used to build or upgrade broadband connections to schools or libraries? [7/14]

As outlined in the IFR, recipients may use Fiscal Recovery Funds to invest in broadband infrastructure that, wherever it is practicable to do so, is designed to deliver service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps to households or businesses that are not currently serviced by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed. Treasury interprets “businesses” in this context broadly to include non-residential users of broadband, including private businesses and institutions that serve the public, such as schools, libraries, healthcare facilities, and public safety organizations.

6.17. Are eligible infrastructure projects subject to the Davis-Bacon Act? [7/14]

The Davis-Bacon Act requirements (prevailing wage rates) do not apply to projects funded solely with award funds from the CSFRF/CLFRF program, except for CSFRF/CLFRF-funded construction projects undertaken by the District of Columbia. The Davis-Bacon Act specifically applies to the District of Columbia when it uses federal funds (CSFRF/CLFRF funds or otherwise) to enter into contracts over \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Recipients may be otherwise subject to the requirements of the Davis-Bacon Act, when CSFRF/CLFRF award funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of the Davis-Bacon Act. Additionally, corollary state prevailing-wage-in-construction laws (commonly known as “baby Davis-Bacon Acts”) may apply to projects. Please refer to FAQ 4.10 concerning projects funded with both CSFRF/CLFRF funds and other sources of funding.

Treasury has indicated in its Interim Final Rule that it is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects, but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

Treasury has also indicated in its reporting guidance that recipients will need to provide documentation of wages and labor standards for infrastructure projects over \$10 million, and that these requirements can be met with certifications that the project is in compliance with the Davis-Bacon Act (or related state laws, commonly known as “baby Davis-Bacon Acts”) and subject to a project labor agreement. Please refer to the Reporting and Compliance Guidance, page 21, for more detailed information on the reporting requirement.

7. Non-Entitlement Units (NEUs)

Answers to frequently asked questions on distribution of funds to NEUs can be found in this [FAQ supplement](#), which is regularly updated.

8. Ineligible Uses

8.1. What is meant by a pension “deposit”? Can governments use funds for routine pension contributions for employees whose payroll and covered benefits are eligible expenses?

Treasury interprets “deposit” in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both: (1) the payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and (2) the payment occurs outside the recipient’s regular timing for making such payments.

Under this interpretation, a “deposit” is distinct from a “payroll contribution,” which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a pre-determined percentage of employees’ wages and salaries. In general, if an employee’s wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee’s covered benefits as an eligible use of Fiscal Recovery Funds.

8.2. May recipients use Fiscal Recovery Funds to fund Other Post-Employment Benefits (OPEB)? [6/8]

OPEB refers to benefits other than pensions (see, e.g., [Governmental Accounting Standards Board, “Other Post-Employment Benefits”](#)). Treasury has determined that Sections 602(c)(2)(B) and 603(c)(2), which refer only to pensions, do not prohibit CSFRF/CLFRF recipients from funding OPEB. Recipients of either the CSFRF/CLFRF may use funds for eligible uses, and a recipient seeking to use CSFRF/CLFRF funds for OPEB contributions would need to justify those contributions under one of the four eligible use categories.

9. Reporting

On June 17, 2021, Treasury released [Guidance on Recipient Compliance and Reporting Responsibilities for the Coronavirus State and Local Fiscal Recovery Funds](#). Recipients should consult this guidance for additional detail and clarification on recipients’ compliance and reporting responsibilities. A users’ guide will be provided with additional information on how and where to submit required reports.

9.1. What records must be kept by governments receiving funds?

Financial records and supporting documents related to the award must be retained for a period of five years after all funds have been expended or returned to Treasury, whichever is later. This includes those which demonstrate the award funds were used for eligible purposes in accordance with the ARPA, Treasury's regulations implementing those sections, and Treasury's guidance on eligible uses of funds.

9.2. What reporting will be required, and when will the first report be due?

Recipients will be required to submit an interim report, quarterly project and expenditure reports, and annual Recovery Plan Performance Reports as specified below, regarding their utilization of Coronavirus State and Local Fiscal Recovery Funds.

Interim reports: States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report. The interim report will include a recipient's expenditures by category at the summary level and for states, information related to distributions to non-entitlement units of local government must also be included in the interim report. The interim report will cover activity from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Non-entitlement units of local government are not required to submit an interim report.

Quarterly Project and Expenditure reports: State (defined to include the District of Columbia), territorial, metropolitan city, county, and Tribal governments will be required to submit quarterly project and expenditure reports. This report will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of award funds. Reports will be required quarterly with the exception of non-entitlement units, which will report annually. An interim report is due on August 31, 2021. The reports will include the same general data as those submitted by recipients of the Coronavirus Relief Fund, with some modifications to expenditure categories and the addition of data elements related to specific eligible uses. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Non-entitlement units of local government will be required to submit the project and expenditure report annually. The initial annual Project and Expenditure report for non-entitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

Recovery Plan Performance Reports: States (defined to include the District of Columbia), territories, metropolitan cities, and counties with a population that exceeds 250,000

residents will also be required to submit an annual Recovery Plan Performance Report to Treasury. This report will include descriptions of the projects funded and information on the performance indicators and objectives of each award, helping local residents understand how their governments are using the substantial resources provided by Coronavirus State and Local Fiscal Recovery Funds program. The initial Recovery Plan Performance Report will cover activity from date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, the Recovery Plan Performance Reports will cover a 12-month period and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance Report will cover the period from July 1, 2021 to June 30, 2022 and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance Report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and non-entitlement units of local government are not required to develop a Recovery Plan Performance Report.

Please see the [Guidance on Recipient Compliance and Reporting Responsibilities](#) for more information.

9.3. What provisions of the Uniform Guidance for grants apply to these funds? Will the Single Audit requirements apply?

Most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to this program, including the Cost Principles and Single Audit Act requirements. Recipients should refer to the Assistance Listing for detail on the specific provisions of the Uniform Guidance that do not apply to this program. The Assistance Listing will be available on beta.SAM.gov.

9.4. Once a recipient has identified a reduction in revenue, how will Treasury track use of funds for the provision of government services? [6/8]

The ARPA establishes four categories of eligible uses and further restrictions on the use of funds to ensure that Fiscal Recovery Funds are used within the four eligible use categories. The Interim Final Rule implements these restrictions, including the scope of the eligible use categories and further restrictions on tax cuts and deposits into pensions. Reporting requirements will align with this structure.

Consistent with the broad latitude provided to recipients to use funds for government services to the extent of the reduction in revenue, recipients will be required to submit a description of services provided. As discussed in IFR, these services can include a broad range of services but may not be used directly for pension deposits, contributions to reserve funds, or debt service. Recipients may use sources of funding other than Fiscal Recovery Funds to make deposits to pension funds, contribute to reserve funds, and pay debt service, including during the period of performance for the Fiscal Recovery Fund award.

For recipients using Fiscal Recovery Funds to provide government services to the extent of reduction in revenue, the description of government services reported to Treasury may be narrative or in another form, and recipients are encouraged to report based on their existing budget processes and to minimize administrative burden. For example, a recipient with \$100 in revenue replacement funds available could indicate that \$50 were used for personnel costs and \$50 were used for pay-go building of sidewalk infrastructure.

In addition to describing the government services provided to the extent of reduction in revenue, all recipients will also be required to indicate that Fiscal Recovery Funds are not used directly to make a deposit in a pension fund. Further, recipients subject to the tax offset provision will be required to provide information necessary to implement the Interim Final Rule, as described in the Interim Final Rule. Treasury does not anticipate requiring other types of reporting or recordkeeping on spending in pensions, debt service, or contributions to reserve funds.

These requirements are further detailed in the guidance on reporting requirements for the Fiscal Recovery Funds available [here](#).

9.5. What is the Assistance Listing and Catalog of Federal Domestic Assistance (CFDA) number for the program? [6/8]

The [Assistance Listing](#) for the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) was published May 28, 2021 on SAM.gov. This includes the final CFDA Number for the program, 21.027.

The assistance listing includes helpful information including program purpose, statutory authority, eligibility requirements, and compliance requirements for recipients. The CFDA number is the unique 5-digit code for each type of federal assistance, and can be used to search for program information, including funding opportunities, spending on usaspending.gov, or audit results through the Federal Audit Clearinghouse.

To expedite payments and meet statutory timelines, Treasury issued initial payments under an existing CFDA number. If you have already received funds or captured the initial CFDA number in your records, please update your systems and reporting to reflect the final CFDA number 21.027. **Recipients must use the final CFDA number for all financial accounting, audits, subawards, and associated program reporting requirements.**

To ensure public trust, Treasury expects all recipients to serve as strong stewards of these funds. This includes ensuring funds are used for intended purposes and recipients have in place effective financial management, internal controls, and reporting for transparency and accountability.

Please see [Treasury's Interim Final Rule](#) and the [Guidance on Recipient Compliance and Reporting Responsibilities](#) for more information.

10. Miscellaneous

10.1. May governments retain assets purchased with Fiscal Recovery Funds? If so, what rules apply to the proceeds of disposition or sale of such assets?

Yes, if the purchase of the asset was consistent with the limitations on the eligible use of funds. If such assets are disposed of prior to December 31, 2024, the proceeds would be subject to the restrictions on the eligible use of payments.

10.2. Can recipients use funds for administrative purposes?

Recipients may use funds to cover the portion of payroll and benefits of employees corresponding to time spent on administrative work necessary due to the COVID-19 public health emergency and its negative economic impacts. This includes, but is not limited to, costs related to disbursing payments of Fiscal Recovery Funds and managing new grant programs established using Fiscal Recovery Funds.

10.3. Are recipients required to remit interest earned on CSFRF/CLFRF payments made by Treasury? [5/27, updated 7/14]

No. CSFRF/CLFRF payments made by Treasury to states, territories, and the District of Columbia are not subject to the requirement of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR part 205 to remit interest to Treasury. CSFRF/CLFRF payments made by Treasury to local governments and Tribes are not subject to the requirement of 2 CFR 200.305(b)(8)-(9) to maintain balances in an interest-bearing account and remit payments to Treasury. Moreover, interest earned on CSFRF/CLFRF payments is not subject to program restrictions. Finally, States may retain interest on payments made by Treasury to the State for distribution to NEUs that is earned before funds are distributed to NEUs, provided that the State adheres to the statutory requirements and Treasury's guidance regarding the distribution of funds to NEUs. Such interest is also not subject to program restrictions.

Among other things, States and other recipients may use earned income to defray the administrative expenses of the program, including with respect to NEUs.

10.4. Is there a deadline to apply for funds? [5/27]

The Interim Final Rule requires that costs be incurred by December 31, 2024. Direct recipients are encouraged to apply as soon as possible. For direct recipients other than Tribal governments, there is not a specific application deadline.

Tribal governments do have deadlines to complete the application process and should visit www.treasury.gov/SLFRPTribal for guidance on applicable deadlines.

Non-entitlement units of local government should contact their state government for information on applicable deadlines.

10.5. May recipients use funds to cover the costs of consultants to assist with managing and administering the funds? [6/8]

Yes. Recipients may use funds for administering the CSFRF/CLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.

11. Operations

11.1. How do I know if my entity is eligible?

The Coronavirus State and Local Fiscal Recovery Funds American Rescue Plan Act of 2021 set forth the jurisdictions eligible to receive funds under the program, which are:

- States and the District of Columbia
- Territories
- Tribal governments
- Counties
- Metropolitan cities (typically, but not always, those with populations over 50,000)
- Non-entitlement units of local government, or smaller local governments (typically, but not always, those with populations under 50,000)

11.2. How does an eligible entity request payment?

Eligible entities (other than non-entitlement units) must submit their information to the [Treasury Submission Portal](#). Please visit the [Coronavirus State and Local Fiscal Recovery Fund website](#) for more information on the submission process.

11.3. I cannot log into the Treasury Submission Portal or am having trouble navigating it. Who can help me?

If you have questions about the Treasury Submission Portal or for technical support, please email covidreliefitsupport@treasury.gov.

11.4. What do I need to do to receive my payment?

All eligible payees are required to have a DUNS Number previously issued by Dun & Bradstreet (<https://www.dnb.com/>).

All eligible payees are also required to have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>).

And eligible payees must have a bank account enabled for Automated Clearing House (ACH) direct deposit. Payees with a Wire account are encouraged to provide that information as well.

More information on these and all program pre-submission requirements can be found on the [Coronavirus State and Local Fiscal Recovery Fund website](#).

11.5. Why is Treasury employing id.me for the Treasury Submission Portal?

ID.me is a trusted technology partner to multiple government agencies and healthcare providers. It provides secure digital identity verification to those government agencies and healthcare providers to make sure you're you – and not someone pretending to be you – when you request access to online services. All personally identifiable information provided to ID.me is encrypted and disclosed only with the express consent of the user. Please refer to ID.me Contact Support for assistance with your ID.me account. Their support website is <https://help.id.me>.

11.6. Why is an entity not on the list of eligible entities in Treasury Submission Portal?

The ARPA statute lays out which governments are eligible for payments. The list of entities within the Treasury Submission Portal includes entities eligible to receive a direct payment of funds from Treasury, which include states (defined to include the District of Columbia), territories, Tribal governments, counties, and metropolitan cities.

Eligible non-entitlement units of local government will receive a distribution of funds from their respective state government and should not submit information to the Treasury Submission Portal.

If you believe an entity has been mistakenly left off the eligible entity list, please email SLFRP@treasury.gov.

11.7. What is an Authorized Representative?

An Authorized Representative is an individual with legal authority to bind the government entity (e.g., the Chief Executive Officer of the government entity). An Authorized Representative must sign the Acceptance of Award terms for it to be valid.

11.8. How does a Tribal government determine their allocation?

Tribal governments will receive information about their allocation when the submission to the Treasury Submission Portal is confirmed to be complete and accurate.

11.9. How do I know the status of my request for funds (submission)?

Entities can check the status of their submission at any time by logging into [Treasury Submission Portal](#).

11.10. My Treasury Submission Portal submission requires additional information/correction. What is the process for that?

If your Authorized Representative has not yet signed the award terms, you can edit your submission with in the into [Treasury Submission Portal](#). If your Authorized Representative has signed the award terms, please email SLFRP@treasury.gov to request assistance with updating your information.

11.11. My request for funds was denied. How do I find out why it was denied or appeal the decision?

Please check to ensure that no one else from your entity has applied, causing a duplicate submission. Please also review the list of all eligible entities on the [Coronavirus State and Local Fiscal Recovery Fund website](#).

If you still have questions regarding your submission, please email SLFRP@treasury.gov.

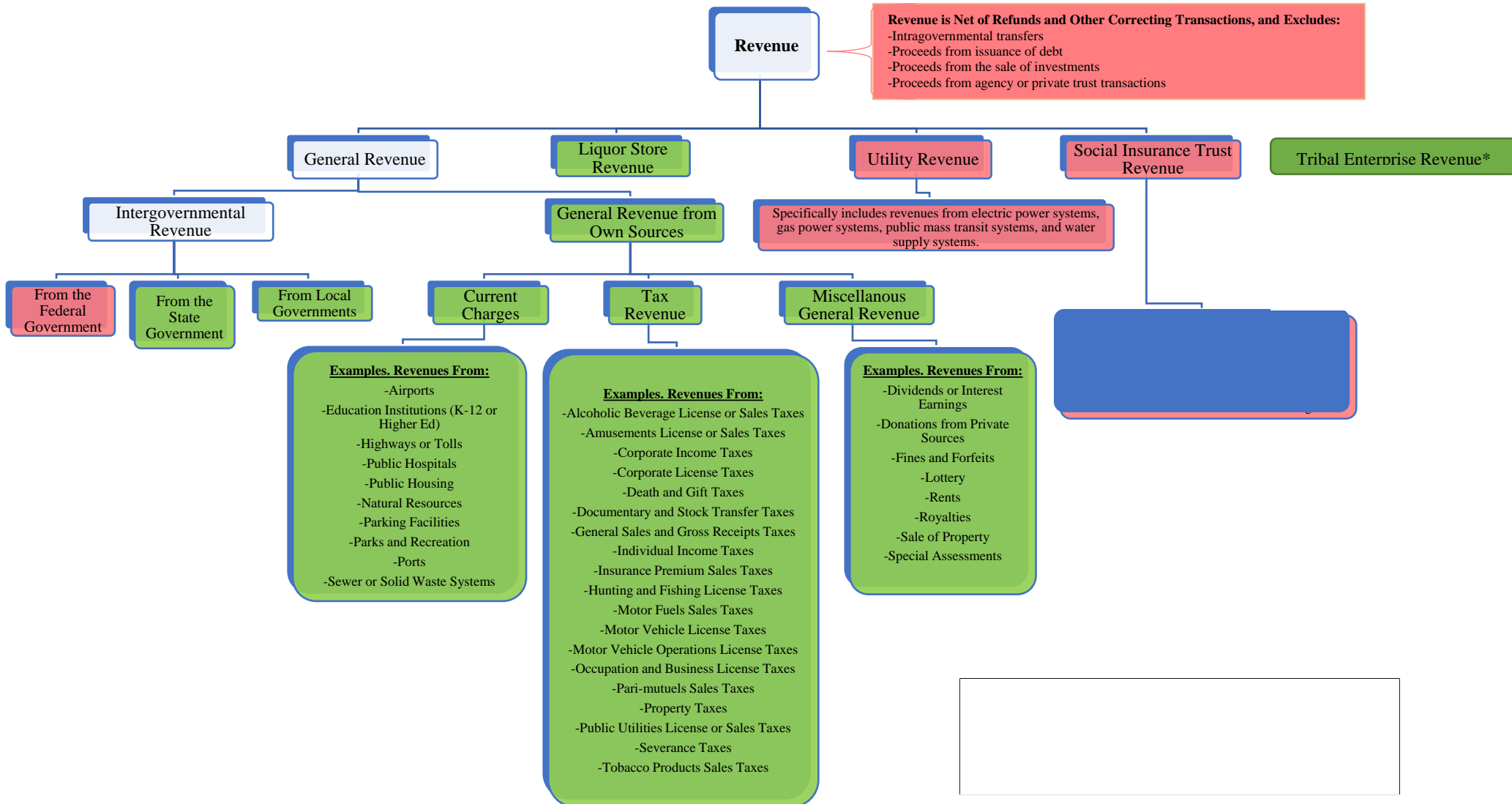
11.12. When will entities get their money?

Before Treasury is able to execute a payment, a representative of an eligible government must submit the government's information for verification through the [Treasury Submission Portal](#). The verification process takes approximately four business days. If any errors are identified, the designated point of contact for the government will be contacted via email to correct the information before the payment can proceed. Once verification is complete, the designated point of contact of the eligible government will receive an email notifying them that their submission has been verified. Payments are generally scheduled for the next business day after this verification email, though funds may not be available immediately due to processing time of their financial institution.

11.13. How does a local government entity provide Treasury with a notice of transfer of funds to its State?

For more information on how to provide Treasury with notice of transfer to a state, please email SLRedirectFunds@treasury.gov.

Appendix: Interim Final Rule Definition of General Revenue Within the Census Bureau Classification Structure of Revenue



Source: [U.S. Bureau of the Census Government Finance and Employment Classification Manual, 2006](#); [Annual Survey of State and Local Government Finances](#)

**CORONAVIRUS LOCAL FISCAL RECOVERY FUND:
GUIDANCE ON DISTRIBUTION OF FUNDS TO NON-ENTITLEMENT UNITS OF LOCAL GOVERNMENT**

U.S. DEPARTMENT OF THE TREASURY

The American Rescue Plan Act of 2021 (ARPA) appropriates \$19.53 billion to States for distribution to tens of thousands of “non-entitlement units of local government” (NEUs). ARPA directs the Department of the Treasury (Treasury) to make payments to each State for distribution to NEUs within the State. Treasury is providing the following guidance to assist States with their distribution of these funds to NEUs.

Statutory Overview

Sections 602 and 603 of the Social Security Act (the Act), as added by section 9901 of ARPA, establish the Coronavirus State Fiscal Recovery Fund (State Fiscal Recovery Fund) and Coronavirus Local Fiscal Recovery Fund (Local Fiscal Recovery Fund), respectively, which provide significant funding to help states and localities address the economic and health consequences of the pandemic. Sections 602 and 603 of the Act provide for Treasury to make payments directly to States, territories, Tribal governments, and various local governments, including counties and cities designated as metropolitan cities. In recognition of the significant differences across States in the ways that local governments are organized and the extent of the services they provide to their populations, Congress also provided for Treasury to make payments to the States to allocate and make this funding available to smaller units of general local governments, NEUs.

A State is required to allocate and distribute the Local Fiscal Recovery Fund payment received from Treasury to each NEU in the State an amount that bears the same proportion to the amount of such payment as the population of the NEU bears to the total population of all the NEUs in the State.¹ However, the total amount to be distributed to an NEU may not exceed the amount equal to 75 percent of its most recent budget as of January 27, 2020.² Each State has 30 days to distribute these funds to NEUs, but Treasury may provide extensions of this deadline, as outlined below.

Treasury will make payments to States from the Local Fiscal Recovery Fund for distribution to NEUs in two tranches, with the Second Tranche payment to be made no earlier than 12 months after the date on which the First Tranche payment is paid to the State.³

Prior to Distribution

Before distributing funds to NEUs, States will need to request payment from Treasury, identify eligible NEUs within their State, calculate allocations, and collect certain documents from NEUs.

- Request the State’s payment from Treasury. A State’s submission of a request for payment from the State Fiscal Recovery Fund under section 602 of the Act will suffice for Treasury to initiate payment to the State from the Local Fiscal Recovery Fund for distribution to the State’s NEUs. Payment of this amount will be made to the bank account designated by the State with respect to the State Fiscal Recovery Fund.

¹ See Section 603(b)(2)(C)(i) of the Act.

² See Section 603(b)(2)(C)(iii) of the Act.

³ See Section 603(b)(7) of the Act.

Aggregate NEU allocations to each State can be found on treasury.gov/SLFRP, along with the allocation methodology.

- Identify eligible NEUs. States should identify eligible NEUs by following these guidelines:
 - Treasury has provided on its website a list with names and population estimates for each local government (List), categorized by State, based on data from the Bureau of the Census (Census Bureau) with some clarifications by Treasury.⁴
 - The List includes both “incorporated places” and “minor civil divisions” (MCDs).
 - All incorporated places on the List are eligible for payment.
 - MCDs serve as the primary subdivisions of a county in some States and are commonly known as towns (in New England, New York, and Wisconsin), townships, and districts.⁵ In 12 States—referred to by the Census Bureau as “strong-MCD” States—these MCDs generally perform a wide set of general purpose local government functions. In eight other States—referred to by the Census Bureau as “weak-MCD” States—the MCDs generally play less of a governmental role but are still active governmental units. The other 30 States do not have governmentally functioning MCDs.
 - States should approach the eligibility of their incorporated places and MCDs on the List as follows:
 - For the 12 strong-MCD States⁶ and 30 States without governmentally functioning MCDs, a State should consider all the local governments on the List as eligible for payment.
 - For the eight weak-MCD States,⁷ a State should consider all incorporated places on the List as eligible for payment.

In order to determine the eligibility of its MCDs, the State should undertake a facts-and-circumstances test to determine whether the MCD has the legal and operational capacity to accept ARPA funds and provides a broad range of services that would constitute eligible uses under ARPA. States should consider specific authorities and the size and composition of the budgets of these MCDs in making

⁴ Treasury’s compilation of the List, along with its broader definitional and data methodology, can be found on the Treasury website. For ease of use, Treasury is also providing a list of local governments excluding weak MCDs for the eight weak-MCD States.

⁵ The MCDs function as active governmentally functioning units in all or part of 20 States: Connecticut, Illinois, Indiana, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, and Wisconsin.

⁶ These States are Connecticut, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin.

⁷ These States are Illinois, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, and South Dakota.

this determination. MCDs in these States that lack the capacity or do not provide the broad range of services that would constitute eligible uses under ARPA should not be eligible for a NEU distribution. States may categorically exclude all weak MCDs if none of them provide the relevant types of services. Treasury will defer to the States' determination in this regard given their superior understanding of the particularities of their local governments' authorities and operations.

Before making initial distributions to NEUs, each weak-MCD State should identify on the State's website the names of MCDs that the State removed, accompanied by an explanation of the State's determination.

As stated above, strong-MCD States and States without governmentally functioning MCDs should not undergo this facts-and-circumstance test. In addition, weak-MCD States should not undergo a facts-and-circumstances test with respect to their incorporated places.

- Calculate initial allocations.
 - As stated above, ARPA requires States' allocations to NEUs to be based on the proportion of the population in the NEU as a share of the total population of all NEUs in the State. This requirement can be represented by the following formula:

$$\frac{\textit{Total population of the NEU}}{\textit{Total population of all eligible NEUs}} \times \textit{Aggregate state NEU payment}$$

- States must use the population counts in the List, since these reflect the most recent data available from the Census Bureau.⁸
- In some States, the boundaries of some NEUs overlap with or encompass other NEUs within the State, typically resulting in overlapping populations between the larger "parent" NEU and the subsidiary NEU.⁹ An example is a township that encompasses a city. States have the discretion to divide the population of overlapping NEUs in a number of ways for the purpose of the allocation, but Treasury suggests consideration of the following:
 - The default approach is for the subsidiary NEU's population to be subtracted from the larger "parent" NEU for purposes of this allocation. For ease of use, the

⁸ See Section 603(b)(6) of the Act. For the few entities with no population data provided by the Census Bureau, States should use data as a State determines appropriate.

⁹ These overlapping jurisdictions generally occur in the 20 States with active governmentally functioning incorporated places and MCDs.

List reflects this default approach by providing the net population of the “parent” NEU excluding the population of all its subsidiary components.¹⁰

- Alternatively, States may decide to allocate a different split of the overlapping population between NEUs (e.g., 50-50 split for two overlapping NEUs). This decision should be made based on a facts-and-circumstances test that considers the extent to which the NEU provides services that would constitute eligible uses under the Local Fiscal Recovery Fund, including considering the size and composition of the NEU’s budget. States should not allocate the entire overlapping population to the larger “parent” NEU.¹¹
- Double counting when determining NEU allocations is inadvisable.
- Establish a process for NEUs to submit requests for payment. States should establish a process that will allow NEUs to provide information and documentation necessary to disburse funds to NEUs. The information and documentation collected by the State prior to initiating payment must include the following:
 - Local government name, Entity’s Taxpayer Identification Number, DUNS number, and address
 - Authorized representative name, title, and email
 - Contact person name, title, phone, and email
 - Financial institution information (e.g., routing and account number, financial institution name and contact information)
 - Total NEU budget (defined as the total annual budget, including both operating and capital expenditure budgets, in effect as of January 27, 2020) or top-line expenditure total (in exceptional cases in which the NEU does not adopt a formal budget)
 - Award terms and conditions agreement (as provided by Treasury to be signed)
 - Assurances of compliance with Title VI of the Civil Rights Act of 1964 (as provided by Treasury to be signed)
- Receive requests for payment from NEUs. States should receive and process requests for distribution from NEUs that include the information and documentation indicated above. The State must confirm the NEU is not excluded or disqualified in compliance with 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19. States should advise the NEU to retain a copy of its award agreements for upload with the NEU’s first report to Treasury due October 31, 2021. Pursuant to 2 C.F.R. Part 25, States should advise the NEU to register in SAM.gov as soon as possible after receiving the award if the NEU is not already registered.

¹⁰ For consolidated NEU governments, the full populations of the local government may be listed twice. However, States are advised not to double count the population but rather to allocate a split between the two governments based on the facts-and-circumstances test outlined. For consolidated NEU-metropolitan city governments, States similarly may exercise discretion with respect to the population to allocate to the NEU. As a reminder, metropolitan cities are paid directly by Treasury through a different allocation.

¹¹ See section 603(b)(4) of the Act.

As part of this process, States should assign each NEU a unique “NEU Recipient Number” starting with the two letter State abbreviation followed by four numeric digits (e.g., AZ0231). States should advise the NEU to retain this NEU Recipient Number as an identifying number for the lifecycle of the program, including for reporting purposes.

- Determine whether the “75 percent cap” applies. Section 603(b)(2)(C)(iii) of the Act and the Interim Final Rule (IFR) provide that each NEU’s total award (i.e., the total of distributions under both the First and Second Tranche) is capped at 75 percent of its total annual budget, including both operating and capital expenditure budgets, in effect as of January 27, 2020 (“reference budget”). This involves several steps:
 - Receive a budget total. As part of the request for payment, NEUs should submit a top-line total of the NEU’s reference budget, certified by an authorized representative of the NEU. If a NEU does not adopt a formal budget, States should allow the NEU to certify its most recent annual total expenditures as of January 27, 2020 in lieu of the NEU’s budget total. States should advise the NEU that these numbers may be verified against a copy of the appropriate budget documents submitted in the NEU’s first report to Treasury.
 - Compare budget total with allocation. States should compare the total allocation to the NEU (across distributions under both the First and Second Tranches) against the NEU’s reference budget.
 - Return funds to Treasury, if applicable. If an NEU’s total allocation is found to be more than 75 percent of the NEU’s reference budget, the State must return the amount of the allocation in excess of the NEU’s reference budget to Treasury. For example, if Town A is allocated \$100,000 and its reference budget totaled \$100,000, Town A would be entitled to a total distribution of \$75,000. ARPA requires the State to return \$25,000 in total to Treasury. Because payments are made by Treasury in two tranches and distributed by States in at least two distributions, the State would pay \$37,500 to Town A in the first distribution and the State would return \$12,500 to Treasury from the First Tranche amount. States should wait to return these funds to Treasury until after submitting their interim report due August 31, 2021 (detailed below).
- Process requests to transfer to the State. If a State receives notification from an NEU that it would like to decline its funding allocation and transfer funds to the State under Section 603(c)(4) of the Act, Treasury will consider this action as a cancellation of the award on the part of the eligible NEU and a modification of the award to the State. A State will not be required to transfer the amount of the payment to the NEU just for the NEU to transfer it back to the State. As part of this process, the NEU must provide a signed notice to the State, which the State must transmit to Treasury as part of its interim report due August 31, 2021 (or as part of a subsequent report, if applicable). If the NEU does not provide such notice, it will remain legally obligated under the award with respect to accounting for the uses of the funds and the reporting on such uses. Treasury will provide a standard notice form that will be required for this use.

Initial Distribution from First Tranche Amount

ARPA provides that States must make an initial distribution of funds to NEUs no later than 30 days after receiving a payment from Treasury for purpose of distribution to NEUs, unless the State requests and receives an extension. There are several steps that States should take in this phase:

- Disburse the initial distribution of payments. States should disburse the initial distribution of payments to the NEUs based on the allocations calculated in accordance with the process outlined above.

Under the IFR, States may not impose additional conditions or requirements on distributions to NEUs, beyond those permitted by ARPA, the IFR, and Treasury’s guidance. For example, States may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU’s use of funds based on the NEU’s proposed spending plan or other policies. States are also not permitted to offset any debt owed by the NEU against the NEU’s distribution. Further, States may not provide funding to NEUs on a reimbursement basis.

- Record key information for reporting purposes. States should keep records of amounts allocated and, separately, amounts paid to each NEU. States will be required to submit information on their NEU disbursements with their interim report on the State Fiscal Recovery Fund program.
- Provide guidance to NEUs on their requirements to Treasury. States should direct NEUs to section 603 of the Act, the IFR, and this guidance, along with documents on the Treasury website, which include fact sheets and regularly updated FAQs.
- Apply for extensions, if necessary. If a State submits a certification in writing that it faces an excessive administrative burden in distributing funds to an NEU and requests an extension, in accordance with Section 603(b)(2)(C)(ii)(I) of the Act, Treasury will grant the State a 30-day extension of the deadline for distributing funds. Treasury may grant requests from States for further extensions. More information will be forthcoming on the extensions process.

Subsequent Distribution from First Tranche Amount

If a State has made reasonable efforts to contact an NEU that remains unresponsive (i.e., the NEU has neither requested funding nor declined its allocation and requested a transfer to the State), the State may issue a subsequent distribution of the funds that had been allocated to such non-responsive NEUs among residual NEUs (defined below). If a State provides for such a subsequent distribution, the State should follow the steps below:

- Gather required information. States should identify the amount of remaining funds, which is the amounts allocated to NEUs that have been non-responsive (“remaining funds”). States should also identify NEUs whose initial allocation was below the 75 percent budget cap and which either (1) requested funding for itself or (2) declined funding for itself and requested a transfer to the State under Section 603(c)(4) (“residual NEUs”).
- Allocate remaining funds. States should allocate remaining funds among residual NEUs according to the formula below.

$$\frac{\text{Total population of the residual NEU}}{\text{Total population of all residual NEUs}} \times \text{Remaining state aggregate NEU allocation}$$

- Apply the 75 percent budget cap. Residual NEUs may only receive payments (across both First and Second Tranches, inclusive of distributions from remaining funds) up to the 75 percent budget cap, as described above. Amounts allocated to residual NEUs in excess of their 75 percent budget cap must be returned to Treasury. The excess amounts from the First Tranche should be returned in the post-distribution phase (as detailed below).
- Disburse the subsequent distribution. States should make the subsequent distribution to NEUs after allocating the remaining funds. As discussed above, States are prohibited from putting conditions or requirements on these distributions beyond those permitted by ARPA, the IFR, and Treasury’s guidance.
- Record key information for reporting purposes. States should keep records of which residual NEUs received a subsequent allocation and distribution, and the amount of the subsequent allocation and distribution. States will be required to submit information on their subsequent distribution with their periodic reports to Treasury on the State Fiscal Recovery Fund program.

Post-Distribution

States will be asked to submit information on their allocations and distributions to NEUs with their periodic reports to Treasury under the State Fiscal Recovery Fund program, including the interim report on August 31, 2021. NEUs are also required to submit periodic reports to Treasury on their use of funds.

- Submit an interim report (August 2021). As part of the interim report required to be submitted to Treasury by August 31, 2021, which is a requirement under ARPA and the IFR, each State will be asked to provide an update on distributions to individual NEUs, including whether the NEU has (1) received funding; (2) declined funding and requested a transfer to the State under Section 603(c)(4) of the Act; and (3) not taken action on its funding. States should be prepared to report on their information, including the following:
 - NEU name
 - NEU DUNS number
 - NEU address
 - NEU email address
 - NEU Recipient Number (a unique identification code for each NEU assigned by the State to the NEU as part of the request for funding)
 - Initial allocation and, if applicable, subsequent allocation to the NEU (before application of the 75 percent cap)
 - Total NEU budget (as submitted by the NEU to the State as part of the request for funding)
 - Amount of the initial and, if applicable, subsequent allocation above 75 percent of the NEU’s reference budget which will be returned to Treasury
 - Payment amount(s)
 - Payment date(s)

For each eligible NEU that declined funding and requested a transfer to the State under Section 603(c)(4) of the Act, the State must also attach a form signed by the NEU, as detailed above.

Weak-MCD States should also list NEUs that the State deemed ineligible.

- Submit a first quarterly report (October 2021). As part of the first quarterly report required to be submitted to Treasury by October 31, 2021, which is a requirement under ARPA and the IFR, each State will be asked to provide information on subsequent distributions to NEUs, if applicable.
- Return excess amounts (August-October 2021). States should arrange with Treasury to return excess amounts that were not distributed to the NEUs. Treasury will provide instructions to States on the return of funds.
- Provide guidance to NEUs on their reporting requirements to Treasury (October 2021). As prime recipients of a Federal award, NEUs are required to report to Treasury on the use of funds. States should ensure each NEU has the reporting guidance provided by Treasury, which is forthcoming. NEUs' first report is due to Treasury by October 31, 2021. In addition to other reporting requirements, NEUs will be asked to provide:
 - NEU Recipient Number (a unique identification code for each NEU assigned by the State to the NEU as part of the request for funding)
 - Copy of signed award terms and conditions agreement
 - Copy of signed assurances of compliance with Title VI of the Civil Rights Act of 1964
 - Copy of actual budget documents validating the top-line budget total provided to the State as part of the request for funding
- Await Second Tranche amount (Spring-Summer 2022). Treasury will distribute the Second Tranche of payments to States for distribution to NEUs no earlier than 12 months after the date on which the First Tranche of payments is paid to the State. More information will be forthcoming closer to the date.

Additionally, States may be asked to facilitate Treasury's communications with NEUs, particularly distributing information on NEUs' use of funds and reporting requirements.

Update (6/30/2021): Treasury updated its guidance on the 75 percent budget cap calculation, consistent with additional Treasury guidance issued on June 30, 2021, and provided a clarification on recipients of the subsequent distribution.

DEPARTMENT OF THE TREASURY**31 CFR Part 35**

RIN 1505-AC77

Coronavirus State and Local Fiscal Recovery Funds**AGENCY:** Department of the Treasury.**ACTION:** Interim final rule.

SUMMARY: The Secretary of the Treasury (Treasury) is issuing this interim final rule to implement the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund established under the American Rescue Plan Act.

DATES: *Effective date:* The provisions in this interim final rule are effective May 17, 2021.

Comment date: Comments must be received on or before July 16, 2021.

ADDRESSES: Please submit comments electronically through the Federal eRulemaking Portal: <http://www.regulations.gov>. Comments can be mailed to the Office of the Undersecretary for Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captioned with “Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments.” Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary.

In general, comments received will be posted on <http://www.regulations.gov> without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Katharine Richards, Senior Advisor, Office of Recovery Programs, Department of the Treasury, (844) 529-9527.

SUPPLEMENTARY INFORMATION:**I. Background Information****A. Overview**

Since the first case of coronavirus disease 2019 (COVID-19) was discovered in the United States in January 2020, the disease has infected

over 32 million and killed over 575,000 Americans.¹ The disease has impacted every part of life: As social distancing became a necessity, businesses closed, schools transitioned to remote education, travel was sharply reduced, and millions of Americans lost their jobs. In April 2020, the national unemployment rate reached its highest level in over seventy years following the most severe month-over-month decline in employment on record.² As of April 2021, there were still 8.2 million fewer jobs than before the pandemic.³ During this time, a significant share of households have faced food and housing insecurity.⁴ Economic disruptions impaired the flow of credit to households, State and local governments, and businesses of all sizes.⁵ As businesses weathered closures and sharp declines in revenue, many were forced to shut down, especially small businesses.⁶

Amid this once-in-a-century crisis, State, territorial, Tribal, and local governments (State, local, and Tribal governments) have been called on to respond at an immense scale. Governments have faced myriad needs to prevent and address the spread of

¹ Centers for Disease Control and Prevention, COVID Data Tracker, <http://www.covid.cdc.gov/covid-data-tracker/#datatracker-home> (last visited May 8, 2021).

² U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/UNRATE>, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNU02000000>, May 3, 2021.

³ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PAYEMS>, May 7, 2021.

⁴ Nirmita Panchal et al., The Implications of COVID-19 for Mental Health and Substance Abuse (Feb. 10, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis;> U.S. Census Bureau, Household Pulse Survey: Measuring Social and Economic Impacts during the Coronavirus Pandemic, <https://www.census.gov/programs-surveys/household-pulse-survey.html> (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1—October 17, 2020, *Morb. Mortal. Wkly. Rep.* 69(45):1675–80 (Nov. 13, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm>.

⁵ Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), <https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm>.

⁶ Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/>.

COVID-19, including testing, contact tracing, isolation and quarantine, public communications, issuance and enforcement of health orders, expansions to health system capacity like alternative care facilities, and in recent months, a massive nationwide mobilization around vaccinations. Governments also have supported major efforts to prevent COVID-19 spread through safety measures in settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and public facilities. The pandemic’s impacts on behavioral health, including the toll of pandemic-related stress, have increased the need for behavioral health resources.

At the same time, State, local and Tribal governments launched major efforts to address the economic impacts of the pandemic. These efforts have been tailored to the needs of their communities and have included expanded assistance to unemployed workers; food assistance; rent, mortgage, and utility support; cash assistance; internet access programs; expanded services to support individuals experiencing homelessness; support for individuals with disabilities and older adults; and assistance to small businesses facing closures or revenue loss or implementing new safety measures.

In responding to the public health emergency and its negative economic impacts, State, local, and Tribal governments have seen substantial increases in costs to provide these services, often amid substantial declines in revenue due to the economic downturn and changing economic patterns during the pandemic.⁷ Facing these budget challenges, many State, local, and Tribal governments have been forced to make cuts to services or their workforces, or delay critical investments. From February to May of 2020, State, local, and Tribal governments reduced their workforces by more than 1.5 million jobs and, in April of 2021, State, local, and Tribal government employment remained nearly 1.3 million jobs below pre-pandemic levels.⁸ These cuts to State, local, and Tribal government workforces

⁷ Michael Leachman, House Budget Bill Provides Needed Fiscal Aid for States, Localities, Tribal Nations, and Territories (Feb. 10, 2021), <https://www.cbpp.org/research/state-budget-and-tax/house-budget-bill-provides-needed-fiscal-aid-for-states-localities>.

⁸ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited May 8, 2021).

come at a time when demand for government services is high, with State, local, and Tribal governments on the frontlines of fighting the pandemic. Furthermore, State, local, and Tribal government austerity measures can hamper overall economic growth, as occurred in the recovery from the Great Recession.⁹

Finally, although the pandemic's impacts have been widespread, both the public health and economic impacts of the pandemic have fallen most severely on communities and populations disadvantaged before it began. Low-income communities, people of color, and Tribal communities have faced higher rates of infection, hospitalization, and death,¹⁰ as well as higher rates of unemployment and lack of basic necessities like food and housing.¹¹ Pre-existing social vulnerabilities magnified the pandemic in these communities, where a reduced ability to work from home and, frequently, denser housing amplified the risk of infection. Higher rates of pre-existing health conditions also may have contributed to more severe COVID-19 health outcomes.¹² Similarly, communities or households facing economic insecurity before the pandemic were less able to weather business closures, job losses, or declines in earnings and were less able to participate in remote work or education due to the inequities in access to reliable and affordable broadband infrastructure.¹³ Finally, though schools in all areas faced challenges, those in high poverty areas had fewer resources to adapt to remote and hybrid learning models.¹⁴ Unfortunately, the pandemic

also has reversed many gains made by communities of color in the prior economic expansion.¹⁵

B. The Statute and Interim Final Rule

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President.¹⁶ Section 9901 of ARPA amended Title VI of the Social Security Act¹⁷ (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds).¹⁸ The Fiscal Recovery Funds are intended to provide support to State, local, and Tribal governments (together, recipients) in responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).¹⁹

a lifetime (June 2020), https://webtest.childreainsstitute.net/sites/default/files/documents/COVID-19-and-student-learning-in-the-United-States_FINAL.pdf; Andrew Bacher-Hicks et al., *Inequality in Household Adaptation to Schooling Shocks: Covid-Induced Online Engagement in Real Time*, J. of Public Econ. Vol. 193(C) (July 2020), available at <https://www.nber.org/papers/w27555>.

¹⁵ See, e.g., Tyler Atkinson & Alex Richter, *Pandemic Disproportionately Affects Women, Minority Labor Force Participation*, <https://www.dallasfed.org/research/economics/2020/1110> (last visited May 9, 2021); Jared Bernstein & Janelle Jones, *The Impact of the COVID-19 Recession on the Jobs and Incomes of Persons of Color*, https://www.cbpp.org/sites/default/files/atoms/files/6-2-20bud_0.pdf (last visited May 9, 2021).

¹⁶ American Rescue Plan Act of 2021 (ARPA), sec. 9901, Public Law 117-2, codified at 42 U.S.C. 802 *et seq.* The term "state" as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means each of the 50 States and the District of Columbia. The term "territory" as used in this **SUPPLEMENTARY INFORMATION** and defined in section 602 of the Act means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of Northern Mariana Islands, and American Samoa. Tribal government is defined in the Act and the interim final rule to mean "the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published most recently as of the date of enactment of the [American Rescue Plan Act] pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131)." See section 602(g)(7) of the Social Security Act, as added by the American Rescue Plan Act. On January 29, 2021, the Bureau of Indian Affairs published a current list of 574 Tribal entities. See 86 FR 7554, January 29, 2021. The term "local governments" as used in this **SUPPLEMENTARY INFORMATION** includes metropolitan cities, counties, and nonentitlement units of local government.

¹⁷ 42 U.S.C. 801 *et seq.*

¹⁸ Sections 602, 603 of the Act.

¹⁹ The CRF was established by the section 601 of the Act as added by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136, 134 Stat. 281 (2020).

Through the Fiscal Recovery Funds, Congress provided State, local, and Tribal governments with significant resources to respond to the COVID-19 public health emergency and its economic impacts through four categories of eligible uses. Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities, nonentitlement units of local government, and counties. Sections 602(c)(1) and 603(c)(1) provide that funds may be used:

(a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

(c) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(d) To make necessary investments in water, sewer, or broadband infrastructure.

In addition, Congress clarified two types of uses which do not fall within these four categories. Sections 602(c)(2)(B) and 603(c)(2) provide that these eligible uses do not include, and thus funds may not be used for, depositing funds into any pension fund. Section 602(c)(2)(A) also provides, for States and territories, that the eligible uses do not include "directly or indirectly offset[ing] a reduction in the net tax revenue of [the] State or territory resulting from a change in law, regulation, or administrative interpretation."

The ARPA provides a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. First, payments from the Fiscal Recovery Funds help to ensure that State, local, and Tribal governments have the resources needed to continue to take actions to decrease the spread of COVID-19 and bring the pandemic under control. Payments from the Fiscal Recovery Funds may also be used by recipients to provide support for costs incurred in addressing public health and economic challenges resulting from the pandemic, including resources to offer premium pay to essential workers, in recognition of their sacrifices over the

⁹ Tracy Gordon, *State and Local Budgets and the Great Recession*, Brookings Institution (Dec. 31, 2012), <http://www.brookings.edu/articles/state-and-local-budgets-and-the-great-recession>.

¹⁰ Sebastian D. Romano et al., *Trends in Racial and Ethnic Disparities in COVID-19 Hospitalizations, by Region—United States, March–December 2020*, MMWR Morb Mortal Wkly Rep 2021, 70:560–565 (Apr. 16, 2021), https://www.cdc.gov/mmwr/volumes/70/wr/mm7015e2.htm?s_cid=mm7015e2_w.

¹¹ Center on Budget and Policy Priorities, *Tracking the COVID-19 Recession's Effects on Food, Housing, and Employment Hardships*, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-housing-and> (last visited May 4, 2021).

¹² Lisa R. Fortuna et al., *Inequity and the Disproportionate Impact of COVID-19 on Communities of Color in the United States: The Need for Trauma-Informed Social Justice Response*, *Psychological Trauma* Vol. 12(5):443–45 (2020), available at <https://psycnet.apa.org/fulltext/2020-37320-001.pdf>.

¹³ Emily Vogles et al., *53% of Americans Say the internet Has Been Essential During the COVID-19 Outbreak* (Apr. 30, 2020), <https://www.pewresearch.org/internet/2020/04/30/53-of-americans-say-the-internet-has-been-essential-during-the-covid-19-outbreak/>.

¹⁴ Emma Dorn et al., *COVID-19 and student learning in the United States: The hurt could last*

last year. Recipients may also use payments from the Fiscal Recovery Funds to replace State, local, and Tribal government revenue lost due to COVID-19, helping to ensure that governments can continue to provide needed services and avoid cuts or layoffs. Finally, these resources lay the foundation for a strong, equitable economic recovery, not only by providing immediate economic stabilization for households and businesses, but also by addressing the systemic public health and economic challenges that may have contributed to more severe impacts of the pandemic among low-income communities and people of color.

Within the eligible use categories outlined in the Fiscal Recovery Funds provisions of ARPA, State, local, and Tribal governments have flexibility to determine how best to use payments from the Fiscal Recovery Funds to meet the needs of their communities and populations. The interim final rule facilitates swift and effective implementation by establishing a framework for determining the types of programs and services that are eligible under the ARPA along with examples of uses that State, local, and Tribal governments may consider. These uses build on eligible expenditures under the CRF, including some expansions in eligible uses to respond to the public health emergency, such as vaccination campaigns. They also reflect changes in the needs of communities, as evidenced by, for example, nationwide data demonstrating disproportionate impacts of the COVID-19 public health emergency on certain populations, geographies, and economic sectors. The interim final rule takes into consideration these disproportionate impacts by recognizing a broad range of eligible uses to help States, local, and Tribal governments support the families, businesses, and communities hardest hit by the COVID-19 public health emergency.

Implementation of the Fiscal Recovery Funds also reflect the importance of public input, transparency, and accountability. Treasury seeks comment on all aspects of the interim final rule and, to better facilitate public comment, has included specific questions throughout this **SUPPLEMENTARY INFORMATION**. Treasury encourages State, local, and Tribal governments in particular to provide feedback and to engage with Treasury regarding issues that may arise regarding all aspects of this interim final rule and Treasury's work in administering the Fiscal Recovery Funds. In addition, the interim final rule establishes certain regular reporting

requirements, including by requiring State, local, and Tribal governments to publish information regarding uses of Fiscal Recovery Funds payments in their local jurisdiction. These reporting requirements reflect the need for transparency and accountability, while recognizing and minimizing the burden, particularly for smaller local governments. Treasury urges State, territorial, Tribal, and local governments to engage their constituents and communities in developing plans to use these payments, given the scale of funding and its potential to catalyze broader economic recovery and rebuilding.

II. Eligible Uses

A. Public Health and Economic Impacts

Sections 602(c)(1)(A) and 603(c)(1)(A) provide significant resources for State, territorial, Tribal governments, and counties, metropolitan cities, and nonentitlement units of local governments (each referred to as a recipient) to meet the wide range of public health and economic impacts of the COVID-19 public health emergency.

These provisions authorize the use of payments from the Fiscal Recovery Funds to respond to the public health emergency with respect to COVID-19 or its negative economic impacts. Section 602 and section 603 also describe several types of uses that would be responsive to the impacts of the COVID-19 public health emergency, including assistance to households, small businesses, and nonprofits and aid to impacted industries, such as tourism, travel, and hospitality.²⁰

Accordingly, to assess whether a program or service is included in this category of eligible uses, a recipient should consider whether and how the use would respond to the COVID-19 public health emergency. Assessing whether a program or service "responds to" the COVID-19 public health emergency requires the recipient to, first, identify a need or negative impact of the COVID-19 public health emergency and, second, identify how the program, service, or other intervention addresses the identified need or impact. While the COVID-19 public health emergency affected many aspects of American life, eligible uses under this category must be in response to the disease itself or the harmful consequences of the economic disruptions resulting from or exacerbated by the COVID-19 public health emergency.

²⁰ Sections 602(c)(1)(A), 603(c)(1)(A) of the Act.

The interim final rule implements these provisions by identifying a non-exclusive list of programs or services that may be funded as responding to COVID-19 or the negative economic impacts of the COVID-19 public health emergency, along with considerations for evaluating other potential uses of the Fiscal Recovery Funds not explicitly listed. The interim final rule also provides flexibility for recipients to use payments from the Fiscal Recovery Funds for programs or services that are not identified on these non-exclusive lists but that fall under the terms of section 602(c)(1)(A) or 603(c)(1)(A) by responding to the COVID-19 public health emergency or its negative economic impacts. As an example, in determining whether a program or service responds to the negative economic impacts of the COVID-19 public health emergency, the interim final rule provides that payments from the Fiscal Recovery Funds should be designed to address an economic harm resulting from or exacerbated by the public health emergency. Recipients should assess the connection between the negative economic harm and the COVID-19 public health emergency, the nature and extent of that harm, and how the use of this funding would address such harm.

As discussed, the pandemic and the necessary actions taken to control the spread had a severe impact on households and small businesses, including in particular low-income workers and communities and people of color. While eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) provide flexibility to recipients to identify the most pressing local needs, Treasury encourages recipients to provide assistance to those households, businesses, and non-profits in communities most disproportionately impacted by the pandemic.

1. Responding to COVID-19

On January 21, 2020, the Centers for Disease Control and Prevention (CDC) identified the first case of novel coronavirus in the United States.²¹ By late March, the virus had spread to many States and the first wave was growing rapidly, centered in the northeast.²² This wave brought acute

²¹ Press Release, Centers for Disease Control and Prevention, First Travel-related Case of 2019 Novel Coronavirus Detected in United States (Jan. 21, 2020), <https://www.cdc.gov/media/releases/2020/p0121-novel-coronavirus-travel-case.html>.

²² Anne Schuchat et al., Public Health Response to the Initiation and Spread of Pandemic COVID-19 in the United States, February 24–April 21, 2021, *MMWR Morb Mortal Wkly Rep* 2021, 69(18):551–56 (May 8, 2021), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6918e2.htm>.

strain on health care and public health systems: Hospitals and emergency medical services struggled to manage a major influx of patients; response personnel faced shortages of personal protective equipment; testing for the virus was scarce; and congregate living facilities like nursing homes and prisons saw rapid spread. State, local, and Tribal governments mobilized to support the health care system, issue public health orders to mitigate virus spread, and communicate safety measures to the public. The United States has since faced at least two additional COVID-19 waves that brought many similar challenges: The second in the summer, centered in the south and southwest, and a wave throughout the fall and winter, in which the virus reached a point of uncontrolled spread across the country and over 3,000 people died per day.²³ By early May 2021, the United States has experienced over 32 million confirmed COVID-19 cases and over 575,000 deaths.²⁴

Mitigating the impact of COVID-19, including taking actions to control its spread and support hospitals and health care workers caring for the sick, continues to require a major public health response from State, local and Tribal governments. New or heightened public health needs include COVID-19 testing, major expansions in contact tracing, support for individuals in isolation or quarantine, enforcement of public health orders, new public communication efforts, public health surveillance (e.g., monitoring case trends and genomic sequencing for variants), enhancement to health care capacity through alternative care facilities, and enhancement of public health data systems to meet new demands or scaling needs. State, local, and Tribal governments have also supported major efforts to prevent COVID-19 spread through safety measures at key settings like nursing homes, schools, congregate living settings, dense worksites, incarceration settings, and in other public facilities. This has included implementing infection prevention measures or making ventilation improvements in congregate settings, health care settings, or other key locations.

Other response and adaptation costs include capital investments in public facilities to meet pandemic operational

needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. In recent months, State, local, and Tribal governments across the country have mobilized to support the national vaccination campaign, resulting in over 250 million doses administered to date.²⁵

The need for public health measures to respond to COVID-19 will continue in the months and potentially years to come. This includes the continuation of the vaccination campaign for the general public and, if vaccinations are approved for children in the future, eventually for youths. This also includes monitoring the spread of COVID-19 variants, understanding the impact of these variants (especially on vaccination efforts), developing approaches to respond to those variants, and monitoring global COVID-19 trends to understand continued risks to the United States. Finally, the long-term health impacts of COVID-19 will continue to require a public health response, including medical services for individuals with “long COVID,” and research to understand how COVID-19 impacts future health needs and raises risks for the millions of Americans who have been infected.

Other areas of public health have also been negatively impacted by the COVID-19 pandemic. For example, in one survey in January 2021, over 40 percent of American adults reported symptoms of depression or anxiety, up from 11 percent in the first half of 2019.²⁶ The proportion of children’s emergency department visits related to mental health has also risen noticeably.²⁷ Similarly, rates of substance misuse and overdose deaths have spiked: Preliminary data from the CDC show a nearly 30 percent increase in drug overdose mortality from September 2019 to September 2020.²⁸ Stay-at-home orders and other pandemic responses may have also reduced the ability of individuals affected by domestic violence to access

services.²⁹ Finally, some preventative public health measures like childhood vaccinations have been deferred and potentially forgone.³⁰

While the pandemic affected communities across the country, it disproportionately impacted some demographic groups and exacerbated health inequities along racial, ethnic, and socioeconomic lines.³¹ The CDC has found that racial and ethnic minorities are at increased risk for infection, hospitalization, and death from COVID-19, with Hispanic or Latino and Native American or Alaska Native patients at highest risk.³²

Similarly, low-income and socially vulnerable communities have seen the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000, as of May 2021.³³ Counties with high social vulnerability, as measured by factors such as poverty and educational attainment, have also fared more poorly than the national average, with 211 deaths per 100,000 as of May 2021.³⁴

²⁹ Megan L. Evans, et al., A Pandemic within a Pandemic—Intimate Partner Violence during Covid-19, *N. Engl. J. Med.* 383:2302–04 (Dec. 10, 2020), available at <https://www.nejm.org/doi/full/10.1056/NEJMp2024046>.

³⁰ Jeanne M. Santoli et al., Effects of the COVID-19 Pandemic on Routine Pediatric Vaccine Ordering and Administration—United States, *Morb. Mortal. Wkly. Rep.* 69(19):591–93 (May 8, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6919e2.htm>; Marisa Langdon-Embry et al., Notes from the Field: Rebound in Routine Childhood Vaccine Administration Following Decline During the COVID-19 Pandemic—New York City, March 1–June 27, 2020, *Morb. Mortal. Wkly. Rep.* 69(30):999–1001 (Jul. 31 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6930a3.htm>.

³¹ Office of the White House, National Strategy for the COVID-19 Response and Pandemic Preparedness (Jan. 21, 2021), <https://www.whitehouse.gov/wp-content/uploads/2021/01/National-Strategy-for-the-COVID-19-Response-and-Pandemic-Preparedness.pdf>.

³² In a study of 13 states from October to December 2020, the CDC found that Hispanic or Latino and Native American or Alaska Native individuals were 1.7 times more likely to visit an emergency room for COVID-19 than White individuals, and Black individuals were 1.4 times more likely to do so than White individuals. See Romano, *supra* note 10.

³³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases and Deaths in the United States, by County-level Population Factors, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

³⁴ The CDC’s Social Vulnerability Index includes fifteen variables measuring social vulnerability, including unemployment, poverty, education levels, single-parent households, disability status, non-English speaking households, crowded housing, and transportation access.

Centers for Disease Control and Prevention, COVID Data Tracker: Trends in COVID-19 Cases

²³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last visited May 8, 2021).

²⁴ *Id.*

²⁵ Centers for Disease Control and Prevention, COVID Data Tracker: COVID-19 Vaccinations in the United States, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last visited May 8, 2021).

²⁶ Panchal, *supra* note 4; Mark E. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID-19 Pandemic—United States, June 24–30 2020, *Morb. Mortal. Wkly. Rep.* 69(32):1049–57 (Aug. 14, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm>.

²⁷ Leeb, *supra* note 4.

²⁸ Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (last visited May 8, 2021).

Over the last year, Native Americans have experienced more than one and a half times the rate of COVID-19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.³⁵ Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID-19 mortality.³⁶

In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and were over-represented among essential workers, who faced greater risk of exposure.³⁷ Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while screenings for elevated blood lead levels declined during the pandemic.³⁸ The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.³⁹

and Deaths in the United States, by Social Vulnerability Index, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

³⁵ Centers for Disease Control and Prevention, Risk for COVID-19 Infection, Hospitalization, and Death By Race/Ethnicity, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> (last visited Apr. 26, 2021).

³⁶ See, e.g., Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID-19 (Dec. 10, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html> (last visited Apr. 26, 2021).

³⁷ Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID-19: Evidence from Geolocation Data (Sept. 22, 2020), NYU Stern School of Business (forthcoming), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249; Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, *JAMA* 324(4):388-90 (2020), available at <https://jamanetwork.com/journals/jama/fullarticle/2767630>.

³⁸ See, e.g., Joseph G. Courtney et al., Decreases in Young Children Who Received Blood Lead Level Testing During COVID-19—34 Jurisdictions, *January–May 2020*, *Morb. Mort. Wkly. Rep.* 70(5):155-61 (Feb. 5, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm>; Emily A. Benfer & Lindsay F. Wiley, Health Justice Strategies to Combat COVID-19: Protecting Vulnerable Communities During a Pandemic, *Health Affairs Blog* (Mar. 19, 2020), <https://www.healthaffairs.org/doi/10.1377/hblog20200319.757883/full/>.

³⁹ See, e.g., Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra*

Eligible Public Health Uses. The Fiscal Recovery Funds provide resources to meet and address these emergent public health needs, including through measures to counter the spread of COVID-19, through the provision of care for those impacted by the virus, and through programs or services that address disparities in public health that have been exacerbated by the pandemic. To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding to respond to the COVID-19 public health emergency. Eligible uses listed under this section build and expand upon permissible expenditures under the CRF, while recognizing the differences between the ARPA and CARES Act, and recognizing that the response to the COVID-19 public health emergency has changed and will continue to change over time. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID-19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.

The interim final rule identifies a non-exclusive list of uses that address the effects of the COVID-19 public health emergency, including:

- *COVID-19 Mitigation and Prevention*. A broad range of services and programming are needed to contain COVID-19. Mitigation and prevention efforts for COVID-19 include vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools;⁴⁰ ventilation improvements in

note 38; Nathaniel M. Lewis et al., Disparities in COVID-19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation—Utah, March 3–July 9, 2020, *Morb. Mort. Wkly. Rep.* 69(38):1369-73 (Sept. 25, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm>.

⁴⁰ This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Operational

congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.⁴¹ They also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. These COVID-19 prevention and mitigation programs and services, among others, were eligible expenditures under the CRF and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds.⁴²

- *Medical Expenses*. The COVID-19 public health emergency continues to have devastating effects on public health; the United States continues to average hundreds of deaths per day and the spread of new COVID-19 variants has raised new risks and genomic surveillance needs.⁴³ Moreover, our understanding of the potentially serious and long-term effects of the virus is growing, including the potential for symptoms like shortness of breath to continue for weeks or months, for multi-organ impacts from COVID-19, or for post-intensive care syndrome.⁴⁴ State and local governments may need to continue to provide care and services to address these near- and longer-term needs.⁴⁵

Strategy for K-12 Schools through Phased Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html>.

⁴¹ Many of these expenses were also eligible in the CRF. Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under the ARPA, including those not explicitly listed here (e.g., telemedicine costs, costs to facilitate compliance with public health orders, disinfection of public areas, facilitating distance learning, increased solid waste disposal needs related to PPE, paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions), with the following two exceptions: (1) The standard for eligibility of public health and safety payrolls has been updated (see section II.A of this **SUPPLEMENTARY INFORMATION**) and (2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see discussion of debt service in section II.B of this **SUPPLEMENTARY INFORMATION**).

⁴² Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182 (Jan. 15, 2021), available at <https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register-2021-00827.pdf>.

⁴³ Centers for Disease Control and Prevention, *supra* note 24.

⁴⁴ Centers for Disease Control and Prevention, Long-Term Effects (Apr. 8, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html> (last visited Apr. 26, 2021).

⁴⁵ Pursuant to 42 CFR 433.51 and 45 CFR 75.306, Fiscal Recovery Funds may not serve as a State or locality's contribution of certain Federal funds.

- *Behavioral Health Care.* In addition, new or enhanced State, local, and Tribal government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. These services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

- *Public Health and Safety Staff.* Treasury recognizes that responding to the public health and negative economic impacts of the pandemic, including administering the services described above, requires a substantial commitment of State, local, and Tribal government human resources. As a result, the Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID-19 public health emergency.⁴⁶ Accordingly, the Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID-19 public health emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID-19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on

⁴⁶ In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

the COVID-19 response. Recipients need not routinely track staff hours.

- *Expenses to Improve the Design and Execution of Health and Public Health Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to engage in planning and analysis in order to improve programs addressing the COVID-19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Eligible Uses to Address Disparities in Public Health Outcomes. In addition, in recognition of the disproportionate impacts of the COVID-19 pandemic on health outcomes in low-income and Native American communities and the importance of mitigating these effects, the interim final rule identifies a broader range of services and programs that will be presumed to be responding to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a Qualified Census Tract (QCT),⁴⁷ to families living in QCTs, or when these services are provided by Tribal governments.⁴⁸ Recipients may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the

⁴⁷ Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level.

While QCTs are an effective tool generally, many tribal communities have households with a wide range of income levels due in part to non-tribal member, high income residents living in the community. Mixed income communities, with a significant share of tribal members at the lowest levels of income, are often not included as eligible QCTs yet tribal residents are experiencing disproportionate impacts due to the pandemic. Therefore, including all services provided by Tribal governments is a more effective means of ensuring that disproportionately impacted Tribal members can receive services.

⁴⁸ U.S. Department of Housing and Urban Development (HUD), Qualified Census Tracts and Difficult Development Areas, <https://www.huduser.gov/portal/datasets/qct.html> (last visited Apr. 26, 2021); U.S. Department of the Interior, Bureau of Indian Affairs, Indian Lands of Federally Recognized Tribes of the United States (June 2016), <https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf> (last visited Apr. 26, 2021).

specific populations, households, or geographic areas to be served.

Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs and build healthier environments, such as:

- Funding community health workers to help community members access health services and services to address the social determinants of health;⁴⁹
- Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services;
- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.⁵⁰

2. Responding to Negative Economic Impacts

Impacts on Households and Individuals. The public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote

⁴⁹ The social determinants of health are the social and environmental conditions that affect health outcomes, specifically economic stability, health care access, social context, neighborhoods and built environment, and education access. See, e.g., U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030: Social Determinants of Health, <https://health.gov/healthypeople/objectives-and-data/social-determinants-health> (last visited Apr. 26, 2021).

⁵⁰ National Commission on COVID-19 and Criminal Justice, Impact Report: COVID-19 and Crime (Jan. 31, 2021), <https://covid19.counciloncj.org/2021/01/31/impact-report-covid-19-and-crime-3/> (showing a spike in homicide and assaults); Brad Boesrup et al., Alarming Trends in US domestic violence during the COVID-19 pandemic, *Am. J. of Emerg. Med.* 38(12): 2753-55 (Dec. 1, 2020), available at [https://www.ajemjournal.com/article/S0735-6757\(20\)30307-7/fulltext](https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext) (showing a spike in domestic violence).

education, and travel declined precipitously, over 20 million jobs were lost in March and April 2020.⁵¹

Although many have returned to work, as of April 2021, the economy remains 8.2 million jobs below its pre-pandemic peak,⁵² and more than 3 million workers have dropped out of the labor market altogether relative to February 2020.⁵³

Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United States was 6.1 percent in April 2021, but certain groups saw much higher rates: 9.7 percent for Black workers, 7.9 percent for Hispanic or Latino workers, and 9.3 percent for workers without a high school diploma.⁵⁴ Job losses have also been particularly steep among low wage workers, with these workers remaining furthest from recovery as of the end of 2020.⁵⁵ A severe recession—and its concentrated impact among low-income workers—has amplified food and housing insecurity, with an estimated nearly 17 million adults living in households where there is sometimes or often not enough food to eat and an estimated 10.7 million adults living in households that were not current on rent.⁵⁶ Over the course of the pandemic,

inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without child care during the day.⁵⁷ Women of color have been hit especially hard: The labor force participation rate for Black women has fallen by 3.2 percentage points⁵⁸ during the pandemic as compared to 1.0 percentage points for Black men⁵⁹ and 2.0 percentage points for White women.⁶⁰

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.⁶¹ In addition to the labor market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores⁶² and reduced familial and childhood wellbeing.⁶³

Food, Housing, and Employment Hardships, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and> (last visited May 8, 2021).

⁵¹ Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. See, e.g., Gema Zamorro & Maria J. Prados, Gender differences in couples' division of childcare, work and mental health during COVID-19, *Rev. Econ. Household* 19:11–40 (2021), available at <https://link.springer.com/article/10.1007/s11150-020-09534-7>; Titan Alon et al., The Impact of COVID-19 on Gender Equality, National Bureau of Economic Research Working Paper 26947 (April 2020), available at <https://www.nber.org/papers/w26947>.

⁵² U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Women [LNS11300032], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300032> (last visited May 8, 2021).

⁵³ U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, Black or African American Men [LNS11300031], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300031> (last visited May 8, 2021).

⁵⁴ U.S. Bureau of Labor Statistics, Labor Force Participation Rate—20 Yrs. & Over, White Women [LNS11300029], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNS11300029> (last visited May 8, 2021).

⁵⁵ See, e.g., Michael Greenstone & Adam Looney, Unemployment and Earnings Losses: A Look at Long-Term Impacts of the Great Recession on American Workers, Brookings Institution (Nov. 4, 2021), <https://www.brookings.edu/blog/jobs/2011/11/04/unemployment-and-earnings-losses-a-look-at-long-term-impacts-of-the-great-recession-on-american-workers/>.

⁵⁶ Chi Chi Wu, Solving the Credit Conundrum: Helping Consumers' Credit Records Impaired by the Foreclosure Crisis and Great Recession (Dec. 2013), https://www.nclc.org/images/pdf/credit_reports/report-credit-conundrum-2013.pdf.

⁵⁷ Irwin Garfinkel, Sara McLanahan, Christopher Wimer, eds., *Children of the Great Recession*,

These potential long-term economic consequences underscore the continued need for robust policy support.

Impacts on Businesses. The pandemic has also severely impacted many businesses, with small businesses hit especially hard. Small businesses make up nearly half of U.S. private-sector employment⁶⁴ and play a key role in supporting the overall economic recovery as they are responsible for two-thirds of net new jobs.⁶⁵ Since the beginning of the pandemic, however, 400,000 small businesses have closed, with many more at risk.⁶⁶ Sectors with a large share of small business employment have been among those with the most drastic drops in employment.⁶⁷ The negative outlook for small businesses has continued: As of April 2021, approximately 70 percent of small businesses reported that the pandemic has had a moderate or large negative effect on their business, and over a third expect that it will take over 6 months for their business to return to their normal level of operations.⁶⁸

This negative outlook is likely the result of many small businesses having faced periods of closure and having seen declining revenues as customers stayed home.⁶⁹ In general, small businesses can face greater hurdles in accessing credit,⁷⁰ and many small businesses were already financially fragile at the outset of the pandemic.⁷¹ Non-profits, which provide vital services to communities, have similarly faced

Russell Sage Foundation (Aug. 2016), available at <https://www.russellsage.org/publications/children-great-recession>.

⁶⁴ Board of Governors of the Federal Reserve System, *supra* note 5.

⁶⁵ U.S. Small Business Administration, Office of Advocacy, Small Businesses Generate 44 Percent of U.S. Economic Activity (Jan. 30, 2019), <https://advocacy.sba.gov/2019/01/30/small-businesses-generate-44-percent-of-u-s-economic-activity/>.

⁶⁶ Biden, *supra* note 6.

⁶⁷ Daniel Wilmoth, U.S. Small Business Administration Office of Advocacy, The Effects of the COVID-19 Pandemic on Small Businesses, Issue Brief No. 16 (Mar. 2021), available at <https://cdn.advocacy.sba.gov/wp-content/uploads/2021/03/02112318/COVID-19-Impact-On-Small-Business.pdf>.

⁶⁸ U.S. Census Bureau, Small Business Pulse Survey, <https://portal.census.gov/pulse/data/> (last visited May 8, 2021).

⁶⁹ Olivia S. Kim et al., Revenue Collapses and the Consumption of Small Business Owners in the Early Stages of the COVID-19 Pandemic (Nov. 2020), <https://www.nber.org/papers/w28151>.

⁷⁰ See e.g., Board of Governors of the Federal Reserve System, Report to Congress on the Availability of Credit to Small Businesses (Sept. 2017), available at <https://www.federalreserve.gov/publications/2017-september-availability-of-credit-to-small-businesses.htm>.

⁷¹ Alexander W. Bartik et al., The Impact of COVID-19 on small business outcomes and expectations, PNAS 117(30): 17656–66 (July 28, 2020), available at <https://www.pnas.org/content/117/30/17656>.

⁵¹ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm (PAYEMS), retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PAYEMS> (last visited May 8, 2021).

⁵² *Id.*

⁵³ U.S. Bureau of Labor Statistics, Civilian Labor Force Level (CLF16OV), retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/CLF16OV> (last visited May 8, 2021).

⁵⁴ U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian population by sex and age (May 8 2021), <https://www.bls.gov/news.release/empsit.t01.htm> (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age (May 8, 2021), <https://www.bls.gov/web/empsit/cpseea04.htm> (last visited May 8, 2021); U.S. Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey: Employment status of the civilian noninstitutional population 25 years and over by educational attainment (May 8, 2021), <https://www.bls.gov/web/empsit/cpseea05.htm> (last visited May 8, 2021).

⁵⁵ Elise Gould & Jori Kandra, Wages grew in 2020 because the bottom fell out of the low-wage labor market, Economic Policy Institute (Feb. 24, 2021), <https://files.epi.org/pdf/219418.pdf>. See also, Michael Dalton et al., The K-Shaped Recovery: Examining the Diverging Fortunes of Workers in the Recovery from the COVID-19 Pandemic using Business and Household Survey Microdata, U.S. Bureau of Labor Statistics Working Paper Series (Feb. 2021), <https://www.bls.gov/osmr/research-papers/2021/pdf/ec210020.pdf>.

⁵⁶ Center on Budget and Policy Priorities, Tracking the COVID-19 Recession's Effects on

economic and financial challenges due to the pandemic.⁷²

Impacts to State, Local, and Tribal Governments. State, local, and Tribal governments have felt substantial fiscal pressures. As noted above, State, local, and Tribal governments have faced significant revenue shortfalls and remain over 1 million jobs below their pre-pandemic staffing levels.⁷³ These reductions in staffing may undermine the ability to deliver services effectively, as well as add to the number of unemployed individuals in their jurisdictions.

Exacerbation of Pre-existing Disparities. The COVID-19 public health emergency may have lasting negative effects on economic outcomes, particularly in exacerbating disparities that existed prior to the pandemic.

The negative economic impacts of the COVID-19 pandemic are particularly pronounced in certain communities and families. Low- and moderate-income jobs make up a substantial portion of both total pandemic job losses,⁷⁴ and jobs that require in-person frontline work, which are exposed to greater risk of contracting COVID-19.⁷⁵ Both factors compound pre-existing vulnerabilities and the likelihood of food, housing, or other financial insecurity in low- and moderate-income families and, given the concentration of low- and moderate-income families within certain communities,⁷⁶ raise a substantial risk that the effects of the COVID-19 public health emergency will be amplified within these communities.

These compounding effect of recessions on concentrated poverty and the long-lasting nature of this effect were observed after the 2007–2009 recession, including a large increase in concentrated poverty with the number of people living in extremely poor

neighborhoods more than doubling by 2010–2014 relative to 2000.⁷⁷ Concentrated poverty has a range of deleterious impacts, including additional burdens on families and reduced economic potential and social cohesion.⁷⁸ Given the disproportionate impact of COVID-19 on low-income households discussed above, there is a risk that the current pandemic-induced recession could further increase concentrated poverty and cause long-term damage to economic prospects in neighborhoods of concentrated poverty.

The negative economic impacts of COVID-19 also include significant impacts to children in disproportionately affected families and include impacts to education, health, and welfare, all of which contribute to long-term economic outcomes.⁷⁹ Many low-income and minority students, who were disproportionately served by remote or hybrid education during the pandemic, lacked the resources to participate fully in remote schooling or live in households without adults available throughout the day to assist with online coursework.⁸⁰ Given these trends, the pandemic may widen educational disparities and worsen outcomes for low-income students,⁸¹ an

⁷⁷ Elizabeth Kneebone & Natalie Holmes, U.S. concentrated poverty in the wake of the Great Recession, Brookings Institution (Mar. 31, 2016), <https://www.brookings.edu/research/u-s-concentrated-poverty-in-the-wake-of-the-great-recession/>.

⁷⁸ David Erickson et al., The Enduring Challenge of Concentrated Poverty in America: Case Studies from Communities Across the U.S. (2008), available at https://www.frbsf.org/community-development/files/cp_fullreport.pdf.

⁷⁹ Educational quality, as early as Kindergarten, has a long-term impact on children's public health and economic outcomes. See, e.g., Tyler W. Watts et al., The Chicago School Readiness Project: Examining the long-term impacts of an early childhood intervention, *PLoS ONE* 13(7) (2018), available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0200144>; Opportunity Insights, How Can We Amplify Education as an Engine of Mobility? Using big data to help children get the most from school, <https://opportunityinsights.org/education/> (last visited Apr. 26, 2021); U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Early Childhood Development and Education, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/early-childhood-development-and-education> (last visited Apr. 26, 2021).

⁸⁰ See, e.g., Bacher-Hicks, *supra* note 14.

⁸¹ A Department of Education survey found that, as of February 2021, 42 percent of fourth grade students nationwide were offered only remote education, compared to 48 percent of economically disadvantaged students, 54 percent of Black students and 57 percent of Hispanic students. Large districts often disproportionately serve low-income students. See Institute of Education Sciences, Monthly School Survey Dashboard, <https://ies.ed.gov/schoolsurvey/> (last visited Apr. 26, 2021). In summer 2020, a review found that 74 percent of the largest 100 districts chose remote learning only.

effect that would substantially impact their long-term economic outcomes. Increased economic strain or material hardship due to the pandemic could also have a long-term impact on health, educational, and economic outcomes of young children.⁸² Evidence suggests that adverse conditions in early childhood, including exposure to poverty, food insecurity, housing insecurity, or other economic hardships, are particularly impactful.⁸³

The pandemic's disproportionate economic impacts are also seen in Tribal communities across the country—for Tribal governments as well as families and businesses on and off Tribal lands. In the early months of the pandemic, Native American unemployment spiked to 26 percent and, while partially recovered, remains at nearly 11 percent.⁸⁴ Tribal enterprises are a significant source of revenue for Tribal governments to support the provision of government services. These enterprises, notably concentrated in gaming, tourism, and hospitality, frequently closed, significantly reducing both revenues to Tribal governments and employment. As a result, Tribal governments have reduced essential services to their citizens and communities.⁸⁵

Eligible Uses. Sections 602(c)(1)(A) and 603(c)(1)(A) permit use of payments from the Fiscal Recovery Funds to respond to the negative economic impacts of the COVID-19 public health emergency. Eligible uses that respond to the negative economic impacts of the public health emergency must be designed to address an economic harm resulting from or exacerbated by the public health emergency. In considering whether a program or service would be

See Education Week, School Districts' Reopening Plans: A Snapshot (Jul. 15, 2020), <https://www.edweek.org/leadership/school-districts-reopening-plans-a-snapshot/2020/07> (last visited May 4, 2021).

⁸² HHS, *supra* note 79.

⁸³ Hirokazu Yoshikawa, Effects of the Global Coronavirus Disease—2019 Pandemic on Early Childhood Development: Short- and Long-Term Risks and Mitigating Program and Policy Actions, *J. of Pediatrics* Vol. 223:188–93 (Aug. 1, 2020), available at [https://www.jpeds.com/article/S0022-3476\(20\)30606-5/abstract](https://www.jpeds.com/article/S0022-3476(20)30606-5/abstract).

⁸⁴ Based on calculations conducted by the Minneapolis Fed's Center for Indian Country Development using Flood et al. (2020)'s Current Population Survey. Sarah Flood, Miriam King, Renae Rodgers, Steven Ruggles and J. Robert Warren, Integrated Public Use Microdata Series, Current Population Survey: Version 8.0 [dataset]. Minneapolis, MN: IPUMS, 2020. <https://doi.org/10.18128/D030.V8.0>; see also Donna Feir & Charles Golding, Native Employment During COVID-19: Hard hit in April but Starting to Rebound? (Aug. 5, 2020), <https://www.minneapolisfed.org/article/2020/native-employment-during-covid-19-hit-hard-in-april-but-starting-to-rebound>.

⁸⁵ Moreno & Sobrepena, *supra* note 73.

⁷² Federal Reserve Bank of San Francisco, Impacts of COVID-19 on Nonprofits in the Western United States (May 2020), <https://www.frbsf.org/community-development/files/impact-of-covid-nonprofits-serving-western-united-states.pdf>.

⁷³ Bureau of Labor Statistics, *supra* note 8; Elijah Moreno & Heather Sobrepena, Tribal entities remain resilient as COVID-19 batters their finances, Federal Reserve Bank of Minneapolis (Nov. 10, 2021), <https://www.minneapolisfed.org/article/2020/tribal-entities-remain-resilient-as-covid-19-batters-their-finances>.

⁷⁴ Kim Parker et al., Economic Fallout from COVID-19 Continues to Hit Lower-Income Americans the Hardest, Pew Research Center (Sept. 24, 2020), <https://www.pewresearch.org/social-trends/2020/09/24/economic-fallout-from-covid-19-continues-to-hit-lower-income-americans-the-hardest/>; Gould, *supra* note 55.

⁷⁵ See *infra* Section II.B of this Supplementary Information.

⁷⁶ Elizabeth Kneebone, The Changing geography of US poverty, Brookings Institution (Feb. 15, 2017), <https://www.brookings.edu/testimonies/the-changing-geography-of-us-poverty/>.

eligible under this category, the recipient should assess whether, and the extent to which, there has been an economic harm, such as loss of earnings or revenue, that resulted from the COVID-19 public health emergency and whether, and the extent to which, the use would respond or address this harm.⁸⁶ A recipient should first consider whether an economic harm exists and whether this harm was caused or made worse by the COVID-19 public health emergency. While economic impacts may either be immediate or delayed, assistance or aid to individuals or businesses that did not experience a negative economic impact from the public health emergency would not be an eligible use under this category.

In addition, the eligible use must “respond to” the identified negative economic impact. Responses must be related and reasonably proportional to the extent and type of harm experienced; uses that bear no relation or are grossly disproportionate to the type or extent of harm experienced would not be eligible uses. Where there has been a negative economic impact resulting from the public health emergency, States, local, and Tribal governments have broad latitude to choose whether and how to use the Fiscal Recovery Funds to respond to and address the negative economic impact. Sections 602(c)(1)(A) and 603(c)(1)(A) describe several types of uses that would be eligible under this category, including assistance to households, small businesses, and nonprofits and aid to impacted industries such as tourism, travel, and hospitality.

To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding that respond to the negative economic impacts of the public health emergency. Consistent with the discussion above, the eligible uses listed below would respond directly to the economic or financial harms resulting from and/or exacerbated by the public health emergency.

- *Assistance to Unemployed Workers.* This includes assistance to unemployed workers, including services like job training to accelerate rehiring of unemployed workers; these services may extend to workers unemployed due to the pandemic or the resulting recession, or who were already unemployed when the pandemic began

and remain so due to the negative economic impacts of the pandemic.

- *State Unemployment Insurance Trust Funds.* Consistent with the approach taken in the CRF, recipients may make deposits into the state account of the Unemployment Trust Fund established under section 904 of the Social Security Act (42 U.S.C. 1104) up to the level needed to restore the pre-pandemic balances of such account as of January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021, given the close nexus between Unemployment Trust Fund costs, solvency of Unemployment Trust Fund systems, and pandemic economic impacts. Further, Unemployment Trust Fund deposits can decrease fiscal strain on Unemployment Insurance systems impacted by the pandemic. States facing a sharp increase in Unemployment Insurance claims during the pandemic may have drawn down positive Unemployment Trust Fund balances and, after exhausting the balance, required advances to fund continuing obligations to claimants. Because both of these impacts were driven directly by the need for assistance to unemployed workers during the pandemic, replenishing Unemployment Trust Funds up to the pre-pandemic level responds to the pandemic’s negative economic impacts on unemployed workers.

- *Assistance to Households.* Assistance to households or populations facing negative economic impacts due to COVID-19 is also an eligible use. This includes: Food assistance; rent, mortgage, or utility assistance; counseling and legal aid to prevent eviction or homelessness; cash assistance (discussed below); emergency assistance for burials, home repairs, weatherization, or other needs; internet access or digital literacy assistance; or job training to address negative economic or public health impacts experienced due to a worker’s occupation or level of training. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic. In assessing whether a household or population experienced economic harm as a result of the pandemic, a recipient may presume that a household or population that experienced unemployment or increased food or housing insecurity or is low- or moderate-income experienced negative

economic impacts resulting from the pandemic. For example, a cash transfer program may focus on unemployed workers or low- and moderate-income families, which have faced disproportionate economic harms due to the pandemic. Cash transfers must be reasonably proportional to the negative economic impact they are intended to address. Cash transfers grossly in excess of the amount needed to address the negative economic impact identified by the recipient would not be considered to be a response to the COVID-19 public health emergency or its negative impacts. In particular, when considering the appropriate size of permissible cash transfers made in response to the COVID-19 public health emergency, State, local and Tribal governments may consider and take guidance from the per person amounts previously provided by the Federal Government in response to the COVID-19 crisis. Cash transfers that are grossly in excess of such amounts would be outside the scope of eligible uses under sections 602(c)(1)(A) and 603(c)(1)(A) and could be subject to recoupment. In addition, a recipient could provide survivor’s benefits to surviving family members of COVID-19 victims, or cash assistance to widows, widowers, and dependents of eligible COVID-19 victims.

- *Expenses to Improve Efficacy of Economic Relief Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to improve efficacy of programs addressing negative economic impacts, including through use of data analysis, targeted consumer outreach, improvements to data or technology infrastructure, and impact evaluations.

- *Small Businesses and Non-profits.* As discussed above, small businesses and non-profits faced significant challenges in covering payroll, mortgages or rent, and other operating costs as a result of the public health emergency and measures taken to contain the spread of the virus. State, local, and Tribal governments may provide assistance to small businesses to adopt safer operating procedures, weather periods of closure, or mitigate financial hardship resulting from the COVID-19 public health emergency, including:

- Loans or grants to mitigate financial hardship such as declines in revenues or impacts of periods of business closure, for example by supporting payroll and benefits costs, costs to retain employees, mortgage, rent, or utilities costs, and other operating costs;
- Loans, grants, or in-kind assistance to implement COVID-19 prevention or mitigation tactics, such as physical

⁸⁶ In some cases, a use may be permissible under another eligible use category even if it falls outside the scope of section (c)(1)(A) of the Act.

plant changes to enable social distancing, enhanced cleaning efforts, barriers or partitions, or COVID-19 vaccination, testing, or contact tracing programs; and

- Technical assistance, counseling, or other services to assist with business planning needs.

As discussed above, these services should respond to the negative economic impacts of COVID-19. Recipients may consider additional criteria to target assistance to businesses in need, including small businesses. Such criteria may include businesses facing financial insecurity, substantial declines in gross receipts (e.g., comparable to measures used to assess eligibility for the Paycheck Protection Program), or other economic harm due to the pandemic, as well as businesses with less capacity to weather financial hardship, such as the smallest businesses, those with less access to credit, or those serving disadvantaged communities. Recipients should consider local economic conditions and business data when establishing such criteria.⁸⁷

- *Rehiring State, Local, and Tribal Government Staff.* State, local, and Tribal governments continue to see pandemic impacts in overall staffing levels: State, local, and Tribal government employment remains more than 1 million jobs lower in April 2021 than prior to the pandemic.⁸⁸ Employment losses decrease a state or local government's ability to effectively administer services. Thus, the interim final rule includes as an eligible use payroll, covered benefits, and other costs associated with rehiring public sector staff, up to the pre-pandemic staffing level of the government.

- *Aid to Impacted Industries.* Sections 602(c)(1)(A) and 603(c)(1)(A) recognize that certain industries, such as tourism, travel, and hospitality, were disproportionately and negatively impacted by the COVID-19 public health emergency. Aid provided to tourism, travel, and hospitality industries should respond to the negative economic impacts of the

pandemic on those and similarly impacted industries. For example, aid may include assistance to implement COVID-19 mitigation and infection prevention measures to enable safe resumption of tourism, travel, and hospitality services, for example, improvements to ventilation, physical barriers or partitions, signage to facilitate social distancing, provision of masks or personal protective equipment, or consultation with infection prevention professionals to develop safe reopening plans.

Aid may be considered responsive to the negative economic impacts of the pandemic if it supports businesses, attractions, business districts, and Tribal development districts operating prior to the pandemic and affected by required closures and other efforts to contain the pandemic. For example, a recipient may provide aid to support safe reopening of businesses in the tourism, travel, and hospitality industries and to business districts that were closed during the COVID-19 public health emergency, as well as aid for a planned expansion or upgrade of tourism, travel, and hospitality facilities delayed due to the pandemic.

When considering providing aid to industries other than tourism, travel, and hospitality, recipients should consider the extent of the economic impact as compared to tourism, travel, and hospitality, the industries enumerated in the statute. For example, on net, the leisure and hospitality industry has experienced an approximately 24 percent decline in revenue and approximately 17 percent decline in employment nationwide due to the COVID-19 public health emergency.⁸⁹ Recipients should also consider whether impacts were due to the COVID-19 pandemic, as opposed to longer-term economic or industrial trends unrelated to the pandemic.

To facilitate transparency and accountability, the interim final rule requires that State, local, and Tribal governments publicly report assistance provided to private-sector businesses under this eligible use, including

tourism, travel, hospitality, and other impacted industries, and its connection to negative economic impacts of the pandemic. Recipients also should maintain records to support their assessment of how businesses or business districts receiving assistance were affected by the negative economic impacts of the pandemic and how the aid provided responds to these impacts.

As discussed above, economic disparities that existed prior to the COVID-19 public health emergency amplified the impact of the pandemic among low-income and minority groups. These families were more likely to face housing, food, and financial insecurity; are over-represented among low-wage workers; and many have seen their livelihoods deteriorate further during the pandemic and economic contraction. In recognition of the disproportionate negative economic impacts on certain communities and populations, the interim final rule identifies services and programs that will be presumed to be responding to the negative economic impacts of the COVID-19 public health emergency when provided in these communities.

Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a QCT, to families and individuals living in QCTs, or when these services are provided by Tribal governments.⁹⁰ Recipients may also provide these services to other populations, households, or geographic areas disproportionately impacted by the pandemic. In identifying these disproportionately impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the specific populations, households, or geographic areas to be served. The interim final rule identifies a non-exclusive list of uses that address the disproportionate negative economic effects of the COVID-19 public health emergency, including:

- *Building Stronger Communities through Investments in Housing and Neighborhoods.* The economic impacts of COVID-19 have likely been most acute in lower-income neighborhoods, including concentrated areas of high unemployment, limited economic opportunity, and housing insecurity.⁹¹

⁸⁷ See Federal Reserve Bank of Cleveland, An Uphill Battle: COVID-19's Outsized Toll on Minority-Owned Firms (Oct. 8, 2020), <https://www.clevelandfed.org/newsroom-and-events/publications/community-development-briefs/db-20201008-misera-report.aspx> (discussing the impact of COVID-19 on minority owned businesses).

⁸⁸ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited May 8, 2021).

⁸⁹ From February 2020 to April 2021, employment in "Leisure and hospitality" has fallen by approximately 17 percent. See U.S. Bureau of Labor Statistics, All Employees, Leisure and Hospitality, retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/USLAH> (last visited May 8, 2021). From 2019Q4 to 2020Q4, gross output (e.g. revenue) in arts, entertainment, recreation, accommodation, and food services has fallen by approximately 24 percent. See Bureau of Economic Analysis, News Release: Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, Fourth Quarter and Year 2020 (Mar. 25, 2021), Table 17, https://www.bea.gov/sites/default/files/2021-03/gdp4q20_3rd.pdf.

⁹⁰ HUD, *supra* note 48.

⁹¹ Stuart M. Butler & Jonathan Grabinsky, Tackling the legacy of persistent urban inequality and concentrated poverty, Brookings Institution (Nov. 16, 2020), <https://www.brookings.edu/blog/up-front/2020/11/16/tackling-the-legacy-of->

Services in this category alleviate the immediate economic impacts of the COVID-19 pandemic on housing insecurity, while addressing conditions that contributed to poor public health and economic outcomes during the pandemic, namely concentrated areas with limited economic opportunity and inadequate or poor-quality housing.⁹² Eligible services include:

- Services to address homelessness such as supportive housing, and to improve access to stable, affordable housing among unhoused individuals;
- Affordable housing development to increase supply of affordable and high-quality living units; and
- Housing vouchers, residential counseling, or housing navigation assistance to facilitate household moves to neighborhoods with high levels of economic opportunity and mobility for low-income residents, to help residents increase their economic opportunity and reduce concentrated areas of low economic opportunity.⁹³

- *Addressing Educational Disparities.* As outlined above, school closures and the transition to remote education raised particular challenges for lower-income students, potentially exacerbating educational disparities, while increases in economic hardship among families could have long-lasting impacts on children's educational and economic prospects. Services under this prong would enhance educational supports to help mitigate impacts of the pandemic. Eligible services include:

- New, expanded, or enhanced early learning services, including pre-kindergarten, Head Start, or partnerships between pre-kindergarten programs and local education authorities, or administration of those services;
- Providing assistance to high-poverty school districts to advance equitable funding across districts and geographies;
- Evidence-based educational services and practices to address the academic needs of students, including tutoring, summer, afterschool, and other

persistent-urban-inequality-and-concentrated-poverty/.

⁹² U.S. Department of Health and Human Services (HHS), Office of Disease Prevention and Health Promotion, Quality of Housing, <https://www.healthypeople.gov/2020/topics-objectives/topic/social-determinants-health/interventions-resources/quality-of-housing#11> (last visited Apr. 26, 2021).

⁹³ The Opportunity Atlas, <https://www.opportunityatlas.org/> (last visited Apr. 26, 2021); Raj Chetty & Nathaniel Hendren, The Impacts of Neighborhoods on Intergenerational Mobility I: Childhood Exposure Effects, Quarterly J. of Econ. 133(3):1107–162 (2018), available at <https://opportunityinsights.org/paper/neighborhoodsi/>.

⁹⁴ See *supra* notes 52 and 84.

extended learning and enrichment programs; and

- Evidence-based practices to address the social, emotional, and mental health needs of students;

- *Promoting Healthy Childhood Environments.* Children's economic and family circumstances have a long-term impact on their future economic outcomes.⁹⁴ Increases in economic hardship, material insecurity, and parental stress and behavioral health challenges all raise the risk of long-term harms to today's children due to the pandemic. Eligible services to address this challenge include:

- New or expanded high-quality childcare to provide safe and supportive care for children;

- Home visiting programs to provide structured visits from health, parent educators, and social service professionals to pregnant women or families with young children to offer education and assistance navigating resources for economic support, health needs, or child development; and

- Enhanced services for child welfare-involved families and foster youth to provide support and training on child development, positive parenting, coping skills, or recovery for mental health and substance use challenges.

State, local, and Tribal governments are encouraged to use payments from the Fiscal Recovery Funds to respond to the direct and immediate needs of the pandemic and its negative economic impacts and, in particular, the needs of households and businesses that were disproportionately and negatively impacted by the public health emergency. As highlighted above, low-income communities and workers and people of color have faced more severe health and economic outcomes during the pandemic, with pre-existing social vulnerabilities like low-wage or insecure employment, concentrated neighborhoods with less economic opportunity, and pre-existing health disparities likely contributing to the magnified impact of the pandemic. The Fiscal Recovery Funds provide resources to not only respond to the immediate harms of the pandemic but also to mitigate its longer-term impact in compounding the systemic public health and economic challenges of disproportionately impacted populations. Treasury encourages recipients to consider funding uses that foster a strong, inclusive, and equitable recovery, especially uses with long-term benefits for health and economic outcomes.

Uses Outside the Scope of this Category. Certain uses would not be within the scope of this eligible use category, although may be eligible under other eligible use categories. A general infrastructure project, for example, typically would not be included unless the project responded to a specific pandemic public health need (e.g., investments in facilities for the delivery of vaccines) or a specific negative economic impact like those described above (e.g., affordable housing in a QCT). The ARPA explicitly includes infrastructure if it is "necessary" and in water, sewer, or broadband. See Section II.D of this **SUPPLEMENTARY INFORMATION**. State, local, and Tribal governments also may use the Fiscal Recovery Funds under sections 602(c)(1)(C) or 603(c)(1)(C) to provide "government services" broadly to the extent of their reduction in revenue. See Section II.C of this **SUPPLEMENTARY INFORMATION**.

This category of eligible uses also would not include contributions to rainy day funds, financial reserves, or similar funds. Resources made available under this eligible use category are intended to help meet pandemic response needs and provide relief for households and businesses facing near- and long-term negative economic impacts. Contributions to rainy day funds and similar financial reserves would not address these needs or respond to the COVID-19 public health emergency but would rather constitute savings for future spending needs. Similarly, this eligible use category would not include payment of interest or principal on outstanding debt instruments, including, for example, short-term revenue or tax anticipation notes, or other debt service costs. As discussed below, payments from the Fiscal Recovery Funds are intended to be used prospectively and the interim final rule precludes use of these funds to cover the costs of debt incurred prior to March 3, 2021. Fees or issuance costs associated with the issuance of new debt would also not be covered using payments from the Fiscal Recovery Funds because such costs would not themselves have been incurred to address the needs of pandemic response or its negative economic impacts. The purpose of the Fiscal Recovery Funds is to provide fiscal relief that will permit State, local, and Tribal governments to continue to respond to the COVID-19 public health emergency.

For the same reasons, this category of eligible uses would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring

plan in a judicial, administrative, or regulatory proceeding, except to the extent the judgment or settlement requires the provision of services that would respond to the COVID-19 public health emergency. That is, satisfaction of a settlement or judgment would not itself respond to COVID-19 with respect to the public health emergency or its negative economic impacts, unless the settlement requires the provision of services or aid that did directly respond to these needs, as described above.

In addition, as described in Section V.III of this **SUPPLEMENTARY INFORMATION**, Treasury will establish reporting and record keeping requirements for uses within this category, including enhanced reporting requirements for certain types of uses.

Question 1: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the public health impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 2: The interim final rule permits coverage of payroll and benefits costs of public health and safety staff primarily dedicated to COVID-19 response, as well as rehiring of public sector staff up to pre-pandemic levels. For how long should these measures remain in place? What other measures or presumptions might Treasury consider to assess the extent to which public sector staff are engaged in COVID-19 response, and therefore reimbursable, in an easily-administrable manner?

Question 3: The interim final rule permits rehiring of public sector staff up to the government's pre-pandemic staffing level, which is measured based on employment as of January 27, 2020. Does this approach adequately measure the pre-pandemic staffing level in a manner that is both accurate and easily administrable? Why or why not?

Question 4: The interim final rule permits deposits to Unemployment Insurance Trust Funds, or using funds to pay back advances, up to the pre-pandemic balance. What, if any, conditions should be considered to ensure that funds repair economic impacts of the pandemic and strengthen unemployment insurance systems?

Question 5: Are there other types of services or costs that Treasury should consider as eligible uses to respond to the negative economic impacts of COVID-19? Describe how these respond to the COVID-19 public health emergency.

Question 6: What other measures, presumptions, or considerations could be used to assess "impacted industries"

affected by the COVID-19 public health emergency?

Question 7: What are the advantages and disadvantages of using Qualified Census Tracts and services provided by Tribal governments to delineate where a broader range of eligible uses are presumed to be responsive to the public health and economic impacts of COVID-19? What other measures might Treasury consider? Are there other populations or geographic areas that were disproportionately impacted by the pandemic that should be explicitly included?

Question 8: Are there other services or costs that Treasury should consider as eligible uses to respond to the disproportionate impacts of COVID-19 on low-income populations and communities? Describe how these respond to the COVID-19 public health emergency or its negative economic impacts, including its exacerbation of pre-existing challenges in these areas.

Question 9: The interim final rule includes eligible uses to support affordable housing and stronger neighborhoods in disproportionately-impacted communities. Discuss the advantages and disadvantages of explicitly including other uses to support affordable housing and stronger neighborhoods, including rehabilitation of blighted properties or demolition of abandoned or vacant properties. In what ways does, or does not, this potential use address public health or economic impacts of the pandemic? What considerations, if any, could support use of Fiscal Recovery Funds in ways that do not result in resident displacement or loss of affordable housing units?

B. Premium Pay

Fiscal Recovery Funds payments may be used by recipients to provide premium pay to eligible workers performing essential work during the COVID-19 public health emergency or to provide grants to third-party employers with eligible workers performing essential work.⁹⁵ These are workers who have been and continue to be relied on to maintain continuity of operations of essential critical infrastructure sectors, including those who are critical to protecting the health and wellbeing of their communities.

Since the start of the COVID-19 public health emergency in January 2020, essential workers have put their physical wellbeing at risk to meet the daily needs of their communities and to provide care for others. In the course of this work, many essential workers have

contracted or died of COVID-19.⁹⁶ Several examples reflect the severity of the health impacts for essential workers. Meat processing plants became "hotspots" for transmission, with 700 new cases reported at a single plant on a single day in May 2020.⁹⁷ In New York City, 120 employees of the Metropolitan Transit Authority were estimated to have died due to COVID-19 by mid-May 2020, with nearly 4,000 testing positive for the virus.⁹⁸ Furthermore, many essential workers are people of color or low-wage workers.⁹⁹ These workers, in particular, have borne a disproportionate share of the health and economic impacts of the pandemic. Such workers include:

- Staff at nursing homes, hospitals, and home care settings;
- Workers at farms, food production facilities, grocery stores, and restaurants;
- Janitors and sanitation workers;
- Truck drivers, transit staff, and warehouse workers;
- Public health and safety staff;
- Childcare workers, educators, and other school staff; and
- Social service and human services staff.

During the public health emergency, employers' policies on COVID-19-related hazard pay have varied widely, with many essential workers not yet compensated for the heightened risks they have faced and continue to face.¹⁰⁰

⁹⁶ See, e.g., Centers for Disease Control and Prevention, COVID Data Tracker: Cases & Death among Healthcare Personnel, <https://covid.cdc.gov/covid-data-tracker/#health-care-personnel> (last visited May 4, 2021); Centers for Disease Control and Prevention, COVID Data Tracker: Confirmed COVID-19 Cases and Deaths among Staff and Rate per 1,000 Resident-Weeks in Nursing Homes, by Week—United States, <https://covid.cdc.gov/covid-data-tracker/#nursing-home-staff> (last visited May 4, 2021).

⁹⁷ See, e.g., The Lancet, The plight of essential workers during the COVID-19 pandemic, Vol. 395, Issue 10237:1587 (May 23, 2020), available at <https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2931200-9/fulltext>.

⁹⁸ *Id.*

⁹⁹ Joanna Gaitens et al., Covid-19 and essential workers: A narrative review of health outcomes and moral injury, *Int'l J. of Env'tl. Research and Pub. Health* 18(4):1446 (Feb. 4, 2021), available at <https://pubmed.ncbi.nlm.nih.gov/33557075/>; Tiana N. Rogers et al., Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States, *World Med. & Health policy* 12(3):311-27 (Aug. 5, 2020), available at <https://onlinelibrary.wiley.com/doi/full/10.1002/wmh3.358> (finding that vulnerability to coronavirus exposure was increased among non-Hispanic blacks, who disproportionately occupied the top nine essential occupations).

¹⁰⁰ Economic Policy Institute, Only 30% of those working outside their home are receiving hazard pay (June 16, 2020), <https://www.epi.org/press/only-30-of-those-working-outside-their-home-are-receiving-hazard-pay-black-and-hispanic-workers-are-most-concerned-about-bringing-the-coronavirus-home/>.

⁹⁵ Sections 602(c)(1)(B), 603(c)(1)(B) of the Act.

Many of these workers earn lower wages on average and live in socioeconomically vulnerable communities as compared to the general population.¹⁰¹ A recent study found that 25 percent of essential workers were estimated to have low household income, with 13 percent in high-risk households.¹⁰² The low pay of many essential workers makes them less able to cope with the financial consequences of the pandemic or their work-related health risks, including working hours lost due to sickness or disruptions to childcare and other daily routines, or the likelihood of COVID-19 spread in their households or communities. Thus, the threats and costs involved with maintaining the ongoing operation of vital facilities and services have been, and continue to be, borne by those that are often the most vulnerable to the pandemic. The added health risk to essential workers is one prominent way in which the pandemic has amplified pre-existing socioeconomic inequities.

The Fiscal Recovery Funds will help respond to the needs of essential workers by allowing recipients to remunerate essential workers for the elevated health risks they have faced and continue to face during the public health emergency. To ensure that premium pay is targeted to workers that faced or face heightened risks due to the character of their work, the interim final rule defines essential work as work involving regular in-person interactions or regular physical handling of items that were also handled by others. A worker would not be engaged in essential work and, accordingly may not receive premium pay, for telework performed from a residence.

Sections 602(g)(2) and 603(g)(2) define eligible worker to mean “those workers needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as each Governor of a State or territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, territory, or Tribal government.”¹⁰³ The rule incorporates this definition and provides a list of industries recognized as essential critical infrastructure sectors.¹⁰⁴ These sectors include healthcare, public health and safety, childcare, education, sanitation, transportation, and food production and services, among others

as noted above. As provided under sections 602(g)(2) and 603(g)(2), the chief executive of each recipient has discretion to add additional sectors to this list, so long as additional sectors are deemed critical to protect the health and well-being of residents.

In providing premium pay to essential workers or grants to eligible employers, a recipient must consider whether the pay or grant would “respond to” to the worker or workers performing essential work. Premium pay or grants provided under this section respond to workers performing essential work if it addresses the heightened risk to workers who must be physically present at a jobsite and, for many of whom, the costs associated with illness were hardest to bear financially. Many of the workers performing critical essential services are low- or moderate-income workers, such as those described above. The ARPA recognizes this by defining premium pay to mean an amount up to \$13 per hour in addition to wages or remuneration the worker otherwise receives and in an aggregate amount not to exceed \$25,000 per eligible worker. To ensure the provision is implemented in a manner that compensates these workers, the interim final rule provides that any premium pay or grants provided using the Fiscal Recovery Funds should prioritize compensation of those lower income eligible workers that perform essential work.

As such, providing premium pay to eligible workers responds to such workers by helping address the disparity between the critical services and risks taken by essential workers and the relatively low compensation they tend to receive in exchange. If premium pay would increase a worker’s total pay above 150 percent of their residing state’s average annual wage for all occupations, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, or their residing county’s average annual wage, as defined by the Bureau of Labor Statistics’ Occupational Employment and Wage Statistics, whichever is higher, on an annual basis, the State, local, or Tribal government must provide Treasury and make publicly available, whether for themselves or on behalf of a grantee, a written justification of how the premium pay or grant is responsive to workers performing essential worker during the public health emergency.¹⁰⁵

The threshold of 150 percent for requiring additional written justification is based on an analysis of the distribution of labor income for a sample of 20 occupations that generally correspond to the essential workers as defined in the interim final rule.¹⁰⁶ For these occupations, labor income for the vast majority of workers was under 150 percent of average annual labor income across all occupations. Treasury anticipates that the threshold of 150 percent of the annual average wage will be greater than the annual average wage of the vast majority of eligible workers performing essential work. These enhanced reporting requirements help to ensure grants are directed to essential workers in critical infrastructure sectors and responsive to the impacts of the pandemic observed among essential workers, namely the mis-alignment between health risks and compensation. Enhanced reporting also provides transparency to the public. Finally, using a localized measure reflects differences in wages and cost of living across the country, making this standard administrable and reflective of essential worker incomes across a diverse range of geographic areas.

Furthermore, because premium pay is intended to compensate essential workers for heightened risk due to COVID-19, it must be entirely additive to a worker’s regular rate of wages and other remuneration and may not be used to reduce or substitute for a worker’s normal earnings. The definition of premium pay also clarifies that premium pay may be provided retrospectively for work performed at any time since the start of the COVID-19 public health emergency, where those workers have yet to be compensated adequately for work previously performed.¹⁰⁷ Treasury encourages recipients to prioritize providing retrospective premium pay where possible, recognizing that many essential workers have not yet received additional compensation for work conducted over the course of many

of Labor Statistics, May 2020 Metropolitan and Nonmetropolitan Area Estimates listed by county or town, https://www.bls.gov/oes/current/county_links.htm (last visited May 1, 2021).

¹⁰⁶ Treasury performed this analysis with data from the U.S. Census Bureau’s 2019 Annual Social and Economic Supplement. In determining which occupations to include in this analysis, Treasury excluded management and supervisory positions, as such positions may not necessarily involve regular in-person interactions or physical handling of items to the same extent as non-managerial positions.

¹⁰⁷ However, such compensation must be “in addition to” remuneration or wages already received. That is, employers may not reduce such workers’ current pay and use Fiscal Recovery Funds to compensate themselves for premium pay previously provided to the worker.

¹⁰¹ McCormack, *supra* note 37.

¹⁰² *Id.*

¹⁰³ Sections 602(g)(2), 603(g)(2) of the Act.

¹⁰⁴ The list of critical infrastructure sectors provided in the interim final rule is based on the list of essential workers under The Heroes Act, H.R. 6800, 116th Cong. (2020).

¹⁰⁵ County median annual wage is taken to be that of the metropolitan or nonmetropolitan area that includes the county. See U.S. Bureau of Labor Statistics, State Occupational Employment and Wage Estimates, <https://www.bls.gov/oes/current/oesrscst.htm> (last visited May 1, 2021); U.S. Bureau

months. Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. See Section VIII of this **SUPPLEMENTARY INFORMATION**, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the interim final rule and discussed above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the interim final rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.¹⁰⁸ Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same

period 2019.¹⁰⁹ At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021.¹¹⁰ Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.¹¹¹ These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID-19 pandemic and help citizens weather the economic downturn.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007-2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.¹¹² Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,¹¹³ while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019—just a few months before the COVID-19 public health emergency began.¹¹⁴

¹⁰⁹ Major sources include personal income tax, corporate income tax, sales tax, and property tax. See Lucy Dadayan, States Reported Revenue Growth in July-September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), available at https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3_0.pdf.

¹¹⁰ National League of Cities, City Fiscal Conditions (2020), available at https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf.

¹¹¹ Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. See Moreno & Sobrepena, *supra* note 73.

¹¹² See, e.g., Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), available at <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

¹¹³ State and local government general revenue from own sources, adjusted for inflation using the GDP price index. U.S. Census Bureau, Annual Survey of State Government Finances and U.S. Bureau of Economic Analysis, National Income and Product Accounts.

¹¹⁴ U.S. Bureau of Labor Statistics, All Employees, State Government [CES9092000001] and All Employees, Local Government [CES9093000001],

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act allow recipients facing budget shortfalls to use payments from the Fiscal Recovery Funds to avoid cuts to government services and, thus, enable State, local, and Tribal governments to continue to provide valuable services and ensure that fiscal austerity measures do not hamper the broader economic recovery. The interim final rule implements these provisions by establishing a definition of "general revenue" for purposes of calculating a loss in revenue and by providing a methodology for calculating revenue lost due to the COVID-19 public health emergency.

General Revenue. The interim final rule adopts a definition of "general revenue" based largely on the components reported under "General Revenue from Own Sources" in the Census Bureau's Annual Survey of State and Local Government Finances, and for purposes of this interim final rule, helps to ensure that the components of general revenue would be calculated in a consistent manner.¹¹⁵ By relying on a methodology that is both familiar and comprehensive, this approach minimizes burden to recipients and provides consistency in the measurement of general revenue across a diverse set of recipients.

The interim final rule defines the term "general revenue" to include revenues collected by a recipient and generated from its underlying economy and would capture a range of different types of tax revenues, as well as other types of revenue that are available to support government services.¹¹⁶ In calculating revenue, recipients should sum across all revenue streams covered as general revenue. This approach minimizes the administrative burden for recipients, provides for greater consistency across recipients, and presents a more accurate representation of the overall impact of

retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/CES9092000001> and <https://fred.stlouisfed.org/series/CES9093000001> (last visited Apr. 27, 2021).

¹¹⁵ U.S. Census Bureau, Annual Survey of State and Local Government Finances, <https://www.census.gov/programs-surveys/gov-finances.html> (last visited Apr. 30, 2021).

¹¹⁶ The interim final rule would define tax revenue in a manner consistent with the Census Bureau's definition of tax revenue, with certain changes (*i.e.*, inclusion of revenue from liquor stores and certain intergovernmental transfers). Current charges are defined as "charges imposed for providing current services or for the sale of products in connection with general government activities." It includes revenues such as public education institution, public hospital, and toll revenues. Miscellaneous general revenue comprises of all other general revenue of governments from their own sources (*i.e.*, other than liquor store, utility, and insurance trust revenue), including rents, royalties, lottery proceeds, and fines.

¹⁰⁸ ARPA, *supra* note 16.

the COVID-19 public health emergency on a recipient's revenue, rather than relying on financial reporting prepared by each recipient, which vary in methodology used and which generally aggregates revenue by purpose rather than by source.¹¹⁷

Consistent with the Census Bureau's definition of "general revenue from own sources," the definition of general revenue in the interim final rule would exclude refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, and agency or private trust transactions. The definition of general revenue also would exclude revenue generated by utilities and insurance trusts. In this way, the definition of general revenue focuses on sources that are generated from economic activity and are available to fund government services, rather than a fund or administrative unit established to account for and control a particular activity.¹¹⁸ For example, public utilities typically require financial support from the State, local, or Tribal government, rather than providing revenue to such government, and any revenue that is generated by public utilities typically is used to support the public utility's continued operation, rather than being used as a source of revenue to support government services generally.

The definition of general revenue would include all revenue from Tribal enterprises, as this revenue is generated from economic activity and is available to fund government services. Tribes are not able to generate revenue through taxes in the same manner as State and local governments and, as a result, Tribal enterprises are critical sources of revenue for Tribal governments that enable Tribal governments to provide a range of services, including elder care, health clinics, wastewater management, and forestry.

Finally, the term "general revenue" includes intergovernmental transfers between State and local governments, but excludes intergovernmental transfers from the Federal Government, including Federal transfers made via a State to a local government pursuant to the CRF or as part of the Fiscal Recovery Funds. States and local governments often share or collect revenue on behalf of one another, which results in

intergovernmental transfers. When attributing revenue to a unit of government, the Census Bureau's methodology considers which unit of government imposes, collects, and retains the revenue and assigns the revenue to the unit of government that meets at least two of those three factors.¹¹⁹ For purposes of measuring loss in general revenue due to the COVID-19 public health emergency and to better allow continued provision of government services, the retention and ability to use the revenue is a more critical factor. Accordingly, and to better measure the funds available for the provision of government services, the definition of general revenue would include intergovernmental transfers from States or local governments other than funds transferred pursuant to ARPA, CRF, or another Federal program. This formulation recognizes the importance of State transfers for local government revenue.¹²⁰

Calculation of Loss. In general, recipients will compute the extent of the reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have been expected to occur in the absence of the pandemic. This approach measures losses in revenue relative to the most recent fiscal year prior to the COVID-19 public health emergency by using the most recent pre-pandemic fiscal year as the starting point for estimates of revenue growth absent the pandemic. In other words, the counterfactual trend starts with the last full fiscal year prior to the COVID-19 public health emergency and then assumes growth at a constant rate in the subsequent years. Because recipients can estimate the revenue shortfall at multiple points in time throughout the covered period as revenue is collected, this approach accounts for variation across recipients in the timing of pandemic impacts.¹²¹ Although revenue may decline for

reasons unrelated to the COVID-19 public health emergency, to minimize the administrative burden on recipients and taking into consideration the devastating effects of the COVID-19 public health emergency, any diminution in actual revenues relative to the counterfactual pre-pandemic trend would be presumed to have been due to the COVID-19 public health emergency.

For purposes of measuring revenue growth in the counterfactual trend, recipients may use a *growth adjustment* of either 4.1 percent per year or the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency, whichever is higher. The option of 4.1 percent represents the average annual growth across all State and local government "General Revenue from Own Sources" in the most recent three years of available data.¹²² This approach provides recipients with a standardized growth adjustment when calculating the counterfactual revenue trend and thus minimizes administrative burden, while not disadvantaging recipients with revenue growth that exceeded the national average prior to the COVID-19 public health emergency by permitting these recipients to use their own revenue growth rate over the preceding three years.

Recipients should calculate the extent of the reduction in revenue as of four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. To calculate the extent of the reduction in revenue at each of these dates, recipients should follow a four-step process:

- *Step 1:* Identify revenues collected in the most recent full fiscal year prior to the public health emergency (*i.e.*, last full fiscal year before January 27, 2020), called the *base year revenue*.
- *Step 2:* Estimate *counterfactual revenue*, which is equal to *base year revenue* * $[(1 + \text{growth adjustment})^{(n/12)}]$, where *n* is the number of months elapsed since the end of the base year to the calculation date, and *growth adjustment* is the greater of 4.1 percent and the recipient's average annual revenue growth in the three full fiscal

¹¹⁹ U.S. Census Bureau, Government Finance and Employment Classification Manual (Dec. 2000), <https://www2.census.gov/govs/class/classfull.pdf>.

¹²⁰ For example, in 2018, state transfers to localities accounted for approximately 27 percent of local revenues. U.S. Census Bureau, Annual Survey of State and Local Government Finances, Table 1 (2018), <https://www.census.gov/data/datasets/2018/econ/local/public-use-datasets.html>.

¹²¹ For example, following the 2007-09 recession, local government property tax collections did not begin to decline until 2011, suggesting that property tax collection declines can lag downturns. See U.S. Bureau of Economic Analysis, Personal current taxes: State and local: Property taxes [S210401A027NBEA], retrieved from Federal Reserve Economic Data, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/graph/?g=r3YI> (last visited Apr. 22, 2021). Estimating the reduction in revenue at points throughout the covered period will allow for this type of lagged effect to be taken into account during the covered period.

¹²² Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015-2018 represents the most recent available data. See U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), <https://www.census.gov/programs-surveys/gov-finances/data/datasets.html>.

¹¹⁷ Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. See Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287-B (Feb. 2009).

¹¹⁸ *Supra* note 116.

years prior to the COVID-19 public health emergency.

- *Step 3:* Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date.

- *Step 4:* The extent of the reduction in revenue is equal to *counterfactual*

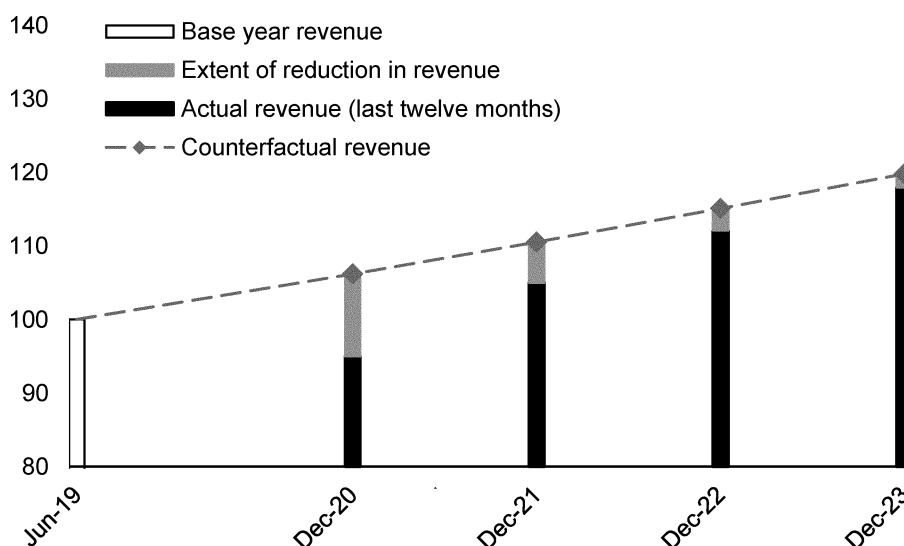
revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1

percent is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. Furthermore, this recipient's base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
<i>n</i> (months elapsed)	18	30	42	54
<i>Counterfactual revenue:</i>	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



Upon receiving Fiscal Recovery Fund payments, recipients may immediately calculate revenue loss for the period ending December 31, 2020.

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building¹²³ of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for

borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (e.g., rainy day or other reserve funds) would

not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the interim final rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the interim final rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID-19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID-

¹²³ Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID-19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury do to support these recipients through its implementation of the program?

Question 17: In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The interim final rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.¹²⁴

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to

ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.¹²⁵ By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).¹²⁶

¹²⁵ Sections 602(c)(1)(D), 603(c)(1)(D) of the Act.

¹²⁶ Environmental Protection Agency, Drinking Water State Revolving fund, <https://www.epa.gov/dwsrf> (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf> (last visited Apr. 30, 2021).

Established by the 1987 amendments¹²⁷ to the Clean Water Act (CWA),¹²⁸ the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.¹²⁹ Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.¹³⁰

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),¹³¹ with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.¹³² Like the CWSRF,

¹²⁷ Water Quality Act of 1987, Public Law 100-4.

¹²⁸ Federal Water Pollution Control Act as amended, codified at 33 U.S.C. 1251 *et seq.*, common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. Public Law 111-5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. Public Law 113-121. *The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, Public Law 115-270.*

¹²⁹ See Environmental Protection Agency, The Drinking Water State Revolving Funds: Financing America's Drinking Water, EPA-816-R-00-023 (Nov. 2000), <https://nepis.epa.gov/Exec/zyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF>; See also Environmental Protection Agency, *Learn About the Clean Water State Revolving Fund*, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021).

¹³⁰ 33 U.S.C. 1383(c). See also Environmental Protection Agency, *Overview of Clean Water State Revolving Fund Eligibilities* (May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, *Clean Water Act: A Summary of the Law*, Congressional Research Service (Oct. 18, 2016), <https://fas.org/sgp/crs/misc/RL30030.pdf>; Jonathan L. Ramseur, *Wastewater Infrastructure: Overview, Funding, and Legislative Developments*, Congressional Research Service (May 22, 2018), <https://fas.org/sgp/crs/misc/R44963.pdf>.

¹³¹ 42 U.S.C. 300j-12.

¹³² Environmental Protection Agency, *Drinking Water State Revolving Fund Eligibility Handbook*, (June 2017), https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf; Environmental Protection Agency, *Drinking Water*

¹²⁴ Treasury notes that using funds to support or oppose collective bargaining would not be included as part of "necessary investments in water, sewer, or broadband infrastructure."

the DWSRF provides States with the flexibility to meet the needs of their populations.¹³³ The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.¹³⁴ In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.¹³⁵

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the interim final rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.¹³⁶ The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that needed relief for the people and communities most affected by the pandemic can be deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID-19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.¹³⁷ Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to “assist systems most in need on a per household basis according to state affordability criteria” would also have the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.¹³⁸

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also

support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, underserved, or rural communities? How do these projects differ from DWSRF and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible

Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ 42 U.S.C. 300j-12(b)(3)(A).

¹³⁶ Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021); 42 U.S.C. 300j-12.

¹³⁷ House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), <https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief>.

¹³⁸ Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf; Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, <https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations> (last visited Apr. 30, 2020).

infrastructure under the interim final rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure

The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband internet access service for every facet of daily life including work, study, and healthcare.¹³⁹ With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.¹⁴⁰ By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure

exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).¹⁴¹ There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.¹⁴² Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.¹⁴³

The interim final rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the interim final rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to

a minimum of 100 Mbps symmetrical for download and upload speeds.¹⁴⁴ In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.¹⁴⁵ In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017¹⁴⁶ and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,¹⁴⁷ attributable, in part to a shift to using broadband and the internet by individuals and businesses

¹³⁹ See, e.g., <https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show>; <https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show>; and generally, <https://www.ntia.gov/data/digital-nation-data-explorer>.

¹⁴⁰ As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, <https://broadbandmap.fcc.gov/#/> (last visited May 9, 2021).

¹⁴¹ How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, available at <https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide>.

¹⁴² See, e.g., Federal Communications Commission, Fourteenth Broadband Deployment Report, available at <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>.

¹⁴³ See, e.g., Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), <https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx>; Kansas Office of Broadband Development, Broadband Acceleration Grant, <https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf> (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), [https://www.nysac.org/files/BroadbandUpdateReport2017\(1\).pdf](https://www.nysac.org/files/BroadbandUpdateReport2017(1).pdf).

¹⁴⁴ This scalability threshold is consistent with scalability requirements used in other jurisdictions. *Id.*

¹⁴⁵ Federal Communications Commission, Broadband Speed Guide, <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last visited Apr. 30, 2021).

¹⁴⁶ Letter from Lisa R. Youngers, President and CEO of Fiber Broadband Association to FCC, WC Docket No. 19-126 (filed Jan. 3, 2020), including an Appendix with research from RVA LLC, *Data Review Of The Importance of Upload Speeds* (Jan. 2020), and Ookla speed test data, available at <https://ecsfsapi.fcc.gov/file/101030085118517/FCC%20RDOF%20Jan%203%20Ex%20Parte.pdf>. Additional information on historic growth in data usage is provided in Schools, Health & Libraries Broadband Coalition, *Common Sense Solutions for Closing the Digital Divide*, Apr. 29, 2021.

¹⁴⁷ *Id.* See also United States's Mobile and Broadband internet Speeds—Speedtest Global Index, available at <https://www.speedtest.net/global-index/united-states#fixed>.

to create and share content using video sharing, video conferencing, and other applications.¹⁴⁸

The increasing use of data accelerated markedly during the pandemic as households across the country became increasingly reliant on tools and applications that require greater internet capacity, both to download data but also to upload data. Sending information became as important as receiving it. A video consultation with a healthcare provider or participation by a child in a live classroom with a teacher and fellow students requires video to be sent and received simultaneously.¹⁴⁹ As an example, some video conferencing technology platforms indicate that download and upload speeds should be roughly equal to support two-way, interactive video meetings.¹⁵⁰ For both work and school, client materials or completed school assignments, which may be in the form of PDF files, videos, or graphic files, also need to be shared with others. This is often done by uploading materials to a collaboration site, and the upload speed available to a user can have a significant impact on the time it takes for the content to be shared with others.¹⁵¹ These activities require significant capacity from home internet connections to both download and upload data, especially when there are multiple individuals in one household engaging in these activities simultaneously.

This need for increased broadband capacity during the pandemic was reflected in increased usage patterns seen over the last year. As OpenVault noted in recent advisories, the pandemic significantly increased the amount of data users consume. Among data users observed by OpenVault, per-subscriber average data usage for the fourth quarter of 2020 was 482.6 gigabytes per month, representing a 40 percent increase over the 344 gigabytes consumed in the fourth quarter of 2019 and a 26 percent increase over the third quarter 2020 average of 383.8

¹⁴⁸ *Id.*

¹⁴⁹ One high definition Zoom meeting or class requires approximately 3.8 Mbps/3.0 Mbps (up/down).

¹⁵⁰ See, e.g., Zoom, System Requirements for Windows, macOS, and Linux, https://support.zoom.us/hc/en-us/articles/201362023-System-requirements-for-Windows-macOS-and-Linux#h_d278c327-e03d-4896-b19a-96a8f3c0c69c (last visited May 8, 2021).

¹⁵¹ By one estimate, to upload a one gigabit video file to YouTube would take 15 minutes at an upload speed of 10 Mbps compared with 1 minute, 30 seconds at an upload speed of 100 Mbps, and 30 seconds at an upload speed of 300 Mbps. *Reviews.org*: What is Symmetrical internet? (March 2020).

gigabytes.¹⁵² OpenVault also noted significant increases in upstream usage among the data users it observed, with upstream data usage growing 63 percent—from 19 gigabytes to 31 gigabytes—between December, 2019 and December, 2020.¹⁵³ According to an OECD Broadband statistic from June 2020, the largest percentage of U.S. broadband subscribers have services providing speeds between 100 Mbps and 1 Gbps.¹⁵⁴

Jurisdictions and Federal programs are increasingly responding to the growing demands of their communities for both heightened download and upload speeds. For example, Illinois now requires 100 Mbps symmetrical service as the construction standard for its state broadband grant programs. This standard is also consistent with speed levels, particularly download speed levels, prioritized by other Federal programs supporting broadband projects. Bids submitted as part of the FCC in its Rural Digital Opportunity Fund (RDOF), established to support the construction of broadband networks in rural communities across the country, are given priority if they offer faster service, with the service offerings of 100 Mbps download and 20 Mbps upload being included in the “above baseline” performance tier set by the FCC.¹⁵⁵ The Broadband Infrastructure Program (BBIP)¹⁵⁶ of the Department of Commerce, which provides Federal funding to deploy broadband

¹⁵² OVBI: Covid-19 Drove 15 percent Increase in Broadband Traffic in 2020, OpenVault, Quarterly Advisory, (Feb. 10, 2021), available at <https://openvault.com/ovbi-covid-19-drove-15-increase-in-broadband-traffic-in-2020>; See OpenVault’s data set incorporates information on usage by subscribers across multiple continents, including North America and Europe. Additional data and detail on increases in the amount of data users consume and the broadband speeds they are using is provided in *OpenVault Broadband Insights Report Q4*, Quarterly Advisory (Feb. 10, 2021), available at <https://openvault.com/complimentary-report-4q20/>.

¹⁵³ OVBI Special Report: 202 Upstream Growth Nearly 4X of Pre-Pandemic Years, OpenVault, Quarterly Advisory, (April 1, 2020), available at <https://openvault.com/ovbi-special-report-2020-upstream-growth-rate-nearly-4x-of-pre-pandemic-years/>; Additional data is provided in *OpenVault Broadband Insights Pandemic Impact on Upstream Broadband Usage and Network Capacity*, available at <https://openvault.com/upstream-whitepaper/>.

¹⁵⁴ Organisation for Economic Co-operation and Development, Fixed broadband subscriptions per 100 inhabitants, per speed tiers (June 2020), <https://www.oecd.org/sti/broadband/5.1-FixedBB-SpeedTiers-2020-06.xls> [www.oecd.org/sti/broadband-statistics](https://www.oecd.org/sti/broadband/broadband-statistics).

¹⁵⁵ *Rural Digital Opportunity Fund*, Report and Order, 35 FCC Rcd 686, 690, para. 9 (2020), available at <https://www.fcc.gov/document/fcc-launches-20-billion-rural-digital-opportunity-fund-0>.

¹⁵⁶ The BBIP was authorized by the Consolidated Appropriations Act, 2021, Section 905, Public Law 116–260, 134 Stat. 1182 (Dec. 27, 2020).

infrastructure to eligible service areas of the country also prioritizes projects designed to provide broadband service with a download speed of not less than 100 Mbps and an upload speed of not less than 20 Mbps.¹⁵⁷

The 100 Mbps upload and download speeds will support the increased and growing needs of households and businesses. Recognizing that, in some instances, 100 Mbps upload speed may be impracticable due to geographical, topographical, or financial constraints, the interim final rule permits upload speeds of between at least 20 Mbps and 100 Mbps in such instances. To provide for investments that will accommodate technologies requiring symmetry in download and upload speeds, as noted above, eligible projects that are not designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical speeds of 100 Mbps because it would be impracticable to do so should be designed so that they can be scalable to such speeds. Recipients are also encouraged to prioritize investments in fiber optic infrastructure where feasible, as such advanced technology enables the next generation of application solutions for all communities.

Under the interim final rule, eligible projects are expected to focus on locations that are unserved or underserved. The interim final rule treats users as being unserved or underserved if they lack access to a wireline connection capable of reliably delivering at least minimum speeds of 25 Mbps download and 3 Mbps upload as households and businesses lacking this level of access are generally not viewed as being able to originate and receive high-quality voice, data, graphics, and video telecommunications. This threshold is consistent with the FCC’s benchmark for an “advanced telecommunications capability.”¹⁵⁸ This threshold is also consistent with thresholds used in other Federal programs to identify eligible areas to be served by programs to improve broadband services. For example, in the FCC’s RDOF program, eligible areas include those without current (or already funded) access to terrestrial broadband service providing 25 Mbps download and 3 Mbps upload speeds.¹⁵⁹ The Department of Commerce’s BBIP also considers households to be “unserved” generally if they lack access to broadband service

¹⁵⁷ Section 905(d)(4) of the Consolidated Appropriations Act, 2021.

¹⁵⁸ *Deployment Report*, *supra* note 142.

¹⁵⁹ *Rural Digital Opportunity Fund*, *supra* note 156.

with a download speed of not less than 25 Mbps download and 3 Mbps upload, among other conditions. In selecting an area to be served by a project, recipients are encouraged to avoid investing in locations that have existing agreements to build reliable wireline service with minimum speeds of 100 Mbps download and 20 Mbps upload by December 31, 2024, in order to avoid duplication of efforts and resources.

Recipients are also encouraged to consider ways to integrate affordability options into their program design. To meet the immediate needs of unserved and underserved households and businesses, recipients are encouraged to focus on projects that deliver a physical broadband connection by prioritizing projects that achieve last mile-connections. Treasury also encourages recipients to prioritize support for broadband networks owned, operated by, or affiliated with local governments, non-profits, and co-operatives—providers with less pressure to turn profits and with a commitment to serving entire communities.

Under sections 602(c)(1)(A) and 603(c)(1)(A), assistance to households facing negative economic impacts due to COVID-19 is also an eligible use, including internet access or digital literacy assistance. As discussed above, in considering whether a potential use is eligible under this category, a recipient must consider whether, and the extent to which, the household has experienced a negative economic impact from the pandemic.

Question 22: What are the advantages and disadvantages of setting minimum symmetrical download and upload speeds of 100 Mbps? What other minimum standards would be appropriate and why?

Question 23: Would setting such a minimum be impractical for particular types of projects? If so, where and on what basis should those projects be identified? How could such a standard be set while also taking into account the practicality of using this standard in particular types of projects? In addition to topography, geography, and financial factors, what other constraints, if any, are relevant to considering whether an investment is impracticable?

Question 24: What are the advantages and disadvantages of setting a minimum level of service at 100 Mbps download and 20 Mbps upload in projects where it is impracticable to set minimum symmetrical download and upload speeds of 100 Mbps? What are the advantages and disadvantages of setting a scalability requirement in these cases? What other minimum standards would be appropriate and why?

Question 25: What are the advantages and disadvantages of focusing these investments on those without access to a wireline connection that reliably delivers 25 Mbps download by 3 Mbps upload? Would another threshold be appropriate and why?

Question 26: What are the advantages and disadvantages of setting any particular threshold for identifying unserved or underserved areas, minimum speed standards or scalability minimum? Are there other standards that should be set (e.g., latency)? If so, why and how? How can such threshold, standards, or minimum be set in a way that balances the public's interest in making sure that reliable broadband services meeting the daily needs of all Americans are available throughout the country with the providing recipients flexibility to meet the varied needs of their communities?

III. Restrictions on Use

As discussed above, recipients have considerable flexibility to use Fiscal Recovery Funds to address the diverse needs of their communities. To ensure that payments from the Fiscal Recovery Funds are used for these congressionally permitted purposes, the ARPA includes two provisions that further define the boundaries of the statute's eligible uses. Section 602(c)(2)(A) of the Act provides that States and territories may not "use the funds . . . to either directly or indirectly offset a reduction in . . . net tax revenue . . . resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax . . . or delays the imposition of any tax or tax increase." In addition, sections 602(c)(2)(B) and 603(c)(2) prohibit any recipient, including cities, nonentitlement units of government, and counties, from using Fiscal Recovery Funds for deposit into any pension fund. These restrictions support the use of funds for the congressionally permitted purposes described in Section II of this Supplementary Information by providing a backstop against the use of funds for purposes outside of the eligible use categories.

These provisions give force to Congress's clear intent that Fiscal Recovery Funds be spent within the four eligible uses identified in the statute—(1) to respond to the public health emergency and its negative economic impacts, (2) to provide premium pay to essential workers, (3) to provide government services to the extent of eligible governments' revenue losses, and (4) to make necessary water, sewer, and broadband infrastructure investments—and not otherwise. These

four eligible uses reflect Congress's judgment that the Fiscal Recovery Funds should be expended in particular ways that support recovery from the COVID-19 public health emergency. The further restrictions reflect Congress's judgment that tax cuts and pension deposits do not fall within these eligible uses. The interim final rule describes how Treasury will identify when such uses have occurred and how it will recoup funds put toward these impermissible uses and, as discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, establishes a reporting framework for monitoring the use of Fiscal Recovery Funds for eligible uses.

A. Deposit Into Pension Funds

The statute provides that recipients may not use Fiscal Recovery Funds for "deposit into any pension fund." For the reasons discussed below, Treasury interprets "deposit" in this context to refer to an extraordinary payment into a pension fund for the purpose of reducing an accrued, unfunded liability. More specifically, the interim final rule does not permit this assistance to be used to make a payment into a pension fund if both:

1. The payment reduces a liability incurred prior to the start of the COVID-19 public health emergency, and
2. the payment occurs outside the recipient's regular timing for making such payments.

Under this interpretation, a "deposit" is distinct from a "payroll contribution," which occurs when employers make payments into pension funds on regular intervals, with contribution amounts based on a predetermined percentage of employees' wages and salaries.

As discussed above, eligible uses for premium pay and responding to the negative economic impacts of the COVID-19 public health emergency include hiring and compensating public sector employees. Interpreting the scope of "deposit" to exclude contributions that are part of payroll contributions is more consistent with these eligible uses and would reduce administrative burden for recipients. Accordingly, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans

(Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Treasury anticipates that this approach to employees' covered benefits will be comprehensive and, for employees whose wage and salary costs are eligible expenses, will allow all covered benefits listed in the previous paragraph to be eligible under the Fiscal Recovery Funds. Treasury expects that this will minimize the administrative burden on recipients by treating all the specified covered benefit types as eligible expenses, for employees whose wage and salary costs are eligible expenses.

Question 27: Beyond a "deposit" and a "payroll contribution," are there other types of payments into a pension fund that Treasury should consider?

B. Offset a Reduction in Net Tax Revenue

For States and territories (recipient governments¹⁶⁰), section 602(c)(2)(A)—the offset provision—prohibits the use of Fiscal Recovery Funds to directly or indirectly offset a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation¹⁶¹ during the covered period. If a State or territory uses Fiscal Recovery Funds to offset a reduction in net tax revenue, the ARPA provides that the State or territory must repay to the Treasury an amount equal to the lesser of (i) the amount of the applicable reduction attributable to the impermissible offset and (ii) the amount received by the State or territory under the ARPA. See Section IV of this **SUPPLEMENTARY INFORMATION**. As discussed below Section IV of this **SUPPLEMENTARY INFORMATION**, a State or territory that chooses to use Fiscal Recovery Funds to offset a reduction in net tax revenue does not forfeit its entire allocation of Fiscal Recovery Funds (unless it misused the full allocation to offset a reduction in net tax revenue) or any non-ARPA funding received.

The interim final rule implements these conditions by establishing a framework for States and territories to determine the cost of changes in law, regulation, or interpretation that reduce tax revenue and to identify and value the sources of funds that will offset—

i.e., cover the cost of—any reduction in net tax revenue resulting from such changes. A recipient government would only be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue resulting from changes in law, regulation, or interpretation if, and to the extent that, the recipient government could not identify sufficient funds from sources other than the Fiscal Recovery Funds to offset the reduction in net tax revenue. If sufficient funds from other sources cannot be identified to cover the full cost of the reduction in net tax revenue resulting from changes in law, regulation, or interpretation, the remaining amount not covered by these sources will be considered to have been offset by Fiscal Recovery Funds, in contravention of the offset provision. The interim final rule recognizes three sources of funds that may offset a reduction in net tax revenue other than Fiscal Recovery Funds—organic growth, increases in revenue (*e.g.*, an increase in a tax rate), and certain cuts in spending.

In order to reduce burden, the interim final rule's approach also incorporates the types of information and modeling already used by States and territories in their own fiscal and budgeting processes. By incorporating existing budgeting processes and capabilities, States and territories will be able to assess and evaluate the relationship of tax and budget decisions to uses of the Fiscal Recovery Funds based on information they likely have or can obtain. This approach ensures that recipient governments have the information they need to understand the implications of their decisions regarding the use of the Fiscal Recovery Funds—and, in particular, whether they are using the funds to directly or indirectly offset a reduction in net tax revenue, making them potentially subject to recoupment.

Reporting on both the eligible uses and on a State's or territory's covered tax changes that would reduce tax revenue will enable identification of, and recoupment for, use of Fiscal Recovery Funds to directly offset reductions in tax revenue resulting from tax relief. Moreover, this approach recognizes that, because money is fungible, even if Fiscal Recovery Funds are not explicitly or directly used to cover the costs of changes that reduce net tax revenue, those funds may be used in a manner inconsistent with the statute by indirectly being used to substitute for the State's or territory's funds that would otherwise have been needed to cover the costs of the reduction. By focusing on the cost of changes that reduce net tax revenue—and how a recipient government is

offsetting those reductions in constructing its budget over the covered period—the framework prevents efforts to use Fiscal Recovery Funds to indirectly offset reductions in net tax revenue for which the recipient government has not identified other offsetting sources of funding.

As discussed in greater detail below in this preamble, the framework set forth in the interim final rule establishes a step-by-step process for determining whether, and the extent to which, Fiscal Recovery Funds have been used to offset a reduction in net tax revenue. Based on information reported annually by the recipient government:

- First, each year, each recipient government will identify and value the changes in law, regulation, or interpretation that would result in a reduction in net tax revenue, as it would in the ordinary course of its budgeting process. The sum of these values in the year for which the government is reporting is the amount it needs to "pay for" with sources other than Fiscal Recovery Funds (total value of revenue reducing changes).

- Second, the interim final rule recognizes that it may be difficult to predict how a change would affect net tax revenue in future years and, accordingly, provides that if the total value of the changes in the year for which the recipient government is reporting is below a de minimis level, as discussed below, the recipient government need not identify any sources of funding to pay for revenue reducing changes and will not be subject to recoupment.

- Third, a recipient government will consider the amount of actual tax revenue recorded in the year for which they are reporting. If the recipient government's actual tax revenue is greater than the amount of tax revenue received by the recipient for the fiscal year ending 2019, adjusted annually for inflation, the recipient government will not be considered to have violated the offset provision because there will not have been a reduction in net tax revenue.

- Fourth, if the recipient government's actual tax revenue is less than the amount of tax revenue received by the recipient government for the fiscal year ending 2019, adjusted annually for inflation, in the reporting year the recipient government will identify any sources of funds that have been used to permissibly offset the total value of covered tax changes other than Fiscal Recovery Funds. These are:

- State or territory tax changes that would increase any source of general

¹⁶⁰ In this sub-section, "recipient governments" refers only to States and territories. In other sections, "recipient governments" refers more broadly to eligible governments receiving funding from the Fiscal Recovery Funds.

¹⁶¹ For brevity, referred to as "changes in law, regulation, or interpretation" for the remainder of this preamble.

fund revenue, such as a change that would increase a tax rate; and

- Spending cuts in areas not being replaced by Fiscal Recovery Funds.

The recipient government will calculate the value of revenue reduction remaining after applying these sources of offsetting funding to the total value of revenue reducing changes—that, is, how much of the tax change has not been paid for. The recipient government will then compare that value to the difference between the baseline and actual tax revenue. A recipient government will not be required to repay to the Treasury an amount that is greater than the recipient government's actual tax revenue shortfall relative to the baseline (*i.e.*, fiscal year 2019 tax revenue adjusted for inflation). This “revenue reduction cap,” together with Step 3, ensures that recipient governments can use organic revenue growth to offset the cost of revenue reductions.

- Finally, if there are any amounts that could be subject to recoupment, Treasury will provide notice to the recipient government of such amounts. This process is discussed in greater detail in Section IV of this

SUPPLEMENTARY INFORMATION.

Together, these steps allow Treasury to identify the amount of reduction in net tax revenue that both is attributable to covered changes and has been directly or indirectly offset with Fiscal Recovery Funds. This process ensures Fiscal Recovery Funds are used in a manner consistent with the statute's defined eligible uses and the offset provision's limitation on these eligible uses, while avoiding undue interference with State and territory decisions regarding tax and spending policies.

The interim final rule also implements a process for recouping Fiscal Recovery Funds that were used to offset reductions in net tax revenue, including the calculation of any amounts that may be subject to recoupment, a process for a recipient government to respond to a notice of recoupment, and clarification regarding amounts excluded from recoupment. See Section IV of this **SUPPLEMENTARY INFORMATION.**

The interim final rule includes several definitions that are applicable to the implementation of the offset provision.

Covered change. The offset provision is triggered by a reduction in net tax revenue resulting from “a change in law, regulation, or administrative interpretation.” A covered change includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute

or rule where the phase-in or taking effect was not prescribed prior to the start of the covered period. Changed administrative interpretations would not include corrections to replace prior inaccurate interpretations; such corrections would instead be treated as changes implementing legislation enacted or regulations issued prior to the covered period; the operative change in those circumstances is the underlying legislation or regulation that occurred prior to the covered period. Moreover, only the changes within the control of the State or territory are considered covered changes. Covered changes do not include a change in rate that is triggered automatically and based on statutory or regulatory criteria in effect prior to the covered period. For example, a state law that sets its earned income tax credit (EITC) at a fixed percentage of the Federal EITC will see its EITC payments automatically increase—and thus its tax revenue reduced—because of the Federal Government's expansion of the EITC in the ARPA.¹⁶² This would not be considered a covered change. In addition, the offset provision applies only to actions for which the change in policy occurs during the covered period; it excludes regulations or other actions that implement a change or law substantively enacted prior to March 3, 2021. Finally, Treasury has determined and previously announced that income tax changes—even those made during the covered period—that simply conform with recent changes in Federal law (including those to conform to recent changes in Federal taxation of unemployment insurance benefits and taxation of loan forgiveness under the Paycheck Protection Program) are permissible under the offset provision.

Baseline. For purposes of measuring a reduction in net tax revenue, the interim final rule measures actual changes in tax revenue relative to a revenue baseline (baseline). The baseline will be calculated as fiscal year 2019 (FY 2019) tax revenue indexed for inflation in each year of the covered period, with inflation calculated using the Bureau of Economic Analysis's Implicit Price Deflator.¹⁶³

FY 2019 was chosen as the starting year for the baseline because it is the last full fiscal year prior to the COVID–

19 public health emergency.¹⁶⁴ This baseline year is consistent with the approach directed by the ARPA in sections 602(c)(1)(C) and 603(c)(1)(C), which identify the “most recent full fiscal year of the [State, territory, or Tribal government] prior to the emergency” as the comparator for measuring revenue loss. U.S. gross domestic product is projected to rebound to pre-pandemic levels in 2021,¹⁶⁵ suggesting that an FY 2019 pre-pandemic baseline is a reasonable comparator for future revenue levels. The FY 2019 baseline revenue will be adjusted annually for inflation to allow for direct comparison of actual tax revenue in each year (reported in nominal terms) to baseline revenue in common units of measurement; without inflation adjustment, each dollar of reported actual tax revenue would be worth less than each dollar of baseline revenue expressed in 2019 terms.

Reporting year. The interim final rule defines “reporting year” as a single year within the covered period, aligned to the current fiscal year of the recipient government during the covered period, for which a recipient government reports the value of covered changes and any sources of offsetting revenue increases (“in-year” value), regardless of when those changes were enacted. For the fiscal years ending in 2021 or 2025 (partial years), the term “reporting year” refers to the portion of the year falling within the covered period. For example, the reporting year for a fiscal year beginning July 2020 and ending June 2021 would be from March 3, 2021 to July 2021.

Tax revenue. The interim final rule's definition of “tax revenue” is based on the Census Bureau's definition of taxes, used for its Annual Survey of State Government Finances.¹⁶⁶ It provides a consistent, well-established definition with which States and territories will be familiar and is consistent with the approach taken in Section II.C of this **SUPPLEMENTARY INFORMATION** describing the implementation of sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, regarding revenue loss. Consistent with the approach described in Section II.C of this **SUPPLEMENTARY INFORMATION**, tax

¹⁶⁴ Using Fiscal Year 2019 is consistent with section 602 as Congress provided for using that baseline for determining the impact of revenue loss affecting the provision of government services. See section 602(c)(1)(C).

¹⁶⁵ Congressional Budget Office, An Overview of the Economic Outlook: 2021 to 2031 (February 1, 2021), available at <https://www.cbo.gov/publication/56965>.

¹⁶⁶ U.S. Census Bureau, Annual Survey of State and Local Government Finances Glossary, <https://www.census.gov/programs-surveys/state/about/glossary.html> (last visited Apr. 30, 2021).

¹⁶² See, e.g., Tax Policy Center, How do state earned income tax credits work?, <https://www.taxpolicycenter.org/briefing-book/how-do-state-earned-income-tax-credits-work/> (last visited May 9, 2021).

¹⁶³ U.S. Department of Commerce, Bureau of Economic Analysis, GDP Price Deflator, <https://www.bea.gov/data/prices-inflation/gdp-price-deflator> (last visited May 9, 2021).

revenue does not include revenue taxed and collected by a different unit of government (e.g., revenue from taxes levied by a local government and transferred to a recipient government).

Framework. The interim final rule provides a step-by-step framework, to be used in each reporting year, to calculate whether the offset provision applies to a State's or territory's use of Fiscal Recovery Funds:

(1) *Covered changes that reduce tax revenue.* For each reporting year, a recipient government will identify and value covered changes that the recipient government predicts will have the effect of reducing tax revenue in a given reporting year, similar to the way it would in the ordinary course of its budgeting process. The value of these covered changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, that aligns with the recipient government's existing approach for measuring the effects of fiscal policies, and that measures relative to a current law baseline. The covered changes may also be reported based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s), relative to the current law baseline prior to the change(s). Further, estimation approaches should not use dynamic methodologies that incorporate the projected effects of macroeconomic growth because macroeconomic growth is accounted for separately in the framework. Relative to these dynamic scoring methodologies, scoring methodologies that do not incorporate projected effects of macroeconomic growth rely on fewer assumptions and thus provide greater consistency among States and territories. Dynamic scoring that incorporates macroeconomic growth may also increase the likelihood of underestimation of the cost of a reduction in tax revenue.

In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities. In addition, the approach of using the projected value of changes in law that enact fiscal policies to estimate the net effect of such policies is consistent with the way many States

and territories already consider tax changes.¹⁶⁷

(2) *In excess of the de minimis.* The recipient government will next calculate the total value of all covered changes in the reporting year resulting in revenue reductions, identified in Step 1. If the total value of the revenue reductions resulting from these changes is below the de minimis level, the recipient government will be deemed not to have any revenue-reducing changes for the purpose of determining the recognized net reduction. If the total is above the de minimis level, the recipient government must identify sources of in-year revenue to cover the full costs of changes that reduce tax revenue.

The de minimis level is calculated as 1 percent of the reporting year's baseline. Treasury recognizes that, pursuant to their taxing authority, States and territories may make many small changes to alter the composition of their tax revenues or implement other policies with marginal effects on tax revenues. They may also make changes based on projected revenue effects that turn out to differ from actual effects, unintentionally resulting in minor revenue changes that are not fairly described as "resulting from" tax law changes. The de minimis level recognizes the inherent challenges and uncertainties that recipient governments face, and thus allows relatively small reductions in tax revenue without consequence. Treasury determined the 1 percent level by assessing the historical effects of state-level tax policy changes in state EITCs implemented to effect policy goals other than reducing net tax revenues.¹⁶⁸ The 1 percent de minimis level reflects the historical reductions in revenue due to minor changes in state fiscal policies.

(3) *Safe harbor.* The recipient government will then compare the reporting year's actual tax revenue to the baseline. If actual tax revenue is greater than the baseline, Treasury will deem the recipient government not to have any recognized net reduction for the reporting year, and therefore to be in a safe harbor and outside the ambit of the offset provision. This approach is consistent with the ARPA, which contemplates recoupment of Fiscal Recovery Funds only in the event that

such funds are used to offset a reduction in net tax revenue. If net tax revenue has not been reduced, this provision does not apply. In the event that actual tax revenue is above the baseline, the organic revenue growth that has occurred, plus any other revenue-raising changes, by definition must have been enough to offset the in-year costs of the covered changes.

(4) *Consideration of other sources of funding.* Next, the recipient government will identify and calculate the total value of changes that could pay for revenue reduction due to covered changes and sum these items. This amount can be used to pay for up to the total value of revenue-reducing changes in the reporting year. These changes consist of two categories:

(a) *Tax and other increases in revenue.* The recipient government must identify and consider covered changes in policy that the recipient government predicts will have the effect of increasing general revenue in a given reporting year. As when identifying and valuing covered changes that reduce tax revenue, the value of revenue-raising changes may be reported based on estimated values produced by a budget model, incorporating reasonable assumptions, aligned with the recipient government's existing approach for measuring the effects of fiscal policies, and measured relative to a current law baseline, or based on actual values using a statistical methodology to isolate the change in year-over-year revenue attributable to the covered change(s). Further, and as discussed above, estimation approaches should not use dynamic scoring methodologies that incorporate the effects of macroeconomic growth because growth is accounted for separately under the interim final rule. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. This approach offers recipient governments the flexibility to determine their reporting methodology based on their existing budget scoring practices and capabilities.

(b) *Covered spending cuts.* A recipient government also may cut spending in certain areas to pay for covered changes that reduce tax revenue, up to the amount of the recipient government's net reduction in total spending as described below. These changes must be reductions in government outlays not in an area where the recipient government has spent Fiscal Recovery Funds. To better align with existing reporting and accounting, the interim final rule considers the department, agency, or

¹⁶⁷ See, e.g., Megan Randall & Kim Rueben, Tax Policy Center, Sustainable Budgeting in the States: Evidence on State Budget Institutions and Practices (Nov. 2017), available at https://www.taxpolicycenter.org/sites/default/files/publication/149186/sustainable-budgeting-in-the-states_1.pdf.

¹⁶⁸ Data provided by the Urban-Brookings Tax Policy Center for state-level EITC changes for 2004–2017.

authority from which spending has been cut and whether the recipient government has spent Fiscal Recovery Funds on that same department, agency, or authority. This approach was selected to allow recipient governments to report how Fiscal Recovery Funds have been spent using reporting units already incorporated into their budgeting process. If they have not spent Fiscal Recovery Funds in a department, agency, or authority, the full amount of the reduction in spending counts as a covered spending cut, up to the recipient government's net reduction in total spending. If they have, the Fiscal Recovery Funds generally would be deemed to have replaced the amount of spending cut and only reductions in spending above the amount of Fiscal Recovery Funds spent on the department, agency, or authority would count.

To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient government must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). This approach ensures that reported spending cuts actually create fiscal space, rather than simply offsetting other spending increases. A net reduction in total spending is measured as the difference between total spending in each reporting year, excluding Fiscal Recovery Funds spent, relative to total spending for the recipient's fiscal year ending in 2019, adjusted for inflation. Measuring reductions in spending relative to 2019 reflects the fact that the fiscal space created by a spending cut persists so long as spending remains below its original level, even if it does not decline further, relative to the same amount of revenue. Measuring spending cuts from year to year would, by contrast, not recognize any available funds to offset revenue reductions unless spending continued to decline, failing to reflect the actual availability of funds created by a persistent change and limiting the discretion of States and territories. In general and where possible, reporting should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Treasury chose this approach because while many recipient governments may score budget legislation using projections, spending cuts are readily observable using actual values.

This approach—allowing only spending reductions in areas where the recipient government has not spent Fiscal Recovery Funds to be used as an

offset for a reduction in net tax revenue—aims to prevent recipient governments from using Fiscal Recovery Funds to supplant State or territory funding in the eligible use areas, and then use those State or territory funds to offset tax cuts. Such an approach helps ensure that Fiscal Recovery Funds are not used to “indirectly” offset revenue reductions due to covered changes.

In order to help ensure recipient governments use Fiscal Recovery Funds in a manner consistent with the prescribed eligible uses and do not use Fiscal Recovery Funds to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury will monitor changes in spending throughout the covered period. If, over the course of the covered period, a spending cut is subsequently replaced with Fiscal Recovery Funds and used to indirectly offset a reduction in net tax revenue resulting from a covered change, Treasury may consider such change to be an evasion of the restrictions of the offset provision and seek recoupment of such amounts.

(5) *Identification of amounts subject to recoupment.* If a recipient government (i) reports covered changes that reduce tax revenue (Step 1); (ii) to a degree greater than the de minimis (Step 2); (iii) has experienced a reduction in net tax revenue (Step 3); and (iv) lacks sufficient revenue from other, permissible sources to pay for the entirety of the reduction (Step 4), then the recipient government will be considered to have used Fiscal Recovery Funds to offset a reduction in net tax revenue, up to the amount that revenue has actually declined. That is, the maximum value of reduction in revenue due to covered changes which a recipient government must cover is capped at the difference between the baseline and actual tax revenue.¹⁶⁹ In the event that the baseline is above actual tax revenue and the difference between them is less than the sum of revenue reducing changes that are not paid for with other, permissible sources, organic revenue growth has implicitly offset a portion of the reduction. For example, if a recipient government reduces tax revenue by \$1 billion, makes no other changes, and experiences revenue growth driven by organic economic growth worth \$500 million, it need only pay for the remaining \$500 million with sources other than Fiscal Recovery Funds. The revenue reduction cap implements this

¹⁶⁹ This cap is applied in § 35.8(c) of the interim final rule, calculating the amount of funds used in violation of the tax offset provision.

approach for permitting organic revenue growth to cover the cost of tax cuts.

Finally, as discussed further in Section IV of this **SUPPLEMENTARY INFORMATION**, a recipient government may request reconsideration of any amounts identified as subject to recoupment under this framework. This process ensures that all relevant facts and circumstances, including information regarding planned spending cuts and budgeting assumptions, are considered prior to a determination that an amount must be repaid. Amounts subject to recoupment are calculated on an annual basis; amounts recouped in one year cannot be returned if the State or territory subsequently reports an increase in net tax revenue.

To facilitate the implementation of the framework above, and in addition to reporting required on eligible uses, in each year of the reporting period, each State and territory will report to Treasury the following items:

- Actual net tax revenue for the reporting year;
- Each revenue-reducing change made to date during the covered period and the in-year value of each change;
- Each revenue-raising change made to date during the covered period and the in-year value of each change;
- Each covered spending cut made to date during the covered period, the in-year value of each cut, and documentation demonstrating that each spending cut is covered as prescribed under the interim final rule;

Treasury will provide additional guidance and instructions the reporting requirements at a later date.

Question 28: Does the interim final rule's definition of tax revenue accord with existing State and territorial practice and, if not, are there other definitions or elements Treasury should consider? Discuss why or why not.

Question 29: The interim final rule permits certain spending cuts to cover the costs of reductions in tax revenue, including cuts in a department, agency, or authority in which the recipient government is not using Fiscal Recovery Funds. How should Treasury and recipient governments consider the scope of a department, agency, or authority for the use of funds to ensure spending cuts are not being substituted with Fiscal Recovery Funds while also avoiding an overbroad definition of that captures spending that is, in fact, distinct?

Question 30: Discuss the budget scoring methodologies currently used by States and territories. How should the interim final rule take into consideration differences in approaches? Please discuss the use of

practices including but not limited to macrodynamic scoring, microdynamic scoring, and length of budget windows.

Question 31: If a recipient government has a balanced budget requirement, how will that requirement impact its use of Fiscal Recovery Funds and ability to implement this framework?

Question 32: To implement the framework described above, the interim final rule establishes certain reporting requirements. To what extent do recipient governments already produce this information and on what timeline? Discuss ways that Treasury and recipient governments may better rely on information already produced, while ensuring a consistent application of the framework.

Question 33: Discuss States' and territories' ability to produce the figures and numbers required for reporting under the interim final rule. What additional reporting tools, such as a standardized template, would facilitate States' and territories' ability to complete the reporting required under the interim final rule?

C. Other Restrictions on Use

Payments from the Fiscal Recovery Funds are also subject to pre-existing limitations provided in other Federal statutes and regulations and may not be used as non-Federal match for other Federal programs whose statute or regulations bar the use of Federal funds to meet matching requirements. For example, payments from the Fiscal Recovery Funds may not be used to satisfy the State share of Medicaid.¹⁷⁰

As provided for in the award terms, payments from the Fiscal Recovery Funds as a general matter will be subject to the provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200) (the Uniform Guidance), including the cost principles and restrictions on general provisions for selected items of cost.

D. Timeline for Use of Fiscal Recovery Funds

Section 602(c)(1) and section 603(c)(1) require that payments from the Fiscal Recovery Funds be used only to cover costs incurred by the State, territory, Tribal government, or local government by December 31, 2024. Similarly, the CARES Act provided that payments from the CRF be used to cover costs incurred by December 31, 2021.¹⁷¹ The

definition of “incurred” does not have a clear meaning. With respect to the CARES Act, on the understanding that the CRF was intended to be used to meet relatively short-term needs, Treasury interpreted this requirement to mean that, for a cost to be considered to have been incurred, performance of the service or delivery of the goods acquired must occur by December 31, 2021. In contrast, the ARPA, passed at a different stage of the COVID–19 public health emergency, was intended to provide more general fiscal relief over a broader timeline. In addition, the ARPA expressly permits the use of Fiscal Recovery Funds for improvements to water, sewer, and broadband infrastructure, which entail a longer timeframe. In recognition of this, Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have obligated the Fiscal Recovery Funds by such date. The interim final rule adopts a definition of “obligation” that is based on the definition used for purposes of the Uniform Guidance, which will allow for uniform administration of this requirement and is a definition with which most recipients will be familiar.

Payments from the Fiscal Recovery Funds are grants provided to recipients to mitigate the fiscal effects of the COVID–19 public health emergency and to respond to the public health emergency, consistent with the eligible uses enumerated in sections 602(c)(1) and 603(c)(1).¹⁷² As such, these funds are intended to provide economic stimulus in areas still recovering from the economic effects of the pandemic. In implementing and interpreting these provisions, including what it means to “respond to” the COVID–19 public health emergency, Treasury takes into consideration pre-pandemic facts and circumstances (e.g., average revenue growth prior to the pandemic) as well as impact of the pandemic that predate the enactment of the ARPA (e.g., replenishing Unemployment Trust balances drawn during the pandemic). While assessing the effects of the COVID–19 public health emergency necessarily takes into consideration the facts and circumstances that predate the ARPA, use of Fiscal Recovery Funds is forward looking.

As discussed above, recipients are permitted to use payments from the Fiscal Recovery Funds to respond to the public health emergency, to respond to workers performing essential work by providing premium pay or providing

grants to eligible employers, and to make necessary investments in water, sewer, or broadband infrastructure, which all relate to prospective uses. In addition, sections 602(c)(1)(C) and 603(c)(1)(C) permit recipients to use Fiscal Recovery Funds for the provision of government services. This clause provides that the amount of funds that may be used for this purpose is measured by reference to the reduction in revenue due to the public health emergency relative to revenues collected in the most recent full fiscal year, but this reference does not relate to the period during which recipients may use the funds, which instead refers to prospective uses, consistent with the other eligible uses.

Although as discussed above the eligible uses of payments from the Fiscal Recovery Funds are all prospective in nature, Treasury considers the beginning of the covered period for purposes of determining compliance with section 602(c)(2)(A) to be the relevant reference point for this purpose. The interim final rule thus permits funds to be used to cover costs incurred beginning on March 3, 2021. This aligns the period for use of Fiscal Recovery Funds with the period during which these funds may not be used to offset reductions in net tax revenue. Permitting Fiscal Recovery Funds to be used to cover costs incurred beginning on this date will also mean that recipients that began incurring costs in the anticipation of enactment of the ARPA and in advance of the issuance of this rule and receipt of payment from the Fiscal Recovery Funds would be able to cover them using these payments.¹⁷³

As set forth in the award terms, the period of performance will run until December 31, 2026, which will provide recipients a reasonable amount of time to complete projects funded with payments from the Fiscal Recovery Funds.

IV. Recoupment Process

Under the ARPA, failure to comply with the restrictions on use contained in sections 602(c) and 603(c) of the Act may result in recoupment of funds.¹⁷⁴ The interim final rule implements these provisions by establishing a process for recoupment.

Identification and Notice of Violations. Failure to comply with the restrictions on use will be identified based on reporting provided by the

¹⁷³ Given the nature of this program, recipients will not be permitted to use funds to cover pre-award costs, *i.e.*, those incurred prior to March 3, 2021.

¹⁷⁴ Sections 602(e) and 603(e) of the Act.

¹⁷⁰ See 42 CFR 433.51 and 45 CFR 75.306.

¹⁷¹ Section 1001 of Division N of the Consolidated Appropriations Act, 2021 amended section 601(d)(3) of the Act by extending the end of the covered period for CRF expenditures from December 30, 2020 to December 31, 2021.

¹⁷² Sections 602(a), 603(a), 602(c)(1) and 603(c)(1) of the Act.

recipient. As discussed further in Sections III.B and VIII of this SUPPLEMENTARY INFORMATION, Treasury will collect information regarding eligible uses on a quarterly basis and on the tax offset provision on an annual basis. Treasury also may consider other information in identifying a violation, such as information provided by members of the public. If Treasury identifies a violation, it will provide written notice to the recipient along with an explanation of such amounts.

Request for Reconsideration. Under the interim final rule, a recipient may submit a request for reconsideration of any amounts identified in the notice provided by Treasury. This reconsideration process provides a recipient the opportunity to submit additional information it believes supports its request in light of the notice of recoupment, including, for example, additional information regarding the recipient's use of Fiscal Recovery Funds or its tax revenues. The process also provides the Secretary with an opportunity to consider all information relevant to whether a violation has occurred, and if so, the appropriate amount for recoupment.

The interim final rule also establishes requirements for the timing of a request for reconsideration. Specifically, if a recipient wishes to request reconsideration of any amounts identified in the notice, the recipient must submit a written request for reconsideration to the Secretary within 60 calendar days of receipt of such notice. The request must include an explanation of why the recipient believes that the finding of a violation or recoupable amount identified in the notice of recoupment should be reconsidered. To facilitate the Secretary's review of a recipient's request for reconsideration, the request should identify all supporting reasons for the request. Within 60 calendar days of receipt of the recipient's request for reconsideration, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

The process and timeline established by the interim final rule are intended to provide the recipient with an adequate opportunity to fully present any issues or arguments in response to the notice of recoupment.¹⁷⁵ This process will allow the Secretary to respond to the

issues and considerations raised in the request for reconsideration taking into account the information and arguments presented by the recipient along with any other relevant information.

Repayment. Finally, the interim final rule provides that any amounts subject to recoupment must be repaid within 120 calendar days of receipt of any final notice of recoupment or, if the recipient has not requested reconsideration, within 120 calendar days of the initial notice provided by the Secretary.

Question 34: Discuss the timeline for requesting reconsideration under the interim final rule. What, if any, challenges does this timeline present?

V. Payments in Tranches to Local Governments and Certain States

Section 603 of the Act provides that the Secretary will make payments to local governments in two tranches, with the second tranche being paid twelve months after the first payment. In addition, section 602(b)(6)(A)(ii) provides that the Secretary may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to twelve months from the date on which the State or territory provides its certification to the Secretary. Any such withholding for a State or territory is required to be based on the unemployment rate in the State or territory as of the date of the certification.

The Secretary has determined to provide in this interim final rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (*i.e.*, February 2020) level. The Secretary will refer to the latest available monthly data from the Bureau of Labor Statistics as of the date the certification is provided. Based on data available at the time of public release of this interim final rule, this threshold would result in a majority of States being paid in two tranches.

Splitting payments for the majority of States is consistent with the requirement in section 603 of the Act to make payments from the Coronavirus Local Fiscal Recovery Fund to local governments in two tranches.¹⁷⁶

¹⁷⁶ With respect to Federal financial assistance more generally, States are subject to the requirements of the Cash Management Improvement Act (CMIA), under which Federal funds are drawn upon only on an as needed basis and States are required to remit interest on unused balances to Treasury. Given the statutory requirement for Treasury to make payments to States within a certain period, these requirements

Splitting payments to States into two tranches will help encourage recipients to adapt, as necessary, to new developments that could arise over the coming twelve months, including potential changes to the nature of the public health emergency and its negative economic impacts. While the U.S. economy has been recovering and adding jobs in aggregate, there is still considerable uncertainty in the economic outlook and the interaction between the pandemic and the economy.¹⁷⁷ For these reasons, Treasury believes it will be appropriate for a majority of recipients to adapt their plans as the recovery evolves. For example, a faster-than-expected economic recovery in 2021 could lead a recipient to dedicate more Fiscal Recovery Funds to longer-term investments starting in 2022. In contrast, a slower-than-expected economic recovery in 2021 could lead a recipient to use additional funds for near-term stimulus in 2022.

At the same time, the statute contemplates the possibility that elevated unemployment in certain States could justify a single payment. Elevated unemployment is indicative of a greater need to assist unemployed workers and stimulate a faster economic recovery. For this reason, the interim final rule provides that States and territories with an increase in their unemployment rate over a specified threshold may receive a single payment, with the expectation that a single tranche will better enable these States and territories to take additional immediate action to aid the unemployed and strengthen their economies.

Following the initial pandemic-related spike in unemployment in 2020, States' unemployment rates have been trending back towards pre-pandemic levels. However, some States' labor markets are healing more slowly than others. Moreover, States varied widely in their pre-pandemic levels of unemployment, and some States remain substantially further from their pre-

of the CMIA and Treasury's implementing regulations at 31 CFR part 205 will not apply to payments from the Fiscal Recovery Funds. Providing funding in two tranches to the majority of States reflects, to the maximum extent permitted by section 602 of the Act, the general principles of Federal cash management and stewardship of Federal funding, yet will be much less restrictive than the usual requirements to which States are subject.

¹⁷⁷ The potential course of the virus, and its impact on the economy, has contributed to a heightened degree of uncertainty relative to prior periods. *See, e.g.*, Dave Altig et al., Economic uncertainty before and during the COVID-19 pandemic, *J. of Public Econ.* (Nov. 2020), available at <https://www.sciencedirect.com/science/article/abs/pii/S0047272720301389>.

¹⁷⁵ The interim final rule also provides that Treasury may extend any deadlines.

pandemic starting point. Consequently, Treasury is delineating States with significant remaining elevation in the unemployment rate, based on the net difference to pre-pandemic levels.

Treasury has established that significant remaining elevation in the unemployment rate is a net change in the unemployment rate of 2.0 percentage points or more relative to pre-pandemic levels. In the four previous recessions going back to the early 1980s, the national unemployment rate rose by 3.6, 2.3, 2.0, and 5.0 percentage points, as measured from the start of the recession to the eventual peak during or immediately following the recession.¹⁷⁸ Each of these increases can therefore represent a recession's impact on unemployment. To identify States with significant remaining elevation in unemployment, Treasury took the lowest of these four increases, 2.0 percentage points, to indicate states where, despite improvement in the unemployment rate, current labor market conditions are consistent still with a historical benchmark for a recession.

No U.S. territory will be subject to withholding of its payment from the Fiscal Recovery Funds. For Puerto Rico, the Secretary has determined that the current level of the unemployment rate (8.8 percent, as of March 2021¹⁷⁹) is sufficiently high such that Treasury should not withhold any portion of its payment from the Fiscal Recovery Funds regardless of its change in unemployment rate relative to its pre-pandemic level. For U.S. territories that are not included in the Bureau of Labor Statistics' monthly unemployment rate data, the Secretary will not exercise the authority to withhold amounts from the Fiscal Recovery Funds.

VI. Transfer

The statute authorizes State, territorial, and Tribal governments; counties; metropolitan cities; and nonentitlement units of local government (counties, metropolitan

cities, and nonentitlement units of local government are collectively referred to as "local governments") to transfer amounts paid from the Fiscal Recovery Funds to a number of specified entities. By permitting these transfers, Congress recognized the importance of providing flexibility to governments seeking to achieve the greatest impact with their funds, including by working with other levels or units of government or private entities to assist recipient governments in carrying out their programs. This includes special-purpose districts that perform specific functions in the community, such as fire, water, sewer, or mosquito abatement districts.

Specifically, under section 602(c)(3), a State, territory, or Tribal government may transfer funds to a "private nonprofit organization . . . a Tribal organization . . . a public benefit corporation involved in the transportation of passengers or cargo, or a special-purpose unit of State or local government."¹⁸⁰ Similarly, section 603(c)(3) authorizes a local government to transfer funds to the same entities (other than Tribal organizations).

The interim final rule clarifies that the lists of transferees in sections 602(c)(3) and 603(c)(3) are not exclusive. The interim final rule permits State, territorial, and Tribal governments to transfer Fiscal Recovery Funds to other constituent units of government or private entities beyond those specified in the statute. Similarly, local governments are authorized to transfer Fiscal Recovery Funds to other constituent units of government (*e.g.*, a county is able to transfer Fiscal Recovery Funds to a city, town, or school district within it) or to private entities. This approach is intended to help provide funding to local governments with needs that may exceed the allocation provided under the statutory formula.

State, local, territorial, and Tribal governments that receive a Federal award directly from a Federal awarding agency, such as Treasury, are "recipients." A transferee receiving a transfer from a recipient under sections 602(c)(3) and 603(c)(3) will be a subrecipient. Subrecipients are entities that receive a subaward from a recipient to carry out a program or project on behalf of the recipient with the recipient's Federal award funding. The recipient remains responsible for monitoring and overseeing the subrecipient's use of Fiscal Recovery Funds and other activities related to the award to ensure that the subrecipient complies with the statutory and

regulatory requirements and the terms and conditions of the award. Recipients also remain responsible for reporting to Treasury on their subrecipients' use of payments from the Fiscal Recovery Funds for the duration of the award.

Transfers under sections 602(c)(3) and 603(c)(3) must qualify as an eligible use of Fiscal Recovery Funds by the transferor. Once Fiscal Recovery Funds are received, the transferee must abide by the restrictions on use applicable to the transferor under the ARPA and other applicable law and program guidance. For example, if a county transferred Fiscal Recovery Funds to a town within its borders to respond to the COVID-19 public health emergency, the town would be bound by the eligible use requirements applicable to the county in carrying out the county's goal. This also means that county A may not transfer Fiscal Recovery Funds to county B for use in county B because such a transfer would not, from the perspective of the transferor (county A), be an eligible use in county A.

Section 603(c)(4) separately provides for transfers by a local government to its State or territory. A transfer under section 603(c)(4) will not make the State a subrecipient of the local government, and such Fiscal Recovery Funds may be used by the State for any purpose permitted under section 602(c). A transfer under section 603(c)(4) will result in a cancellation or termination of the award on the part of the transferor local government and a modification of the award to the transferee State or territory. The transferor must provide notice of the transfer to Treasury in a format specified by Treasury. If the local government does not provide such notice, it will remain legally obligated to Treasury under the award and remain responsible for ensuring that the awarded Fiscal Recovery Funds are being used in accordance with the statute and program guidance and for reporting on such uses to Treasury. A State that receives a transfer from a local government under section 603(c)(4) will be bound by all of the use restrictions set forth in section 602(c) with respect to the use of those Fiscal Recovery Funds, including the prohibitions on use of such Fiscal Recovery Funds to offset certain reductions in taxes or to make deposits into pension funds.

Question 35: What are the advantages and disadvantages of treating the list of transferees in sections 602(c)(3) and 603(c)(3) as nonexclusive, allowing States and localities to transfer funds to entities outside of the list?

Question 36: Are there alternative ways of defining "special-purpose unit of State or local government" and

¹⁷⁸ Includes the period during and immediately following recessions, as defined by the National Bureau of Economic Research. National Bureau of Economic Research, US Business Cycle Expansions and Contractions, <https://www.nber.org/research/data/us-business-cycle-expansions-and-contractions> (last visited Apr. 27, 2021). Based on data from U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis, <https://fred.stlouisfed.org/series/UNRATE> (last visited Apr. 27, 2021).

¹⁷⁹ U.S. Bureau of Labor Statistics, Economic News Release—Table 1. Civilian labor force and unemployment by state and selected area, seasonally adjusted, <https://www.bls.gov/news.release/laus.t01.htm> (last visited Apr. 30, 2021).

¹⁸⁰ Section 602(c)(3) of the Act.

“public benefit corporation” that would better further the aims of the Funds?

VII. Nonentitlement Units of Government

The Fiscal Recovery Funds provides for \$19.53 billion in payments to be made to States and territories which will distribute the funds to nonentitlement units of local government (NEUs); local governments which generally have populations below 50,000. These local governments have not yet received direct fiscal relief from the Federal Government during the COVID-19 public health emergency, making Fiscal Recovery Funds payments an important source of support for their public health and economic responses. Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to NEUs based on population within 30 days of receipt unless an extension is granted by the Secretary. The interim final rule clarifies certain aspects regarding the distribution of Fiscal Recovery by States and territories to NEUs, as well as requirements around timely payments from the Fiscal Recovery Funds.

The ARPA requires that States and territories allocate funding to NEUs in an amount that bears the same proportion as the population of the NEU bears to the total population of all NEUs in the State or territory, subject to a cap (described below). Because the statute requires States and territories to make distributions based on population, States and territories may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury’s implementing regulations and guidance. For example, a State may not impose stricter limitations than permitted by statute or Treasury regulations or guidance on an NEU’s use of Fiscal Recovery Funds based on the NEU’s proposed spending plan or other policies. States and territories are also not permitted to offset any debt owed by the NEU against the NEU’s distribution. Further, States and territories may not provide funding on a reimbursement basis—*e.g.*, requiring NEUs to pay for project costs up front before being reimbursed with Fiscal Recovery Funds payments—because this funding model would not comport with the statutory requirement that States and territories make distributions to NEUs within the statutory timeframe.

Similarly, States and territories distributing Fiscal Recovery Funds payments to NEUs are responsible for

complying with the Fiscal Recovery Funds statutory requirement that distributions to NEUs not exceed 75 percent of the NEU’s most recent budget. The most recent budget is defined as the NEU’s most recent annual total operating budget, including its general fund and other funds, as of January 27, 2020. Amounts in excess of such cap and therefore not distributed to the NEU must be returned to Treasury by the State or territory. States and territories may rely for this determination on a certified top-line budget total from the NEU.

Under the interim final rule, the total allocation and distribution to an NEU, including the sum of both the first and second tranches of funding, cannot exceed the 75 percent cap. States and territories must permit NEUs without formal budgets as of January 27, 2020 to self-certify their most recent annual expenditures as of January 27, 2020 for the purpose of calculating the cap. This approach will provide an administrable means to implement the cap for small local governments that do not adopt a formal budget.

Section 603(b)(3) of the Social Security Act provides for Treasury to make payments to counties but provides that, in the case of an amount to be paid to a county that is not a unit of general local government, the amount shall instead be paid to the State in which such county is located, and such State shall distribute such amount to each unit of general local government within such county in an amount that bears the same proportion to the amount to be paid to such county as the population of such units of general local government bears to the total population of such county. As with NEUs, States may not place additional conditions or requirements on distributions to such units of general local government, beyond those required by the ARPA and Treasury’s implementing regulations and guidance.

In the case of consolidated governments, section 603(b)(4) allows consolidated governments (*e.g.*, a city-county consolidated government) to receive payments under each allocation based on the respective formulas. In the case of a consolidated government, Treasury interprets the budget cap to apply to the consolidated government’s NEU allocation under section 603(b)(2) but not to the consolidated government’s county allocation under section 603(b)(3).

If necessary, States and territories may use the Fiscal Recovery Funds under section 602(c)(1)(A) to fund expenses related to administering payments to NEUs and units of general local

government, as disbursing these funds itself is a response to the public health emergency and its negative economic impacts. If a State or territory requires more time to disburse Fiscal Recovery Funds to NEUs than the allotted 30 days, Treasury will grant extensions of not more than 30 days for States and territories that submit a certification in writing in accordance with section 603(b)(2)(C)(i)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient’s expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient’s utilization of the award funds. The reports will include the same general data (*e.g.*, on obligations, expenditures, contracts, grants, and subawards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit

annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As

discussed below, the requirements of advance notice and public comment do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.”¹⁸¹ The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁸² This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the interim final rule.

These comments must be submitted on or before July 16, 2021.

X. Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID-19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID-19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory

action as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as “economically significant” regulations);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available

¹⁸¹ 5 U.S.C. 553(a)(2).

¹⁸² 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”).

techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OMB’s Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this interim final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this interim final rule is consistent with the principles set forth in Executive Order 13563.

Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This interim final rule implements the \$350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID-19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this interim final rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress’ mandate for targeted fiscal relief.

This interim final rule is primarily a transfer rule: It transfers \$350 billion in aid from the Federal Government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond

to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined \$350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID-19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.¹⁸³ Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007-09 recession.¹⁸⁴

This interim final rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: Strengthening the response to the COVID-19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the interim final rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

¹⁸³ Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, *American Econ. J.: Econ. Policy*, 4:3 118-45 (Aug. 2012), available at <https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118>.

¹⁸⁴ See, e.g., Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), available at <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

These benefits are achieved in the interim final rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients’ overall flexibility, the interim final rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury’s approach to key provisions in the interim final rule will contribute to greater realization of benefits from the program.

- *Revenue Loss:* Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury’s decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients’ pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury’s approach provides a more accurate representation of the effect of the pandemic on overall revenues.

- *Premium Pay:* Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the interim final rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker’s annual pay above a certain threshold. To set this threshold, Treasury analyzed data

from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the interim final rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The interim final rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

- *Withholding of Payments to Recipients:* Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment. Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.

- *Hiring Public Sector Employees:* The interim final rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the interim final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need,

particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID-19 crisis. Targeting relief is in line with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” which laid out an Administration-wide priority to support “equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”¹⁸⁵ To this end, the interim final rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;¹⁸⁶ and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal Government programs and that many

have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this interim final rule generates administrative burden for State, local, and Tribal governments, but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications within the meaning of the Executive order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive order. The compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the interim final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, generally requires public notice and an opportunity for comment before a rule

¹⁸⁵ Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021) (86 FR 7009, January 25, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/> (last visited May 9, 2021).

¹⁸⁶ David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans Hit Hardest by Job Losses in State and Local Governments, <https://www.epi.org/publication/bp339-public-sector-jobs-crisis> (last visited May 9, 2021).

becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.” The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus “both clearly and directly related to a federal grant program.” *National Wildlife Federation v. Snow*, 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the “process necessary to maintain state . . . eligibility for federal funds,” *id.*, as well as the “method[s] by which states can . . . qualify for federal aid,” and other “integral part[s] of the grant program,” *Center for Auto Safety v. Tiemann*, 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553’s requirements. The ARPA is a law responding to a historic economic and

public health emergency; it is “extraordinary” legislation about which “both Congress and the President articulated a profound sense of ‘urgency.’” *Petry v. Block*, 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this interim final rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to “respond to the public health emergency,” and the urgency is further exemplified by Congress’s command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, “[t]o the extent practicable,” funds must be provided to Tribes and cities “not later than 60 days after the date of enactment.” *See Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been “virtually impossible”). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA “covered period” began on March 3, 2021. The statutory urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the

Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (*e.g.*, payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) emergency processing procedures and assigned control number 1505–0271. The information collections related to ongoing reporting requirements, as discussed in this interim final rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	Number of respondents (estimated)	Number of responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondent (\$48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes) ...	1,262.5	\$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes) ...	1,262.5	61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes) ...	2,525	123,220
Quarterly Project and Expenditure Report.	5,050	4***	20,200	25	505,000	24,644,000
Annual Project and Expenditure Report from NEUs.	TBD	1 per year	†20,000–40,000	15	300,000–600,000	14,640,000–29,280,000
Annual Recovery Plan Performance report.	418	1 per year	418	100	41,800	2,039,840
Total	(**)	N/A	55,768–75,768	141	851,850–1,151,850	41,570,280–56,210,280

*Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the internet at <https://www.bls.gov/oooh/business-and-financial/accountants-and-auditors.htm> (visited March 28, 2020). Base wage of \$33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of \$48.80.

**5,050–TBD.

***Per year after first year.

† (Estimate only).

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the interim final rule.

As discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, recipients of Fiscal Recovery Funds will be required to submit one interim report

and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August

31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the www.regulations.gov docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to oir_submission@omb.eop.gov.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule

pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

- 1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116–260, 134 Stat. 1182; Section 104A, Pub. L. 103–325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117–2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

- 2. Revise the part heading to read as set forth above.
- 3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.	
35.1	Purpose.
35.2	Applicability.
35.3	Definitions.
35.4	Reservation of authority, reporting.
35.5	Use of funds.
35.6	Eligible uses.
35.7	Pensions.
35.8	Tax.
35.9	Compliance with applicable laws.
35.10	Recoupment.
35.11	Payments to States.
35.12	Distributions to nonentitlement units of local government and units of general local government.

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et*

seq.) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

- (1) Begins on March 3, 2021; and
- (2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID–19 means the Coronavirus Disease 2019.

COVID–19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID–19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID-19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

- (1) Is not performed while teleworking from a residence; and
- (2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into

contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. Such amount may not exceed \$25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to \$13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to \$13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

(1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and

(2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U–3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID–19 response and prevention.* Expenditures for the mitigation and prevention of COVID–19, including:

(i) Expenses related to COVID–19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID–19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID–19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID–19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID–19-related operational needs;

(vi) Costs of providing COVID–19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID–19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID–19-related treatment;

(ix) Expenses for communication related to COVID–19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID–19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in

response to the COVID-19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID-19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.*

Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID-19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021.

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance

or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(8) *Assistance to households.*

Assistance programs, including cash assistance programs, that respond to the COVID-19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID-19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID-19 public health emergency assistance programs, including services responding to the COVID-19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID-19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID-19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID-19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID-19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID-19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

$$\text{Max} \{ [\text{Base Year Revenue} * (1 + \text{Growth Adjustment})^{\left(\frac{n_t}{12}\right)}] - \text{Actual General Revenue}_t; 0 \}$$

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency;

Growth Adjustment is equal to the greater of 4.1 percent (or 0.041) and the recipient's average annual revenue growth over the three full fiscal years prior to the COVID-19 public health emergency.

n equals the number of months elapsed from the end of the base year to the calculation date.

Actual General Revenue is a recipient's actual general revenue collected during 12-month period ending on each calculation date;

Subscript *t* denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory

resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations—(1) In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment—(1) In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the

requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance

with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Laurie Schaffer,

Acting General Counsel.

[FR Doc. 2021-10283 Filed 5-13-21; 11:15 am]

BILLING CODE 4810-AK-P

NEU	Population	Allocation	Tranche 1	Tranche 2
Abbott city	369	\$ 91,433.02	\$ 45,716.51	\$ 45,716.51
Abernathy city	2,706	\$ 670,508.78	\$ 335,254.39	\$ 335,254.39
Ackerly city	232	\$ 57,486.34	\$ 28,743.17	\$ 28,743.17
Addison town	16,263	\$ 4,029,742.89	\$ 2,014,871.45	\$ 2,014,871.44
Adrian city	170	\$ 42,123.61	\$ 21,061.81	\$ 21,061.80
Agua Dulce city	801	\$ 198,476.55	\$ 99,238.28	\$ 99,238.27
Alamo city	19,910	\$ 4,933,418.24	\$ 2,466,709.12	\$ 2,466,709.12
Alamo Heights city	8,614	\$ 2,134,428.16	\$ 1,067,214.08	\$ 1,067,214.08
Alba town	545	\$ 135,043.34	\$ 67,521.67	\$ 67,521.67
Albany city	1,934	\$ 479,218.03	\$ 239,609.02	\$ 239,609.01
Aledo city	4,985	\$ 1,235,212.95	\$ 617,606.48	\$ 617,606.47
Alice city	18,682	\$ 4,629,137.10	\$ 2,314,568.55	\$ 2,314,568.55
Alma town	385	\$ 95,397.59	\$ 47,698.80	\$ 47,698.79
Alpine city	5,982	\$ 1,482,255.55	\$ 741,127.78	\$ 741,127.77
Alto town	1,240	\$ 307,254.58	\$ 153,627.29	\$ 153,627.29
Alton city	18,105	\$ 4,486,164.60	\$ 2,243,082.30	\$ 2,243,082.30
Alvarado city	4,530	\$ 1,122,470.35	\$ 561,235.18	\$ 561,235.17
Alvin city	26,723	\$ 6,621,583.91	\$ 3,310,791.96	\$ 3,310,791.95
Alvord town	1,573	\$ 389,767.30	\$ 194,883.65	\$ 194,883.65
Ames city	1,201	\$ 297,590.92	\$ 148,795.46	\$ 148,795.46
Amherst city	660	\$ 163,538.73	\$ 81,769.37	\$ 81,769.36
Anahuac city	2,339	\$ 579,571.33	\$ 289,785.67	\$ 289,785.66
Anderson city	242	\$ 59,964.20	\$ 29,982.10	\$ 29,982.10
Andrews city	14,109	\$ 3,496,011.95	\$ 1,748,005.98	\$ 1,748,005.97
Angleton city	19,431	\$ 4,814,728.77	\$ 2,407,364.39	\$ 2,407,364.38
Angus city	429	\$ 106,300.17	\$ 53,150.09	\$ 53,150.08
Anna city	15,000	\$ 3,716,789.23	\$ 1,858,394.62	\$ 1,858,394.61
Annetta North town	568	\$ 140,742.42	\$ 70,371.21	\$ 70,371.21
Annetta South town	573	\$ 141,981.35	\$ 70,990.68	\$ 70,990.67
Annetta town	3,248	\$ 804,808.76	\$ 402,404.38	\$ 402,404.38
Annona town	288	\$ 71,362.35	\$ 35,681.18	\$ 35,681.17
Anson city	2,297	\$ 569,164.32	\$ 284,582.16	\$ 284,582.16
Anthony town	5,352	\$ 1,326,150.40	\$ 663,075.20	\$ 663,075.20
Anton city	1,095	\$ 271,325.61	\$ 135,662.81	\$ 135,662.80
Appleby city	446	\$ 110,512.53	\$ 55,256.27	\$ 55,256.26
Aquilla city	113	\$ 27,999.81	\$ 13,999.91	\$ 13,999.90
Aransas Pass city	8,388	\$ 2,078,428.54	\$ 1,039,214.27	\$ 1,039,214.27
Archer City city	1,702	\$ 421,731.68	\$ 210,865.84	\$ 210,865.84
Arcola city	2,663	\$ 659,853.98	\$ 329,926.99	\$ 329,926.99
Argyle city	4,381	\$ 1,085,550.24	\$ 542,775.12	\$ 542,775.12
Arp city	1,030	\$ 255,219.53	\$ 127,609.77	\$ 127,609.76
Asherton city	1,039	\$ 257,449.60	\$ 128,724.80	\$ 128,724.80
Aspermont town	835	\$ 206,901.27	\$ 103,450.64	\$ 103,450.63
Athens city	12,753	\$ 3,160,014.21	\$ 1,580,007.11	\$ 1,580,007.10
Atlanta city	5,472	\$ 1,355,884.71	\$ 677,942.36	\$ 677,942.35
Aubrey city	4,895	\$ 1,212,912.22	\$ 606,456.11	\$ 606,456.11

Aurora city	1,512	\$ 374,652.35	\$ 187,326.18	\$ 187,326.17
Austwell city	145	\$ 35,928.96	\$ 17,964.48	\$ 17,964.48
Avery town	444	\$ 110,016.96	\$ 55,008.48	\$ 55,008.48
Avinger town	421	\$ 104,317.88	\$ 52,158.94	\$ 52,158.94
Azle city	13,351	\$ 3,308,190.20	\$ 1,654,095.10	\$ 1,654,095.10
Bailey city	305	\$ 75,574.71	\$ 37,787.36	\$ 37,787.35
Bailey's Prairie village	773	\$ 191,538.54	\$ 95,769.27	\$ 95,769.27
Baird city	1,486	\$ 368,209.92	\$ 184,104.96	\$ 184,104.96
Balch Springs city	25,007	\$ 6,196,383.22	\$ 3,098,191.61	\$ 3,098,191.61
Balcones Heights city	3,296	\$ 816,702.49	\$ 408,351.25	\$ 408,351.24
Ballinger city	3,642	\$ 902,436.43	\$ 451,218.22	\$ 451,218.21
Balmorhea city	595	\$ 147,432.64	\$ 73,716.32	\$ 73,716.32
Bandera city	900	\$ 223,007.35	\$ 111,503.68	\$ 111,503.67
Bangs city	1,527	\$ 378,369.14	\$ 189,184.57	\$ 189,184.57
Bardwell city	689	\$ 170,724.52	\$ 85,362.26	\$ 85,362.26
Barry city	264	\$ 65,415.49	\$ 32,707.75	\$ 32,707.74
Barstow city	386	\$ 95,645.38	\$ 47,822.69	\$ 47,822.69
Bartlett city	1,758	\$ 435,607.70	\$ 217,803.85	\$ 217,803.85
Bartonville town	1,785	\$ 442,297.92	\$ 221,148.96	\$ 221,148.96
Bastrop city	9,242	\$ 2,290,037.74	\$ 1,145,018.87	\$ 1,145,018.87
Bay City city	17,535	\$ 4,344,926.61	\$ 2,172,463.31	\$ 2,172,463.30
Bayou Vista city	1,633	\$ 404,634.45	\$ 202,317.23	\$ 202,317.22
Bayside town	320	\$ 79,291.50	\$ 39,645.75	\$ 39,645.75
Bayview town	389	\$ 96,388.73	\$ 48,194.37	\$ 48,194.36
Beach City city	2,792	\$ 691,818.37	\$ 345,909.19	\$ 345,909.18
Bear Creek village	480	\$ 118,937.26	\$ 59,468.63	\$ 59,468.63
Beasley city	677	\$ 167,751.09	\$ 83,875.55	\$ 83,875.54
Beckville city	823	\$ 203,927.84	\$ 101,963.92	\$ 101,963.92
Bedford city	49,049	\$ 12,153,653.01	\$ 6,076,826.51	\$ 6,076,826.50
Bedias city	470	\$ 116,459.40	\$ 58,229.70	\$ 58,229.70
Bee Cave city	6,841	\$ 1,695,103.68	\$ 847,551.84	\$ 847,551.84
Beeville city	12,793	\$ 3,169,925.64	\$ 1,584,962.82	\$ 1,584,962.82
Bellaire city	18,971	\$ 4,700,747.24	\$ 2,350,373.62	\$ 2,350,373.62
Bellevue city	347	\$ 85,981.72	\$ 42,990.86	\$ 42,990.86
Bellmead city	10,744	\$ 2,662,212.23	\$ 1,331,106.12	\$ 1,331,106.11
Bells town	1,515	\$ 375,395.71	\$ 187,697.86	\$ 187,697.85
Bellville city	4,219	\$ 1,045,408.92	\$ 522,704.46	\$ 522,704.46
Belton city	22,885	\$ 5,670,581.44	\$ 2,835,290.72	\$ 2,835,290.72
Benavides city	1,406	\$ 348,387.04	\$ 174,193.52	\$ 174,193.52
Benbrook city	23,502	\$ 5,823,465.37	\$ 2,911,732.69	\$ 2,911,732.68
Benjamin city	254	\$ 62,937.63	\$ 31,468.82	\$ 31,468.81
Berryville town	1,064	\$ 263,644.25	\$ 131,822.13	\$ 131,822.12
Bertram city	1,476	\$ 365,732.06	\$ 182,866.03	\$ 182,866.03
Beverly Hills city	1,987	\$ 492,350.68	\$ 246,175.34	\$ 246,175.34
Bevil Oaks city	1,225	\$ 303,537.79	\$ 151,768.90	\$ 151,768.89
Big Lake city	3,367	\$ 834,295.29	\$ 417,147.65	\$ 417,147.64
Big Sandy town	1,412	\$ 349,873.76	\$ 174,936.88	\$ 174,936.88

Big Spring city	28,187	\$ 6,984,342.54	\$ 3,492,171.27	\$ 3,492,171.27
Big Wells city	702	\$ 173,945.74	\$ 86,972.87	\$ 86,972.87
Bishop city	3,056	\$ 757,233.86	\$ 378,616.93	\$ 378,616.93
Bishop Hills town	178	\$ 44,105.90	\$ 22,052.95	\$ 22,052.95
Blackwell city	310	\$ 76,813.64	\$ 38,406.82	\$ 38,406.82
Blanco city	2,071	\$ 513,164.70	\$ 256,582.35	\$ 256,582.35
Blanket town	368	\$ 91,185.23	\$ 45,592.62	\$ 45,592.61
Bloomburg town	393	\$ 97,379.88	\$ 48,689.94	\$ 48,689.94
Blooming Grove town	835	\$ 206,901.27	\$ 103,450.64	\$ 103,450.63
Blossom city	1,569	\$ 388,776.15	\$ 194,388.08	\$ 194,388.07
Blue Mound city	2,445	\$ 605,836.64	\$ 302,918.32	\$ 302,918.32
Blue Ridge city	926	\$ 229,449.79	\$ 114,724.90	\$ 114,724.89
Blum town	467	\$ 115,716.04	\$ 57,858.02	\$ 57,858.02
Boerne city	18,232	\$ 4,517,633.42	\$ 2,258,816.71	\$ 2,258,816.71
Bogata city	1,063	\$ 263,396.46	\$ 131,698.23	\$ 131,698.23
Bonham city	10,386	\$ 2,573,504.86	\$ 1,286,752.43	\$ 1,286,752.43
Bonney village	372	\$ 92,176.37	\$ 46,088.19	\$ 46,088.18
Booker town	1,494	\$ 370,192.21	\$ 185,096.11	\$ 185,096.10
Borger city	12,415	\$ 3,076,262.55	\$ 1,538,131.28	\$ 1,538,131.27
Bovina city	1,777	\$ 440,315.63	\$ 220,157.82	\$ 220,157.81
Bowie city	5,114	\$ 1,267,177.34	\$ 633,588.67	\$ 633,588.67
Boyd town	1,518	\$ 376,139.07	\$ 188,069.54	\$ 188,069.53
Brackettville city	1,686	\$ 417,767.11	\$ 208,883.56	\$ 208,883.55
Brady city	5,302	\$ 1,313,761.10	\$ 656,880.55	\$ 656,880.55
Brazoria city	3,056	\$ 757,233.86	\$ 378,616.93	\$ 378,616.93
Brazos Country city	474	\$ 117,450.54	\$ 58,725.27	\$ 58,725.27
Breckenridge city	5,423	\$ 1,343,743.20	\$ 671,871.60	\$ 671,871.60
Bremond city	966	\$ 239,361.23	\$ 119,680.62	\$ 119,680.61
Brenham city	17,863	\$ 4,426,200.40	\$ 2,213,100.20	\$ 2,213,100.20
Briarcliff village	1,819	\$ 450,722.64	\$ 225,361.32	\$ 225,361.32
Briaroaks city	507	\$ 125,627.48	\$ 62,813.74	\$ 62,813.74
Bridge City city	7,862	\$ 1,948,093.13	\$ 974,046.57	\$ 974,046.56
Bridgeport city	6,653	\$ 1,648,519.92	\$ 824,259.96	\$ 824,259.96
Broadus town	197	\$ 48,813.83	\$ 24,406.92	\$ 24,406.91
Bronte town	999	\$ 247,538.16	\$ 123,769.08	\$ 123,769.08
Brookshire city	5,816	\$ 1,441,123.08	\$ 720,561.54	\$ 720,561.54
Brookside Village city	1,577	\$ 390,758.44	\$ 195,379.22	\$ 195,379.22
Browndell city	206	\$ 51,043.91	\$ 25,521.96	\$ 25,521.95
Brownfield city	9,358	\$ 2,318,780.91	\$ 1,159,390.46	\$ 1,159,390.45
Brownsboro city	1,279	\$ 316,918.23	\$ 158,459.12	\$ 158,459.11
Brownwood city	18,455	\$ 4,572,889.69	\$ 2,286,444.85	\$ 2,286,444.84
Bruceville-Eddy city	1,697	\$ 420,492.76	\$ 210,246.38	\$ 210,246.38
Bryson city	536	\$ 132,813.27	\$ 66,406.64	\$ 66,406.63
Buckholts town	522	\$ 129,344.27	\$ 64,672.14	\$ 64,672.13
Buda city	16,906	\$ 4,189,069.25	\$ 2,094,534.63	\$ 2,094,534.62
Buffalo city	1,902	\$ 471,288.87	\$ 235,644.44	\$ 235,644.43
Buffalo Gap town	557	\$ 138,016.77	\$ 69,008.39	\$ 69,008.38

Buffalo Springs village	442	\$ 109,521.39	\$ 54,760.70	\$ 54,760.69
Bullard town	3,727	\$ 923,498.23	\$ 461,749.12	\$ 461,749.11
Bulverde city	5,300	\$ 1,313,265.53	\$ 656,632.77	\$ 656,632.76
Bunker Hill Village city	3,935	\$ 975,037.71	\$ 487,518.86	\$ 487,518.85
Burkburnett city	11,270	\$ 2,792,547.64	\$ 1,396,273.82	\$ 1,396,273.82
Burke city	727	\$ 180,140.38	\$ 90,070.19	\$ 90,070.19
Burleson city	48,225	\$ 11,949,477.39	\$ 5,974,738.70	\$ 5,974,738.69
Burnet city	6,406	\$ 1,587,316.79	\$ 793,658.40	\$ 793,658.39
Burton city	292	\$ 72,353.50	\$ 36,176.75	\$ 36,176.75
Byers city	452	\$ 111,999.25	\$ 55,999.63	\$ 55,999.62
Bynum town	207	\$ 51,291.69	\$ 25,645.85	\$ 25,645.84
Cactus city	3,245	\$ 804,065.40	\$ 402,032.70	\$ 402,032.70
Caddo Mills city	1,698	\$ 420,740.54	\$ 210,370.27	\$ 210,370.27
Caldwell city	4,373	\$ 1,083,567.95	\$ 541,783.98	\$ 541,783.97
Callisburg city	383	\$ 94,902.02	\$ 47,451.01	\$ 47,451.01
Calvert city	1,126	\$ 279,006.98	\$ 139,503.49	\$ 139,503.49
Cameron city	5,464	\$ 1,353,902.42	\$ 676,951.21	\$ 676,951.21
Camp Wood city	731	\$ 181,131.53	\$ 90,565.77	\$ 90,565.76
Campbell city	632	\$ 156,600.72	\$ 78,300.36	\$ 78,300.36
Canadian city	2,699	\$ 668,774.28	\$ 334,387.14	\$ 334,387.14
Caney City town	220	\$ 54,512.91	\$ 27,256.46	\$ 27,256.45
Canton city	3,861	\$ 956,701.55	\$ 478,350.78	\$ 478,350.77
Canyon city	15,945	\$ 3,950,946.95	\$ 1,975,473.48	\$ 1,975,473.47
Carbon town	272	\$ 67,397.78	\$ 33,698.89	\$ 33,698.89
Carl's Corner town	190	\$ 47,079.33	\$ 23,539.67	\$ 23,539.66
Carmine city	252	\$ 62,442.06	\$ 31,221.03	\$ 31,221.03
Carrizo Springs city	5,362	\$ 1,328,628.26	\$ 664,314.13	\$ 664,314.13
Carthage city	6,431	\$ 1,593,511.44	\$ 796,755.72	\$ 796,755.72
Cashion Community city	355	\$ 87,964.01	\$ 43,982.01	\$ 43,982.00
Castle Hills city	4,470	\$ 1,107,603.19	\$ 553,801.60	\$ 553,801.59
Castroville city	3,119	\$ 772,844.37	\$ 386,422.19	\$ 386,422.18
Cedar Hill city	47,930	\$ 11,876,380.54	\$ 5,938,190.27	\$ 5,938,190.27
Celeste city	907	\$ 224,741.86	\$ 112,370.93	\$ 112,370.93
Celina city	16,299	\$ 4,038,663.18	\$ 2,019,331.59	\$ 2,019,331.59
Center city	5,175	\$ 1,282,292.29	\$ 641,146.15	\$ 641,146.14
Centerville city	907	\$ 224,741.86	\$ 112,370.93	\$ 112,370.93
Chandler city	3,180	\$ 787,959.32	\$ 393,979.66	\$ 393,979.66
Channing city	344	\$ 85,238.37	\$ 42,619.19	\$ 42,619.18
Charlotte city	1,898	\$ 470,297.73	\$ 235,148.87	\$ 235,148.86
Chester town	311	\$ 77,061.43	\$ 38,530.72	\$ 38,530.71
Chico city	1,177	\$ 291,644.06	\$ 145,822.03	\$ 145,822.03
Childress city	6,048	\$ 1,498,609.42	\$ 749,304.71	\$ 749,304.71
Chillicothe city	673	\$ 166,759.94	\$ 83,379.97	\$ 83,379.97
China city	1,206	\$ 298,829.85	\$ 149,414.93	\$ 149,414.92
China Grove town	1,321	\$ 327,325.24	\$ 163,662.62	\$ 163,662.62
Chireno city	384	\$ 95,149.80	\$ 47,574.90	\$ 47,574.90
Christine town	425	\$ 105,309.03	\$ 52,654.52	\$ 52,654.51

Cibolo city	31,281	\$ 7,750,992.27	\$ 3,875,496.14	\$ 3,875,496.13
Cisco city	3,784	\$ 937,622.03	\$ 468,811.02	\$ 468,811.01
Clarendon city	1,781	\$ 441,306.77	\$ 220,653.39	\$ 220,653.38
Clarksville city	3,072	\$ 761,198.43	\$ 380,599.22	\$ 380,599.21
Clarksville City city	934	\$ 231,432.08	\$ 115,716.04	\$ 115,716.04
Claude city	1,210	\$ 299,821.00	\$ 149,910.50	\$ 149,910.50
Clear Lake Shores city	1,215	\$ 301,059.93	\$ 150,529.97	\$ 150,529.96
Cleburne city	31,295	\$ 7,754,461.27	\$ 3,877,230.64	\$ 3,877,230.63
Cleveland city	8,238	\$ 2,041,260.65	\$ 1,020,630.33	\$ 1,020,630.32
Clifton city	3,446	\$ 853,870.38	\$ 426,935.19	\$ 426,935.19
Clint town	1,112	\$ 275,537.98	\$ 137,768.99	\$ 137,768.99
Clute city	11,690	\$ 2,896,617.74	\$ 1,448,308.87	\$ 1,448,308.87
Clyde city	3,823	\$ 947,285.68	\$ 473,642.84	\$ 473,642.84
Coahoma town	963	\$ 238,617.87	\$ 119,308.94	\$ 119,308.93
Cockrell Hill city	4,154	\$ 1,029,302.83	\$ 514,651.42	\$ 514,651.41
Coffee City town	293	\$ 72,601.28	\$ 36,300.64	\$ 36,300.64
Coldspring city	932	\$ 230,936.50	\$ 115,468.25	\$ 115,468.25
Coleman city	4,274	\$ 1,059,037.15	\$ 529,518.58	\$ 529,518.57
Colleyville city	27,091	\$ 6,712,769.14	\$ 3,356,384.57	\$ 3,356,384.57
Collinsville town	1,959	\$ 485,412.67	\$ 242,706.34	\$ 242,706.33
Colmesneil city	591	\$ 146,441.50	\$ 73,220.75	\$ 73,220.75
Colorado City city	3,857	\$ 955,710.40	\$ 477,855.20	\$ 477,855.20
Columbus city	3,646	\$ 903,427.57	\$ 451,713.79	\$ 451,713.78
Comanche city	4,197	\$ 1,039,957.63	\$ 519,978.82	\$ 519,978.81
Combes town	2,984	\$ 739,393.27	\$ 369,696.64	\$ 369,696.63
Combine city	2,442	\$ 605,093.29	\$ 302,546.65	\$ 302,546.64
Commerce city	9,680	\$ 2,398,567.98	\$ 1,199,283.99	\$ 1,199,283.99
Como town	727	\$ 180,140.38	\$ 90,070.19	\$ 90,070.19
Converse city	28,171	\$ 6,980,377.96	\$ 3,490,188.98	\$ 3,490,188.98
Cool city	187	\$ 46,335.97	\$ 23,167.99	\$ 23,167.98
Coolidge town	953	\$ 236,140.01	\$ 118,070.01	\$ 118,070.00
Cooper city	1,993	\$ 493,837.40	\$ 246,918.70	\$ 246,918.70
Coppell city	41,421	\$ 10,263,541.79	\$ 5,131,770.90	\$ 5,131,770.89
Copper Canyon town	1,493	\$ 369,944.42	\$ 184,972.21	\$ 184,972.21
Copperas Cove city	33,235	\$ 8,235,166.01	\$ 4,117,583.01	\$ 4,117,583.00
Corinth city	22,099	\$ 5,475,821.68	\$ 2,737,910.84	\$ 2,737,910.84
Corrigan town	1,611	\$ 399,183.16	\$ 199,591.58	\$ 199,591.58
Corsicana city	23,906	\$ 5,923,570.89	\$ 2,961,785.45	\$ 2,961,785.44
Cottonwood city	202	\$ 50,052.76	\$ 25,026.38	\$ 25,026.38
Cottonwood Shores city	1,227	\$ 304,033.36	\$ 152,016.68	\$ 152,016.68
Cotulla city	4,137	\$ 1,025,090.47	\$ 512,545.24	\$ 512,545.23
Coupland city	317	\$ 78,548.15	\$ 39,274.08	\$ 39,274.07
Cove city	559	\$ 138,512.35	\$ 69,256.18	\$ 69,256.17
Covington city	279	\$ 69,132.28	\$ 34,566.14	\$ 34,566.14
Coyote Flats city	363	\$ 89,946.30	\$ 44,973.15	\$ 44,973.15
Crandall city	4,017	\$ 995,356.16	\$ 497,678.08	\$ 497,678.08
Crane city	3,682	\$ 912,347.86	\$ 456,173.93	\$ 456,173.93

Cranfills Gap city	282	\$ 69,875.64	\$ 34,937.82	\$ 34,937.82
Crawford town	827	\$ 204,918.98	\$ 102,459.49	\$ 102,459.49
Creedmoor city	224	\$ 55,504.05	\$ 27,752.03	\$ 27,752.02
Cresson city	1,338	\$ 331,537.60	\$ 165,768.80	\$ 165,768.80
Crockett city	6,385	\$ 1,582,113.28	\$ 791,056.64	\$ 791,056.64
Crosbyton city	1,612	\$ 399,430.95	\$ 199,715.48	\$ 199,715.47
Cross Plains town	986	\$ 244,316.95	\$ 122,158.48	\$ 122,158.47
Cross Roads town	1,516	\$ 375,643.50	\$ 187,821.75	\$ 187,821.75
Cross Timber town	312	\$ 77,309.22	\$ 38,654.61	\$ 38,654.61
Crowell city	817	\$ 202,441.12	\$ 101,220.56	\$ 101,220.56
Crowley city	16,460	\$ 4,078,556.72	\$ 2,039,278.36	\$ 2,039,278.36
Crystal City city	7,158	\$ 1,773,651.82	\$ 886,825.91	\$ 886,825.91
Cuero city	8,236	\$ 2,040,765.07	\$ 1,020,382.54	\$ 1,020,382.53
Cumby city	798	\$ 197,733.19	\$ 98,866.60	\$ 98,866.59
Cuney town	140	\$ 34,690.03	\$ 17,345.02	\$ 17,345.01
Cushing city	620	\$ 153,627.29	\$ 76,813.65	\$ 76,813.64
Cut and Shoot city	1,438	\$ 356,316.19	\$ 178,158.10	\$ 178,158.09
Daingerfield city	2,380	\$ 589,730.56	\$ 294,865.28	\$ 294,865.28
Daisetta city	1,124	\$ 278,511.41	\$ 139,255.71	\$ 139,255.70
Dalhart city	8,310	\$ 2,059,101.23	\$ 1,029,550.62	\$ 1,029,550.61
Dalworthington Gardens city	2,370	\$ 587,252.70	\$ 293,626.35	\$ 293,626.35
Danbury city	1,760	\$ 436,103.27	\$ 218,051.64	\$ 218,051.63
Darrouzett town	342	\$ 84,742.79	\$ 42,371.40	\$ 42,371.39
Dawson town	801	\$ 198,476.55	\$ 99,238.28	\$ 99,238.27
Dayton city	8,389	\$ 2,078,676.32	\$ 1,039,338.16	\$ 1,039,338.16
Dayton Lakes city	103	\$ 25,521.95	\$ 12,760.98	\$ 12,760.97
De Kalb city	1,593	\$ 394,723.02	\$ 197,361.51	\$ 197,361.51
De Leon city	2,198	\$ 544,633.52	\$ 272,316.76	\$ 272,316.76
Dean city	463	\$ 114,724.89	\$ 57,362.45	\$ 57,362.44
Decatur city	7,094	\$ 1,757,793.52	\$ 878,896.76	\$ 878,896.76
DeCordova city	3,040	\$ 753,269.28	\$ 376,634.64	\$ 376,634.64
Deer Park city	33,474	\$ 8,294,386.85	\$ 4,147,193.43	\$ 4,147,193.42
Del Rio city	35,760	\$ 8,860,825.53	\$ 4,430,412.77	\$ 4,430,412.76
Dell City city	526	\$ 130,335.41	\$ 65,167.71	\$ 65,167.70
Denver City town	4,911	\$ 1,216,876.79	\$ 608,438.40	\$ 608,438.39
Deport city	558	\$ 138,264.56	\$ 69,132.28	\$ 69,132.28
Detroit town	683	\$ 169,237.80	\$ 84,618.90	\$ 84,618.90
Devers city	522	\$ 129,344.27	\$ 64,672.14	\$ 64,672.13
Devine city	4,829	\$ 1,196,558.35	\$ 598,279.18	\$ 598,279.17
Diboll city	5,204	\$ 1,289,478.08	\$ 644,739.04	\$ 644,739.04
Dickens city	259	\$ 64,176.56	\$ 32,088.28	\$ 32,088.28
Dickinson city	21,129	\$ 5,235,469.31	\$ 2,617,734.66	\$ 2,617,734.65
Dilley city	4,489	\$ 1,112,311.12	\$ 556,155.56	\$ 556,155.56
Dimmitt city	4,099	\$ 1,015,674.60	\$ 507,837.30	\$ 507,837.30
DISH town	439	\$ 108,778.03	\$ 54,389.02	\$ 54,389.01
Dodd City town	389	\$ 96,388.73	\$ 48,194.37	\$ 48,194.36
Dodson town	107	\$ 26,513.10	\$ 13,256.55	\$ 13,256.55

Domino town	89	\$ 22,052.95	\$ 11,026.48	\$ 11,026.47
Donna city	16,338	\$ 4,048,326.83	\$ 2,024,163.42	\$ 2,024,163.41
Dorchester city	94	\$ 23,291.88	\$ 11,645.94	\$ 11,645.94
Double Oak town	3,068	\$ 760,207.29	\$ 380,103.65	\$ 380,103.64
Douglassville town	218	\$ 54,017.34	\$ 27,008.67	\$ 27,008.67
Draper town	49	\$ 12,141.51	\$ 6,070.76	\$ 6,070.75
Dripping Springs city	5,708	\$ 1,414,362.20	\$ 707,181.10	\$ 707,181.10
Driscoll city	746	\$ 184,848.32	\$ 92,424.16	\$ 92,424.16
Dublin city	3,553	\$ 880,383.48	\$ 440,191.74	\$ 440,191.74
Dumas city	13,827	\$ 3,426,136.31	\$ 1,713,068.16	\$ 1,713,068.15
Duncanville city	38,751	\$ 9,601,953.30	\$ 4,800,976.65	\$ 4,800,976.65
Eagle Lake city	3,777	\$ 935,887.53	\$ 467,943.77	\$ 467,943.76
Eagle Pass city	29,684	\$ 7,355,278.11	\$ 3,677,639.06	\$ 3,677,639.05
Early city	3,160	\$ 783,003.60	\$ 391,501.80	\$ 391,501.80
Earth city	971	\$ 240,600.16	\$ 120,300.08	\$ 120,300.08
East Bernard city	2,342	\$ 580,314.69	\$ 290,157.35	\$ 290,157.34
East Mountain city	861	\$ 213,343.70	\$ 106,671.85	\$ 106,671.85
East Tawakoni city	985	\$ 244,069.16	\$ 122,034.58	\$ 122,034.58
Eastland city	3,850	\$ 953,975.90	\$ 476,987.95	\$ 476,987.95
Easton city	515	\$ 127,609.76	\$ 63,804.88	\$ 63,804.88
Ector city	736	\$ 182,370.46	\$ 91,185.23	\$ 91,185.23
Edcouch city	3,313	\$ 820,914.85	\$ 410,457.43	\$ 410,457.42
Eden city	1,294	\$ 320,635.02	\$ 160,317.51	\$ 160,317.51
Edgecliff Village town	3,026	\$ 749,800.28	\$ 374,900.14	\$ 374,900.14
Edgewood town	1,525	\$ 377,873.57	\$ 188,936.79	\$ 188,936.78
Edmonson town	103	\$ 25,521.95	\$ 12,760.98	\$ 12,760.97
Edna city	5,780	\$ 1,432,202.78	\$ 716,101.39	\$ 716,101.39
Edom city	392	\$ 97,132.09	\$ 48,566.05	\$ 48,566.04
El Campo city	11,539	\$ 2,859,202.06	\$ 1,429,601.03	\$ 1,429,601.03
El Cenizo city	3,161	\$ 783,251.38	\$ 391,625.69	\$ 391,625.69
El Lago city	2,663	\$ 659,853.98	\$ 329,926.99	\$ 329,926.99
Eldorado city	1,579	\$ 391,254.01	\$ 195,627.01	\$ 195,627.00
Electra city	2,730	\$ 676,455.64	\$ 338,227.82	\$ 338,227.82
Elgin city	10,314	\$ 2,555,664.28	\$ 1,277,832.14	\$ 1,277,832.14
Elkhart town	1,299	\$ 321,873.95	\$ 160,936.98	\$ 160,936.97
Elmendorf city	2,150	\$ 532,739.79	\$ 266,369.90	\$ 266,369.89
Elsa city	7,174	\$ 1,777,616.40	\$ 888,808.20	\$ 888,808.20
Emhouse town	145	\$ 35,928.96	\$ 17,964.48	\$ 17,964.48
Emory city	1,353	\$ 335,254.39	\$ 167,627.20	\$ 167,627.19
Enchanted Oaks town	341	\$ 84,495.01	\$ 42,247.51	\$ 42,247.50
Encinal city	591	\$ 146,441.50	\$ 73,220.75	\$ 73,220.75
Ennis city	20,357	\$ 5,044,178.56	\$ 2,522,089.28	\$ 2,522,089.28
Escobares city	2,575	\$ 638,048.82	\$ 319,024.41	\$ 319,024.41
Estelline town	129	\$ 31,964.39	\$ 15,982.20	\$ 15,982.19
Eureka city	307	\$ 76,070.29	\$ 38,035.15	\$ 38,035.14
Eustace city	1,006	\$ 249,272.66	\$ 124,636.33	\$ 124,636.33
Evant town	410	\$ 101,592.24	\$ 50,796.12	\$ 50,796.12

Everman city	6,201	\$ 1,536,520.67	\$ 768,260.34	\$ 768,260.33
Fair Oaks Ranch city	10,042	\$ 2,488,266.50	\$ 1,244,133.25	\$ 1,244,133.25
Fairchilds village	1,297	\$ 321,378.38	\$ 160,689.19	\$ 160,689.19
Fairfield city	2,892	\$ 716,596.96	\$ 358,298.48	\$ 358,298.48
Fairview town	9,141	\$ 2,265,011.36	\$ 1,132,505.68	\$ 1,132,505.68
Falfurrias city	4,812	\$ 1,192,345.99	\$ 596,173.00	\$ 596,172.99
Falls City city	689	\$ 170,724.52	\$ 85,362.26	\$ 85,362.26
Farmers Branch city	48,158	\$ 11,932,875.73	\$ 5,966,437.87	\$ 5,966,437.86
Farmersville city	3,630	\$ 899,462.99	\$ 449,731.50	\$ 449,731.49
Farwell city	1,291	\$ 319,891.66	\$ 159,945.83	\$ 159,945.83
Fate city	15,603	\$ 3,866,204.16	\$ 1,933,102.08	\$ 1,933,102.08
Fayetteville city	257	\$ 63,680.99	\$ 31,840.50	\$ 31,840.49
Ferris city	2,974	\$ 736,915.41	\$ 368,457.71	\$ 368,457.70
Flatonia town	1,431	\$ 354,581.69	\$ 177,290.85	\$ 177,290.84
Florence city	1,274	\$ 315,679.30	\$ 157,839.65	\$ 157,839.65
Floresville city	8,045	\$ 1,993,437.96	\$ 996,718.98	\$ 996,718.98
Floydada city	2,676	\$ 663,075.20	\$ 331,537.60	\$ 331,537.60
Follett city	441	\$ 109,273.60	\$ 54,636.80	\$ 54,636.80
Forest Hill city	12,988	\$ 3,218,243.90	\$ 1,609,121.95	\$ 1,609,121.95
Forney city	27,236	\$ 6,748,698.10	\$ 3,374,349.05	\$ 3,374,349.05
Forsan city	229	\$ 56,742.98	\$ 28,371.49	\$ 28,371.49
Fort Stockton city	8,421	\$ 2,086,605.48	\$ 1,043,302.74	\$ 1,043,302.74
Franklin city	1,645	\$ 407,607.89	\$ 203,803.95	\$ 203,803.94
Frankston town	1,170	\$ 289,909.56	\$ 144,954.78	\$ 144,954.78
Fredericksburg city	11,496	\$ 2,848,547.27	\$ 1,424,273.64	\$ 1,424,273.63
Freeport city	12,136	\$ 3,007,130.28	\$ 1,503,565.14	\$ 1,503,565.14
Freer city	2,666	\$ 660,597.34	\$ 330,298.67	\$ 330,298.67
Friendswood city	40,290	\$ 9,983,295.88	\$ 4,991,647.94	\$ 4,991,647.94
Friona city	3,808	\$ 943,568.89	\$ 471,784.45	\$ 471,784.44
Fritch city	1,952	\$ 483,678.17	\$ 241,839.09	\$ 241,839.08
Frost city	641	\$ 158,830.79	\$ 79,415.40	\$ 79,415.39
Fruitvale city	428	\$ 106,052.39	\$ 53,026.20	\$ 53,026.19
Fulshear city	13,914	\$ 3,447,693.69	\$ 1,723,846.85	\$ 1,723,846.84
Fulton town	1,487	\$ 368,457.71	\$ 184,228.86	\$ 184,228.85
Gainesville city	16,886	\$ 4,184,113.53	\$ 2,092,056.77	\$ 2,092,056.76
Galena Park city	10,757	\$ 2,665,433.45	\$ 1,332,716.73	\$ 1,332,716.72
Gallatin city	434	\$ 107,539.10	\$ 53,769.55	\$ 53,769.55
Ganado city	2,055	\$ 509,200.12	\$ 254,600.06	\$ 254,600.06
Garden Ridge city	4,130	\$ 1,023,355.97	\$ 511,677.99	\$ 511,677.98
Garrett town	892	\$ 221,025.07	\$ 110,512.54	\$ 110,512.53
Garrison city	873	\$ 216,317.13	\$ 108,158.57	\$ 108,158.56
Gary City town	300	\$ 74,335.78	\$ 37,167.89	\$ 37,167.89
Gatesville city	12,401	\$ 3,072,793.55	\$ 1,536,396.78	\$ 1,536,396.77
George West city	2,562	\$ 634,827.60	\$ 317,413.80	\$ 317,413.80
Gholson city	1,118	\$ 277,024.69	\$ 138,512.35	\$ 138,512.34
Giddings city	5,099	\$ 1,263,460.55	\$ 631,730.28	\$ 631,730.27
Gilmer city	5,143	\$ 1,274,363.13	\$ 637,181.57	\$ 637,181.56

Gladewater city	6,341	\$ 1,571,210.70	\$ 785,605.35	\$ 785,605.35
Glen Rose city	2,699	\$ 668,774.28	\$ 334,387.14	\$ 334,387.14
Glenn Heights city	13,377	\$ 3,314,632.64	\$ 1,657,316.32	\$ 1,657,316.32
Godley city	1,373	\$ 340,210.11	\$ 170,105.06	\$ 170,105.05
Goldsmith city	294	\$ 72,849.07	\$ 36,424.54	\$ 36,424.53
Goldthwaite city	1,833	\$ 454,191.64	\$ 227,095.82	\$ 227,095.82
Goliad city	2,004	\$ 496,563.04	\$ 248,281.52	\$ 248,281.52
Golinda city	589	\$ 145,945.92	\$ 72,972.96	\$ 72,972.96
Gonzales city	7,533	\$ 1,866,571.55	\$ 933,285.78	\$ 933,285.77
Goodlow city	198	\$ 49,061.62	\$ 24,530.81	\$ 24,530.81
Goodrich city	323	\$ 80,034.86	\$ 40,017.43	\$ 40,017.43
Gordon city	486	\$ 120,423.97	\$ 60,211.99	\$ 60,211.98
Goree city	203	\$ 50,300.55	\$ 25,150.28	\$ 25,150.27
Gorman city	1,035	\$ 256,458.46	\$ 128,229.23	\$ 128,229.23
Graford city	627	\$ 155,361.79	\$ 77,680.90	\$ 77,680.89
Graham city	8,622	\$ 2,136,410.45	\$ 1,068,205.23	\$ 1,068,205.22
Granbury city	10,730	\$ 2,658,743.23	\$ 1,329,371.62	\$ 1,329,371.61
Grand Saline city	3,173	\$ 786,224.82	\$ 393,112.41	\$ 393,112.41
Grandfalls town	403	\$ 99,857.74	\$ 49,928.87	\$ 49,928.87
Grandview city	1,798	\$ 445,519.14	\$ 222,759.57	\$ 222,759.57
Granger city	1,505	\$ 372,917.85	\$ 186,458.93	\$ 186,458.92
Granite Shoals city	5,087	\$ 1,260,487.12	\$ 630,243.56	\$ 630,243.56
Granjeno city	315	\$ 78,052.57	\$ 39,026.29	\$ 39,026.28
Grapeland city	1,443	\$ 357,555.12	\$ 178,777.56	\$ 178,777.56
Grays Prairie village	372	\$ 92,176.37	\$ 46,088.19	\$ 46,088.18
Greenville city	28,827	\$ 7,142,925.55	\$ 3,571,462.78	\$ 3,571,462.77
Gregory city	1,886	\$ 467,324.30	\$ 233,662.15	\$ 233,662.15
Grey Forest city	564	\$ 139,751.28	\$ 69,875.64	\$ 69,875.64
Groesbeck city	4,253	\$ 1,053,833.64	\$ 526,916.82	\$ 526,916.82
Groom town	550	\$ 136,282.27	\$ 68,141.14	\$ 68,141.13
Groves city	15,480	\$ 3,835,726.49	\$ 1,917,863.25	\$ 1,917,863.24
Groveton city	1,023	\$ 253,485.03	\$ 126,742.52	\$ 126,742.51
Gruver city	1,135	\$ 281,237.05	\$ 140,618.53	\$ 140,618.52
Gun Barrel City city	6,208	\$ 1,538,255.17	\$ 769,127.59	\$ 769,127.58
Gunter city	1,675	\$ 415,041.46	\$ 207,520.73	\$ 207,520.73
Gustine town	468	\$ 115,963.82	\$ 57,981.91	\$ 57,981.91
Hackberry town	1,077	\$ 266,865.47	\$ 133,432.74	\$ 133,432.73
Hale Center city	2,054	\$ 508,952.34	\$ 254,476.17	\$ 254,476.17
Hallettsville city	2,637	\$ 653,411.55	\$ 326,705.78	\$ 326,705.77
Hallsburg city	468	\$ 115,963.82	\$ 57,981.91	\$ 57,981.91
Hallsville city	4,296	\$ 1,064,488.44	\$ 532,244.22	\$ 532,244.22
Haltom City city	43,874	\$ 10,871,360.73	\$ 5,435,680.37	\$ 5,435,680.36
Hamilton city	3,012	\$ 746,331.28	\$ 373,165.64	\$ 373,165.64
Hamlin city	2,021	\$ 500,775.40	\$ 250,387.70	\$ 250,387.70
Happy town	668	\$ 165,521.01	\$ 82,760.51	\$ 82,760.50
Hardin city	935	\$ 231,679.86	\$ 115,839.93	\$ 115,839.93
Harker Heights city	32,421	\$ 8,033,468.25	\$ 4,016,734.13	\$ 4,016,734.12

Hart city	1,020	\$ 252,741.67	\$ 126,370.84	\$ 126,370.83
Haskell city	3,153	\$ 781,269.10	\$ 390,634.55	\$ 390,634.55
Haslet city	1,923	\$ 476,492.38	\$ 238,246.19	\$ 238,246.19
Hawk Cove city	557	\$ 138,016.77	\$ 69,008.39	\$ 69,008.38
Hawkins city	1,321	\$ 327,325.24	\$ 163,662.62	\$ 163,662.62
Hawley city	623	\$ 154,370.65	\$ 77,185.33	\$ 77,185.32
Hays city	269	\$ 66,654.42	\$ 33,327.21	\$ 33,327.21
Hearne city	4,354	\$ 1,078,860.02	\$ 539,430.01	\$ 539,430.01
Heath city	9,331	\$ 2,312,090.69	\$ 1,156,045.35	\$ 1,156,045.34
Hebron town	215	\$ 53,273.98	\$ 26,636.99	\$ 26,636.99
Hedley city	289	\$ 71,610.14	\$ 35,805.07	\$ 35,805.07
Hedwig Village city	2,634	\$ 652,668.19	\$ 326,334.10	\$ 326,334.09
Helotes city	9,961	\$ 2,468,195.84	\$ 1,234,097.92	\$ 1,234,097.92
Hemphill city	1,244	\$ 308,245.72	\$ 154,122.86	\$ 154,122.86
Hempstead city	8,355	\$ 2,070,251.60	\$ 1,035,125.80	\$ 1,035,125.80
Henderson city	13,154	\$ 3,259,376.37	\$ 1,629,688.19	\$ 1,629,688.18
Henrietta city	3,118	\$ 772,596.59	\$ 386,298.30	\$ 386,298.29
Hereford city	14,622	\$ 3,623,126.14	\$ 1,811,563.07	\$ 1,811,563.07
Hewitt city	14,937	\$ 3,701,178.72	\$ 1,850,589.36	\$ 1,850,589.36
Hickory Creek town	4,795	\$ 1,188,133.62	\$ 594,066.81	\$ 594,066.81
Hico city	1,413	\$ 350,121.55	\$ 175,060.78	\$ 175,060.77
Hidalgo city	14,183	\$ 3,514,348.11	\$ 1,757,174.06	\$ 1,757,174.05
Hideaway city	3,174	\$ 786,472.60	\$ 393,236.30	\$ 393,236.30
Higgins city	391	\$ 96,884.31	\$ 48,442.16	\$ 48,442.15
Highland Haven city	443	\$ 109,769.18	\$ 54,884.59	\$ 54,884.59
Highland Park town	9,083	\$ 2,250,639.77	\$ 1,125,319.89	\$ 1,125,319.88
Highland Village city	16,668	\$ 4,130,096.20	\$ 2,065,048.10	\$ 2,065,048.10
Hill Country Village city	1,114	\$ 276,033.55	\$ 138,016.78	\$ 138,016.77
Hillcrest village	712	\$ 176,423.60	\$ 88,211.80	\$ 88,211.80
Hillsboro city	8,476	\$ 2,100,233.70	\$ 1,050,116.85	\$ 1,050,116.85
Hilshire Village city	808	\$ 200,211.05	\$ 100,105.53	\$ 100,105.52
Hitchcock city	7,914	\$ 1,960,978.00	\$ 980,489.00	\$ 980,489.00
Holiday Lakes town	1,250	\$ 309,732.44	\$ 154,866.22	\$ 154,866.22
Holland town	1,171	\$ 290,157.35	\$ 145,078.68	\$ 145,078.67
Holliday city	1,670	\$ 413,802.53	\$ 206,901.27	\$ 206,901.26
Hollywood Park town	3,342	\$ 828,100.64	\$ 414,050.32	\$ 414,050.32
Hondo city	9,436	\$ 2,338,108.21	\$ 1,169,054.11	\$ 1,169,054.10
Honey Grove city	1,737	\$ 430,404.19	\$ 215,202.10	\$ 215,202.09
Hooks city	2,712	\$ 671,995.49	\$ 335,997.75	\$ 335,997.74
Horizon City city	19,642	\$ 4,867,011.61	\$ 2,433,505.81	\$ 2,433,505.80
Horseshoe Bay city	4,024	\$ 997,090.66	\$ 498,545.33	\$ 498,545.33
Howardwick city	393	\$ 97,379.88	\$ 48,689.94	\$ 48,689.94
Howe town	3,346	\$ 829,091.78	\$ 414,545.89	\$ 414,545.89
Hubbard city	1,406	\$ 348,387.04	\$ 174,193.52	\$ 174,193.52
Hudson city	5,005	\$ 1,240,168.67	\$ 620,084.34	\$ 620,084.33
Hudson Oaks city	2,479	\$ 614,261.37	\$ 307,130.69	\$ 307,130.68
Hughes Springs city	1,709	\$ 423,466.19	\$ 211,733.10	\$ 211,733.09

Humble city	15,824	\$ 3,920,964.85	\$ 1,960,482.43	\$ 1,960,482.42
Hunters Creek Village city	4,869	\$ 1,206,469.78	\$ 603,234.89	\$ 603,234.89
Huntington city	2,111	\$ 523,076.14	\$ 261,538.07	\$ 261,538.07
Huntsville city	42,241	\$ 10,466,726.26	\$ 5,233,363.13	\$ 5,233,363.13
Hurst city	38,655	\$ 9,578,165.85	\$ 4,789,082.93	\$ 4,789,082.92
Hutchins city	5,866	\$ 1,453,512.38	\$ 726,756.19	\$ 726,756.19
Hutto city	27,947	\$ 6,924,873.91	\$ 3,462,436.96	\$ 3,462,436.95
Huxley city	382	\$ 94,654.23	\$ 47,327.12	\$ 47,327.11
Idalou city	2,308	\$ 571,889.97	\$ 285,944.99	\$ 285,944.98
Impact town	30	\$ 7,433.58	\$ 3,716.79	\$ 3,716.79
Indian Lake town	854	\$ 211,609.20	\$ 105,804.60	\$ 105,804.60
Industry city	325	\$ 80,530.43	\$ 40,265.22	\$ 40,265.21
Ingleside city	10,192	\$ 2,525,434.39	\$ 1,262,717.20	\$ 1,262,717.19
Ingleside on the Bay city	607	\$ 150,406.07	\$ 75,203.04	\$ 75,203.03
Ingram city	1,850	\$ 458,404.01	\$ 229,202.01	\$ 229,202.00
Iola city	424	\$ 105,061.24	\$ 52,530.62	\$ 52,530.62
Iowa Colony village	3,233	\$ 801,091.97	\$ 400,545.99	\$ 400,545.98
Iowa Park city	6,339	\$ 1,570,715.13	\$ 785,357.57	\$ 785,357.56
Iraan city	1,222	\$ 302,794.43	\$ 151,397.22	\$ 151,397.21
Iredell city	342	\$ 84,742.79	\$ 42,371.40	\$ 42,371.39
Italy town	1,923	\$ 476,492.38	\$ 238,246.19	\$ 238,246.19
Itasca city	1,733	\$ 429,413.05	\$ 214,706.53	\$ 214,706.52
Ivanhoe city	1,436	\$ 355,820.62	\$ 177,910.31	\$ 177,910.31
Jacinto City city	10,466	\$ 2,593,327.74	\$ 1,296,663.87	\$ 1,296,663.87
Jacksboro city	4,384	\$ 1,086,293.60	\$ 543,146.80	\$ 543,146.80
Jacksonville city	14,815	\$ 3,670,948.83	\$ 1,835,474.42	\$ 1,835,474.41
Jamaica Beach city	1,079	\$ 267,361.04	\$ 133,680.52	\$ 133,680.52
Jarrell city	1,832	\$ 453,943.86	\$ 226,971.93	\$ 226,971.93
Jasper city	7,551	\$ 1,871,031.70	\$ 935,515.85	\$ 935,515.85
Jayton city	502	\$ 124,388.55	\$ 62,194.28	\$ 62,194.27
Jefferson city	1,915	\$ 474,510.09	\$ 237,255.05	\$ 237,255.04
Jersey Village city	7,890	\$ 1,955,031.14	\$ 977,515.57	\$ 977,515.57
Jewett city	1,220	\$ 302,298.86	\$ 151,149.43	\$ 151,149.43
Joaquin city	805	\$ 199,467.69	\$ 99,733.85	\$ 99,733.84
Johnson City city	2,131	\$ 528,031.86	\$ 264,015.93	\$ 264,015.93
Jolly city	163	\$ 40,389.11	\$ 20,194.56	\$ 20,194.55
Jones Creek village	2,077	\$ 514,651.42	\$ 257,325.71	\$ 257,325.71
Jonestown city	2,105	\$ 521,589.42	\$ 260,794.71	\$ 260,794.71
Josephine city	2,094	\$ 518,863.78	\$ 259,431.89	\$ 259,431.89
Joshua city	8,101	\$ 2,007,313.97	\$ 1,003,656.99	\$ 1,003,656.98
Jourdanton city	4,405	\$ 1,091,497.10	\$ 545,748.55	\$ 545,748.55
Junction city	2,404	\$ 595,677.42	\$ 297,838.71	\$ 297,838.71
Justin city	4,279	\$ 1,060,276.08	\$ 530,138.04	\$ 530,138.04
Karnes City city	3,383	\$ 838,259.86	\$ 419,129.93	\$ 419,129.93
Katy city	21,729	\$ 5,384,140.88	\$ 2,692,070.44	\$ 2,692,070.44
Kaufman city	7,788	\$ 1,929,756.97	\$ 964,878.49	\$ 964,878.48
Keene city	6,568	\$ 1,627,458.11	\$ 813,729.06	\$ 813,729.05

Keller city	47,213	\$ 11,698,718.01	\$ 5,849,359.01	\$ 5,849,359.00
Kemah city	2,019	\$ 500,279.83	\$ 250,139.92	\$ 250,139.91
Kemp city	1,236	\$ 306,263.43	\$ 153,131.72	\$ 153,131.71
Kempner city	1,140	\$ 282,475.98	\$ 141,237.99	\$ 141,237.99
Kendleton city	454	\$ 112,494.82	\$ 56,247.41	\$ 56,247.41
Kenedy city	3,353	\$ 830,826.29	\$ 415,413.15	\$ 415,413.14
Kenefick town	693	\$ 171,715.66	\$ 85,857.83	\$ 85,857.83
Kennard city	325	\$ 80,530.43	\$ 40,265.22	\$ 40,265.21
Kennedale city	8,645	\$ 2,142,109.53	\$ 1,071,054.77	\$ 1,071,054.76
Kerens city	1,523	\$ 377,378.00	\$ 188,689.00	\$ 188,689.00
Kermit city	6,486	\$ 1,607,139.66	\$ 803,569.83	\$ 803,569.83
Kerrville city	23,754	\$ 5,885,907.43	\$ 2,942,953.72	\$ 2,942,953.71
Kilgore city	14,852	\$ 3,680,116.91	\$ 1,840,058.46	\$ 1,840,058.45
Kingsbury city	133	\$ 32,955.53	\$ 16,477.77	\$ 16,477.76
Kingsville city	25,315	\$ 6,272,701.29	\$ 3,136,350.65	\$ 3,136,350.64
Kirby city	8,723	\$ 2,161,436.83	\$ 1,080,718.42	\$ 1,080,718.41
Kirbyville city	2,069	\$ 512,669.13	\$ 256,334.57	\$ 256,334.56
Kirvin town	131	\$ 32,459.96	\$ 16,229.98	\$ 16,229.98
Knollwood city	489	\$ 121,167.33	\$ 60,583.67	\$ 60,583.66
Knox City town	1,119	\$ 277,272.48	\$ 138,636.24	\$ 138,636.24
Kosse town	466	\$ 115,468.25	\$ 57,734.13	\$ 57,734.12
Kountze city	2,108	\$ 522,332.78	\$ 261,166.39	\$ 261,166.39
Kress city	681	\$ 168,742.23	\$ 84,371.12	\$ 84,371.11
Krugerville city	1,836	\$ 454,935.00	\$ 227,467.50	\$ 227,467.50
Krum city	5,018	\$ 1,243,389.89	\$ 621,694.95	\$ 621,694.94
Kurten town	409	\$ 101,344.45	\$ 50,672.23	\$ 50,672.22
Kyle city	48,393	\$ 11,991,105.43	\$ 5,995,552.72	\$ 5,995,552.71
La Feria city	7,230	\$ 1,791,492.41	\$ 895,746.21	\$ 895,746.20
La Grange city	4,677	\$ 1,158,894.88	\$ 579,447.44	\$ 579,447.44
La Grulla city	1,701	\$ 421,483.90	\$ 210,741.95	\$ 210,741.95
La Joya city	4,293	\$ 1,063,745.08	\$ 531,872.54	\$ 531,872.54
La Marque city	17,319	\$ 4,291,404.85	\$ 2,145,702.43	\$ 2,145,702.42
La Porte city	34,976	\$ 8,666,561.35	\$ 4,333,280.68	\$ 4,333,280.67
La Vernia city	1,428	\$ 353,838.33	\$ 176,919.17	\$ 176,919.16
La Villa city	2,870	\$ 711,145.67	\$ 355,572.84	\$ 355,572.83
La Ward city	224	\$ 55,504.05	\$ 27,752.03	\$ 27,752.02
LaCoste city	1,247	\$ 308,989.08	\$ 154,494.54	\$ 154,494.54
Lacy-Lakeview city	6,721	\$ 1,665,369.36	\$ 832,684.68	\$ 832,684.68
Ladonia town	627	\$ 155,361.79	\$ 77,680.90	\$ 77,680.89
Lago Vista city	7,556	\$ 1,872,270.63	\$ 936,135.32	\$ 936,135.31
Laguna Vista town	3,180	\$ 787,959.32	\$ 393,979.66	\$ 393,979.66
Lake Bridgeport city	399	\$ 98,866.59	\$ 49,433.30	\$ 49,433.29
Lake City town	531	\$ 131,574.34	\$ 65,787.17	\$ 65,787.17
Lake Dallas city	8,063	\$ 1,997,898.11	\$ 998,949.06	\$ 998,949.05
Lake Jackson city	27,220	\$ 6,744,733.53	\$ 3,372,366.77	\$ 3,372,366.76
Lake Tanglewood village	886	\$ 219,538.35	\$ 109,769.18	\$ 109,769.17
Lake Worth city	4,896	\$ 1,213,160.01	\$ 606,580.01	\$ 606,580.00

Lakeport city	996	\$ 246,794.81	\$ 123,397.41	\$ 123,397.40
Lakeside City town	957	\$ 237,131.15	\$ 118,565.58	\$ 118,565.57
Lakeside town (1)	303	\$ 75,079.14	\$ 37,539.57	\$ 37,539.57
Lakeside town (2)	1,593	\$ 394,723.02	\$ 197,361.51	\$ 197,361.51
Lakeview town	95	\$ 23,539.67	\$ 11,769.84	\$ 11,769.83
Lakeway city	15,981	\$ 3,959,867.25	\$ 1,979,933.63	\$ 1,979,933.62
Lakewood Village city	964	\$ 238,865.65	\$ 119,432.83	\$ 119,432.82
Lamesa city	9,147	\$ 2,266,498.07	\$ 1,133,249.04	\$ 1,133,249.03
Lampasas city	7,982	\$ 1,977,827.44	\$ 988,913.72	\$ 988,913.72
Lancaster city	39,228	\$ 9,720,147.20	\$ 4,860,073.60	\$ 4,860,073.60
Latexo city	314	\$ 77,804.79	\$ 38,902.40	\$ 38,902.39
Lavon city	3,724	\$ 922,754.87	\$ 461,377.44	\$ 461,377.43
Lawn town	321	\$ 79,539.29	\$ 39,769.65	\$ 39,769.64
Leakey city	438	\$ 108,530.25	\$ 54,265.13	\$ 54,265.12
Leary city	502	\$ 124,388.55	\$ 62,194.28	\$ 62,194.27
Lefors town	480	\$ 118,937.26	\$ 59,468.63	\$ 59,468.63
Leon Valley city	12,306	\$ 3,049,253.89	\$ 1,524,626.95	\$ 1,524,626.94
Leona city	180	\$ 44,601.47	\$ 22,300.74	\$ 22,300.73
Leonard city	2,054	\$ 508,952.34	\$ 254,476.17	\$ 254,476.17
Leroy city	346	\$ 85,733.94	\$ 42,866.97	\$ 42,866.97
Levelland city	13,502	\$ 3,345,605.88	\$ 1,672,802.94	\$ 1,672,802.94
Lexington town	1,222	\$ 302,794.43	\$ 151,397.22	\$ 151,397.21
Liberty city	9,314	\$ 2,307,878.33	\$ 1,153,939.17	\$ 1,153,939.16
Liberty Hill city	2,931	\$ 726,260.62	\$ 363,130.31	\$ 363,130.31
Lindale city	6,464	\$ 1,601,688.37	\$ 800,844.19	\$ 800,844.18
Linden city	1,915	\$ 474,510.09	\$ 237,255.05	\$ 237,255.04
Lindsay city	1,149	\$ 284,706.06	\$ 142,353.03	\$ 142,353.03
Lipan city	488	\$ 120,919.54	\$ 60,459.77	\$ 60,459.77
Little River-Academy city	2,038	\$ 504,987.76	\$ 252,493.88	\$ 252,493.88
Littlefield city	5,843	\$ 1,447,813.30	\$ 723,906.65	\$ 723,906.65
Live Oak city	16,499	\$ 4,088,220.37	\$ 2,044,110.19	\$ 2,044,110.18
Liverpool city	551	\$ 136,530.06	\$ 68,265.03	\$ 68,265.03
Livingston town	5,242	\$ 1,298,893.94	\$ 649,446.97	\$ 649,446.97
Llano city	3,497	\$ 866,507.46	\$ 433,253.73	\$ 433,253.73
Lockhart city	14,133	\$ 3,501,958.81	\$ 1,750,979.41	\$ 1,750,979.40
Lockney town	1,631	\$ 404,138.88	\$ 202,069.44	\$ 202,069.44
Log Cabin city	772	\$ 191,290.75	\$ 95,645.38	\$ 95,645.37
Lometa city	861	\$ 213,343.70	\$ 106,671.85	\$ 106,671.85
Lone Oak city	692	\$ 171,467.88	\$ 85,733.94	\$ 85,733.94
Lone Star city	1,482	\$ 367,218.78	\$ 183,609.39	\$ 183,609.39
Loraine town	564	\$ 139,751.28	\$ 69,875.64	\$ 69,875.64
Lorena city	1,755	\$ 434,864.34	\$ 217,432.17	\$ 217,432.17
Lorenzo city	1,138	\$ 281,980.41	\$ 140,990.21	\$ 140,990.20
Los Fresnos city	7,837	\$ 1,941,898.48	\$ 970,949.24	\$ 970,949.24
Los Indios town	1,060	\$ 262,653.11	\$ 131,326.56	\$ 131,326.55
Los Ybanez city	19	\$ 4,707.93	\$ 2,353.97	\$ 2,353.96
Lott city	742	\$ 183,857.17	\$ 91,928.59	\$ 91,928.58

Lovelady city	627	\$ 155,361.79	\$ 77,680.90	\$ 77,680.89
Lowry Crossing city	1,727	\$ 427,926.33	\$ 213,963.17	\$ 213,963.16
Lucas city	8,553	\$ 2,119,313.22	\$ 1,059,656.61	\$ 1,059,656.61
Lueders city	333	\$ 82,512.72	\$ 41,256.36	\$ 41,256.36
Lufkin city	35,021	\$ 8,677,711.71	\$ 4,338,855.86	\$ 4,338,855.85
Luling city	5,869	\$ 1,454,255.73	\$ 727,127.87	\$ 727,127.86
Lumberton city	13,073	\$ 3,239,305.71	\$ 1,619,652.86	\$ 1,619,652.85
Lyford city	2,540	\$ 629,376.31	\$ 314,688.16	\$ 314,688.15
Lytle city	3,066	\$ 759,711.72	\$ 379,855.86	\$ 379,855.86
Mabank town	3,995	\$ 989,904.87	\$ 494,952.44	\$ 494,952.43
Madisonville city	4,685	\$ 1,160,877.17	\$ 580,438.59	\$ 580,438.58
Magnolia city	2,093	\$ 518,615.99	\$ 259,308.00	\$ 259,307.99
Malakoff city	2,301	\$ 570,155.47	\$ 285,077.74	\$ 285,077.73
Malone town	283	\$ 70,123.42	\$ 35,061.71	\$ 35,061.71
Manor city	13,866	\$ 3,435,799.97	\$ 1,717,899.99	\$ 1,717,899.98
Manvel city	12,671	\$ 3,139,695.76	\$ 1,569,847.88	\$ 1,569,847.88
Marble Falls city	7,038	\$ 1,743,917.51	\$ 871,958.76	\$ 871,958.75
Marfa city	1,625	\$ 402,652.17	\$ 201,326.09	\$ 201,326.08
Marietta town	129	\$ 31,964.39	\$ 15,982.20	\$ 15,982.19
Marion city	1,241	\$ 307,502.36	\$ 153,751.18	\$ 153,751.18
Marlin city	5,581	\$ 1,382,893.38	\$ 691,446.69	\$ 691,446.69
Marquez city	274	\$ 67,893.35	\$ 33,946.68	\$ 33,946.67
Mart city	1,963	\$ 486,403.82	\$ 243,201.91	\$ 243,201.91
Martindale city	1,231	\$ 305,024.50	\$ 152,512.25	\$ 152,512.25
Mason city	2,305	\$ 571,146.61	\$ 285,573.31	\$ 285,573.30
Matador town	611	\$ 151,397.21	\$ 75,698.61	\$ 75,698.60
Mathis city	4,715	\$ 1,168,310.75	\$ 584,155.38	\$ 584,155.37
Maud city	1,042	\$ 258,192.96	\$ 129,096.48	\$ 129,096.48
Maypearl city	1,032	\$ 255,715.10	\$ 127,857.55	\$ 127,857.55
McCamey city	2,060	\$ 510,439.05	\$ 255,219.53	\$ 255,219.52
McGregor city	5,331	\$ 1,320,946.89	\$ 660,473.45	\$ 660,473.44
McLean town	744	\$ 184,352.75	\$ 92,176.38	\$ 92,176.37
McLendon-Chisholm city	3,455	\$ 856,100.45	\$ 428,050.23	\$ 428,050.22
Meadow town	585	\$ 144,954.78	\$ 72,477.39	\$ 72,477.39
Meadowlakes city	1,703	\$ 421,979.47	\$ 210,989.74	\$ 210,989.73
Meadows Place city	4,591	\$ 1,137,585.29	\$ 568,792.65	\$ 568,792.64
Megargel town	188	\$ 46,583.76	\$ 23,291.88	\$ 23,291.88
Melissa city	12,117	\$ 3,002,422.34	\$ 1,501,211.17	\$ 1,501,211.17
Melvin town	168	\$ 41,628.04	\$ 20,814.02	\$ 20,814.02
Memphis city	2,012	\$ 498,545.33	\$ 249,272.67	\$ 249,272.66
Menard city	1,404	\$ 347,891.47	\$ 173,945.74	\$ 173,945.73
Mercedes city	16,604	\$ 4,114,237.89	\$ 2,057,118.95	\$ 2,057,118.94
Meridian city	1,515	\$ 375,395.71	\$ 187,697.86	\$ 187,697.85
Merkel town	2,617	\$ 648,455.83	\$ 324,227.92	\$ 324,227.91
Mertens town	128	\$ 31,716.60	\$ 15,858.30	\$ 15,858.30
Mertzon city	743	\$ 184,104.96	\$ 92,052.48	\$ 92,052.48
Mexia city	7,344	\$ 1,819,740.01	\$ 909,870.01	\$ 909,870.00

Miami city	550	\$ 136,282.27	\$ 68,141.14	\$ 68,141.13
Midlothian city	33,532	\$ 8,308,758.44	\$ 4,154,379.22	\$ 4,154,379.22
Midway city	236	\$ 58,477.48	\$ 29,238.74	\$ 29,238.74
Milano city	421	\$ 104,317.88	\$ 52,158.94	\$ 52,158.94
Mildred town	392	\$ 97,132.09	\$ 48,566.05	\$ 48,566.04
Miles city	872	\$ 216,069.35	\$ 108,034.68	\$ 108,034.67
Milford town	747	\$ 185,096.10	\$ 92,548.05	\$ 92,548.05
Miller's Cove town	160	\$ 39,645.75	\$ 19,822.88	\$ 19,822.87
Millsap town	461	\$ 114,229.32	\$ 57,114.66	\$ 57,114.66
Mineola city	4,766	\$ 1,180,947.83	\$ 590,473.92	\$ 590,473.91
Mineral Wells city	15,213	\$ 3,769,567.64	\$ 1,884,783.82	\$ 1,884,783.82
Mingus city	257	\$ 63,680.99	\$ 31,840.50	\$ 31,840.49
Mobeetie city	95	\$ 23,539.67	\$ 11,769.84	\$ 11,769.83
Mobile City city	210	\$ 52,035.05	\$ 26,017.53	\$ 26,017.52
Monahans city	7,816	\$ 1,936,694.98	\$ 968,347.49	\$ 968,347.49
Mont Belvieu city	6,574	\$ 1,628,944.83	\$ 814,472.42	\$ 814,472.41
Montgomery city	1,360	\$ 336,988.89	\$ 168,494.45	\$ 168,494.44
Moody city	1,420	\$ 351,856.05	\$ 175,928.03	\$ 175,928.02
Moore Station city	220	\$ 54,512.91	\$ 27,256.46	\$ 27,256.45
Moran city	260	\$ 64,424.35	\$ 32,212.18	\$ 32,212.17
Morgan city	519	\$ 128,600.91	\$ 64,300.46	\$ 64,300.45
Morgan's Point city	342	\$ 84,742.79	\$ 42,371.40	\$ 42,371.39
Morgan's Point Resort city	4,685	\$ 1,160,877.17	\$ 580,438.59	\$ 580,438.58
Morton city	1,813	\$ 449,235.93	\$ 224,617.97	\$ 224,617.96
Moulton town	899	\$ 222,759.57	\$ 111,379.79	\$ 111,379.78
Mount Calm city	339	\$ 83,999.44	\$ 41,999.72	\$ 41,999.72
Mount Enterprise city	436	\$ 108,034.67	\$ 54,017.34	\$ 54,017.33
Mount Pleasant city	15,978	\$ 3,959,123.89	\$ 1,979,561.95	\$ 1,979,561.94
Mount Vernon town	2,738	\$ 678,437.93	\$ 339,218.97	\$ 339,218.96
Mountain City city	810	\$ 200,706.62	\$ 100,353.31	\$ 100,353.31
Muenster city	1,645	\$ 407,607.89	\$ 203,803.95	\$ 203,803.94
Muleshoe city	5,019	\$ 1,243,637.68	\$ 621,818.84	\$ 621,818.84
Mullin town	176	\$ 43,610.33	\$ 21,805.17	\$ 21,805.16
Munday city	1,275	\$ 315,927.08	\$ 157,963.54	\$ 157,963.54
Murchison city	599	\$ 148,423.78	\$ 74,211.89	\$ 74,211.89
Murphy city	20,500	\$ 5,079,611.95	\$ 2,539,805.98	\$ 2,539,805.97
Mustang Ridge city	981	\$ 243,078.02	\$ 121,539.01	\$ 121,539.01
Mustang town	21	\$ 5,203.50	\$ 2,601.75	\$ 2,601.75
Nacogdoches city	32,877	\$ 8,146,458.64	\$ 4,073,229.32	\$ 4,073,229.32
Naples city	1,313	\$ 325,342.95	\$ 162,671.48	\$ 162,671.47
Nash city	3,827	\$ 948,276.83	\$ 474,138.42	\$ 474,138.41
Nassau Bay city	3,972	\$ 984,205.79	\$ 492,102.90	\$ 492,102.89
Natalia city	1,590	\$ 393,979.66	\$ 196,989.83	\$ 196,989.83
Navarro town	220	\$ 54,512.91	\$ 27,256.46	\$ 27,256.45
Navasota city	7,998	\$ 1,981,792.02	\$ 990,896.01	\$ 990,896.01
Nazareth city	291	\$ 72,105.71	\$ 36,052.86	\$ 36,052.85
Nederland city	17,371	\$ 4,304,289.72	\$ 2,152,144.86	\$ 2,152,144.86

Needville city	3,103	\$ 768,879.80	\$ 384,439.90	\$ 384,439.90
Nevada city	1,257	\$ 311,466.94	\$ 155,733.47	\$ 155,733.47
New Berlin city	624	\$ 154,618.43	\$ 77,309.22	\$ 77,309.21
New Boston city	4,609	\$ 1,142,045.44	\$ 571,022.72	\$ 571,022.72
New Chapel Hill city	646	\$ 160,069.72	\$ 80,034.86	\$ 80,034.86
New Deal town	827	\$ 204,918.98	\$ 102,459.49	\$ 102,459.49
New Fairview city	1,544	\$ 382,581.51	\$ 191,290.76	\$ 191,290.75
New Home city	363	\$ 89,946.30	\$ 44,973.15	\$ 44,973.15
New Hope town	628	\$ 155,609.58	\$ 77,804.79	\$ 77,804.79
New London city	1,014	\$ 251,254.95	\$ 125,627.48	\$ 125,627.47
New Summerfield city	1,170	\$ 289,909.56	\$ 144,954.78	\$ 144,954.78
New Waverly city	1,071	\$ 265,378.75	\$ 132,689.38	\$ 132,689.37
Newark city	1,232	\$ 305,272.29	\$ 152,636.15	\$ 152,636.14
Newcastle city	573	\$ 141,981.35	\$ 70,990.68	\$ 70,990.67
Newton city	2,370	\$ 587,252.70	\$ 293,626.35	\$ 293,626.35
Neylandville town	97	\$ 24,035.24	\$ 12,017.62	\$ 12,017.62
Niederwald city	599	\$ 148,423.78	\$ 74,211.89	\$ 74,211.89
Nixon city	2,542	\$ 629,871.88	\$ 314,935.94	\$ 314,935.94
Nocona city	3,002	\$ 743,853.42	\$ 371,926.71	\$ 371,926.71
Nolanville city	5,879	\$ 1,456,733.59	\$ 728,366.80	\$ 728,366.79
Nome city	595	\$ 147,432.64	\$ 73,716.32	\$ 73,716.32
Noonday city	722	\$ 178,901.46	\$ 89,450.73	\$ 89,450.73
Nordheim city	303	\$ 75,079.14	\$ 37,539.57	\$ 37,539.57
Normangee town	706	\$ 174,936.88	\$ 87,468.44	\$ 87,468.44
North Cleveland city	298	\$ 73,840.21	\$ 36,920.11	\$ 36,920.10
Northlake town	3,348	\$ 829,587.36	\$ 414,793.68	\$ 414,793.68
Novice city	128	\$ 31,716.60	\$ 15,858.30	\$ 15,858.30
Oak Grove town	669	\$ 165,768.80	\$ 82,884.40	\$ 82,884.40
Oak Leaf city	1,484	\$ 367,714.35	\$ 183,857.18	\$ 183,857.17
Oak Point city	5,762	\$ 1,427,742.64	\$ 713,871.32	\$ 713,871.32
Oak Ridge North city	3,161	\$ 783,251.38	\$ 391,625.69	\$ 391,625.69
Oak Ridge town (1)	242	\$ 59,964.20	\$ 29,982.10	\$ 29,982.10
Oak Ridge town (2)	742	\$ 183,857.17	\$ 91,928.59	\$ 91,928.58
Oak Valley town	421	\$ 104,317.88	\$ 52,158.94	\$ 52,158.94
Oakwood town	515	\$ 127,609.76	\$ 63,804.88	\$ 63,804.88
O'Brien city	102	\$ 25,274.17	\$ 12,637.09	\$ 12,637.08
Odem city	2,360	\$ 584,774.84	\$ 292,387.42	\$ 292,387.42
O'Donnell city	837	\$ 207,396.84	\$ 103,698.42	\$ 103,698.42
Oglesby city	465	\$ 115,220.47	\$ 57,610.24	\$ 57,610.23
Old River-Winfree city	1,467	\$ 363,501.99	\$ 181,751.00	\$ 181,750.99
Olmos Park city	2,466	\$ 611,040.15	\$ 305,520.08	\$ 305,520.07
Olney city	3,099	\$ 767,888.66	\$ 383,944.33	\$ 383,944.33
Olton city	2,060	\$ 510,439.05	\$ 255,219.53	\$ 255,219.52
Omaha city	980	\$ 242,830.23	\$ 121,415.12	\$ 121,415.11
Onalaska city	2,967	\$ 735,180.91	\$ 367,590.46	\$ 367,590.45
Opdyke West town	194	\$ 48,070.47	\$ 24,035.24	\$ 24,035.23
Orange Grove city	1,302	\$ 322,617.31	\$ 161,308.66	\$ 161,308.65

Orchard city	407	\$ 100,848.88	\$ 50,424.44	\$ 50,424.44
Ore City city	1,228	\$ 304,281.15	\$ 152,140.58	\$ 152,140.57
Overton city	2,503	\$ 620,208.23	\$ 310,104.12	\$ 310,104.11
Ovilla city	4,167	\$ 1,032,524.05	\$ 516,262.03	\$ 516,262.02
Oyster Creek city	1,193	\$ 295,608.64	\$ 147,804.32	\$ 147,804.32
Paducah town	1,094	\$ 271,077.83	\$ 135,538.92	\$ 135,538.91
Paint Rock town	296	\$ 73,344.64	\$ 36,672.32	\$ 36,672.32
Palacios city	4,535	\$ 1,123,709.28	\$ 561,854.64	\$ 561,854.64
Palestine city	17,730	\$ 4,393,244.87	\$ 2,196,622.44	\$ 2,196,622.43
Palisades village	353	\$ 87,468.44	\$ 43,734.22	\$ 43,734.22
Palm Valley city	1,240	\$ 307,254.58	\$ 153,627.29	\$ 153,627.29
Palmer town	2,123	\$ 526,049.57	\$ 263,024.79	\$ 263,024.78
Palmhurst city	2,732	\$ 676,951.21	\$ 338,475.61	\$ 338,475.60
Palmview city	5,774	\$ 1,430,716.07	\$ 715,358.04	\$ 715,358.03
Pampa city	17,068	\$ 4,229,210.57	\$ 2,114,605.29	\$ 2,114,605.28
Panhandle town	2,312	\$ 572,881.11	\$ 286,440.56	\$ 286,440.55
Panorama Village city	2,424	\$ 600,633.14	\$ 300,316.57	\$ 300,316.57
Pantego town	2,519	\$ 624,172.81	\$ 312,086.41	\$ 312,086.40
Paradise city	561	\$ 139,007.92	\$ 69,503.96	\$ 69,503.96
Paris city	24,847	\$ 6,156,737.47	\$ 3,078,368.74	\$ 3,078,368.73
Parker city	5,177	\$ 1,282,787.86	\$ 641,393.93	\$ 641,393.93
Pattison city	620	\$ 153,627.29	\$ 76,813.65	\$ 76,813.64
Patton Village city	2,157	\$ 534,474.29	\$ 267,237.15	\$ 267,237.14
Payne Springs town	769	\$ 190,547.39	\$ 95,273.70	\$ 95,273.69
Pearsall city	10,609	\$ 2,628,761.13	\$ 1,314,380.57	\$ 1,314,380.56
Pecan Gap city	197	\$ 48,813.83	\$ 24,406.92	\$ 24,406.91
Pecan Hill city	694	\$ 171,963.45	\$ 85,981.73	\$ 85,981.72
Pecos city	10,461	\$ 2,592,088.81	\$ 1,296,044.41	\$ 1,296,044.40
Pelican Bay city	2,005	\$ 496,810.83	\$ 248,405.42	\$ 248,405.41
Penelope town	207	\$ 51,291.69	\$ 25,645.85	\$ 25,645.84
Penitas city	4,716	\$ 1,168,558.53	\$ 584,279.27	\$ 584,279.26
Perryton city	8,512	\$ 2,109,154.00	\$ 1,054,577.00	\$ 1,054,577.00
Petersburg city	1,132	\$ 280,493.69	\$ 140,246.85	\$ 140,246.84
Petrolia city	670	\$ 166,016.59	\$ 83,008.30	\$ 83,008.29
Petronila city	120	\$ 29,734.31	\$ 14,867.16	\$ 14,867.15
Pilot Point city	4,525	\$ 1,121,231.42	\$ 560,615.71	\$ 560,615.71
Pine Forest city	519	\$ 128,600.91	\$ 64,300.46	\$ 64,300.45
Pine Island town	1,159	\$ 287,183.91	\$ 143,591.96	\$ 143,591.95
Pinehurst city	1,976	\$ 489,625.03	\$ 244,812.52	\$ 244,812.51
Pineland city	800	\$ 198,228.76	\$ 99,114.38	\$ 99,114.38
Piney Point Village city	3,444	\$ 853,374.81	\$ 426,687.41	\$ 426,687.40
Pittsburg city	4,697	\$ 1,163,850.60	\$ 581,925.30	\$ 581,925.30
Plains town	1,655	\$ 410,085.75	\$ 205,042.88	\$ 205,042.87
Plainview city	20,143	\$ 4,991,152.37	\$ 2,495,576.19	\$ 2,495,576.18
Plantersville city	594	\$ 147,184.85	\$ 73,592.43	\$ 73,592.42
Pleak village	1,675	\$ 415,041.46	\$ 207,520.73	\$ 207,520.73
Pleasant Valley town	330	\$ 81,769.36	\$ 40,884.68	\$ 40,884.68

Pleasanton city	10,855	\$ 2,689,716.47	\$ 1,344,858.24	\$ 1,344,858.23
Plum Grove city	726	\$ 179,892.60	\$ 89,946.30	\$ 89,946.30
Point Blank city	752	\$ 186,335.03	\$ 93,167.52	\$ 93,167.51
Point city	926	\$ 229,449.79	\$ 114,724.90	\$ 114,724.89
Point Comfort city	677	\$ 167,751.09	\$ 83,875.55	\$ 83,875.54
Point Venture village	1,033	\$ 255,962.89	\$ 127,981.45	\$ 127,981.44
Ponder town	2,369	\$ 587,004.91	\$ 293,502.46	\$ 293,502.45
Port Aransas city	4,266	\$ 1,057,054.86	\$ 528,527.43	\$ 528,527.43
Port Isabel city	6,256	\$ 1,550,148.90	\$ 775,074.45	\$ 775,074.45
Port Lavaca city	11,854	\$ 2,937,254.64	\$ 1,468,627.32	\$ 1,468,627.32
Port Neches city	12,655	\$ 3,135,731.18	\$ 1,567,865.59	\$ 1,567,865.59
Portland city	17,268	\$ 4,278,767.76	\$ 2,139,383.88	\$ 2,139,383.88
Post city	5,115	\$ 1,267,425.13	\$ 633,712.57	\$ 633,712.56
Post Oak Bend City town	587	\$ 145,450.35	\$ 72,725.18	\$ 72,725.17
Poteet city	3,507	\$ 868,985.32	\$ 434,492.66	\$ 434,492.66
Poth town	2,284	\$ 565,943.11	\$ 282,971.56	\$ 282,971.55
Pottsboro town	2,489	\$ 616,739.23	\$ 308,369.62	\$ 308,369.61
Powell town	146	\$ 36,176.75	\$ 18,088.38	\$ 18,088.37
Poynor town	306	\$ 75,822.50	\$ 37,911.25	\$ 37,911.25
Prairie View city	6,953	\$ 1,722,855.70	\$ 861,427.85	\$ 861,427.85
Premont city	2,543	\$ 630,119.67	\$ 315,059.84	\$ 315,059.83
Presidio city	3,894	\$ 964,878.48	\$ 482,439.24	\$ 482,439.24
Primera town	5,130	\$ 1,271,141.92	\$ 635,570.96	\$ 635,570.96
Princeton city	13,894	\$ 3,442,737.97	\$ 1,721,368.99	\$ 1,721,368.98
Progreso city	5,944	\$ 1,472,839.68	\$ 736,419.84	\$ 736,419.84
Progreso Lakes city	291	\$ 72,105.71	\$ 36,052.86	\$ 36,052.85
Prosper town	24,579	\$ 6,090,330.84	\$ 3,045,165.42	\$ 3,045,165.42
Providence Village town	7,377	\$ 1,827,916.94	\$ 913,958.47	\$ 913,958.47
Putnam town	93	\$ 23,044.09	\$ 11,522.05	\$ 11,522.04
Pyote town	132	\$ 32,707.75	\$ 16,353.88	\$ 16,353.87
Quanah city	2,487	\$ 616,243.65	\$ 308,121.83	\$ 308,121.82
Queen City city	1,436	\$ 355,820.62	\$ 177,910.31	\$ 177,910.31
Quinlan city	1,524	\$ 377,625.79	\$ 188,812.90	\$ 188,812.89
Quintana town	94	\$ 23,291.88	\$ 11,645.94	\$ 11,645.94
Quitaque city	389	\$ 96,388.73	\$ 48,194.37	\$ 48,194.36
Quitman city	1,849	\$ 458,156.22	\$ 229,078.11	\$ 229,078.11
Ralls city	1,806	\$ 447,501.42	\$ 223,750.71	\$ 223,750.71
Rancho Viejo town	2,460	\$ 609,553.43	\$ 304,776.72	\$ 304,776.71
Ranger city	2,469	\$ 611,783.51	\$ 305,891.76	\$ 305,891.75
Rankin city	851	\$ 210,865.84	\$ 105,432.92	\$ 105,432.92
Ransom Canyon town	1,124	\$ 278,511.41	\$ 139,255.71	\$ 139,255.70
Ravenna city	225	\$ 55,751.84	\$ 27,875.92	\$ 27,875.92
Raymondville city	10,880	\$ 2,695,911.12	\$ 1,347,955.56	\$ 1,347,955.56
Red Lick city	1,010	\$ 250,263.81	\$ 125,131.91	\$ 125,131.90
Red Oak city	13,464	\$ 3,336,190.02	\$ 1,668,095.01	\$ 1,668,095.01
Redwater city	1,101	\$ 272,812.33	\$ 136,406.17	\$ 136,406.16
Refugio town	2,734	\$ 677,446.78	\$ 338,723.39	\$ 338,723.39

Reklaw city	395	\$ 97,875.45	\$ 48,937.73	\$ 48,937.72
Reno city (1)	3,346	\$ 829,091.78	\$ 414,545.89	\$ 414,545.89
Reno city (2)	3,204	\$ 793,906.18	\$ 396,953.09	\$ 396,953.09
Retreat town	384	\$ 95,149.80	\$ 47,574.90	\$ 47,574.90
Rhome city	1,845	\$ 457,165.08	\$ 228,582.54	\$ 228,582.54
Rice city	974	\$ 241,343.51	\$ 120,671.76	\$ 120,671.75
Richland Hills city	7,953	\$ 1,970,641.65	\$ 985,320.83	\$ 985,320.82
Richland Springs town	309	\$ 76,565.86	\$ 38,282.93	\$ 38,282.93
Richland town	273	\$ 67,645.56	\$ 33,822.78	\$ 33,822.78
Richmond city	12,578	\$ 3,116,651.66	\$ 1,558,325.83	\$ 1,558,325.83
Richwood city	3,988	\$ 988,170.36	\$ 494,085.18	\$ 494,085.18
Riesel city	1,037	\$ 256,954.03	\$ 128,477.02	\$ 128,477.01
Rio Bravo city	4,634	\$ 1,148,240.09	\$ 574,120.05	\$ 574,120.04
Rio Grande City city	14,511	\$ 3,595,621.90	\$ 1,797,810.95	\$ 1,797,810.95
Rio Hondo city	2,707	\$ 670,756.56	\$ 335,378.28	\$ 335,378.28
Rio Vista city	1,075	\$ 266,369.89	\$ 133,184.95	\$ 133,184.94
Rising Star town	821	\$ 203,432.26	\$ 101,716.13	\$ 101,716.13
River Oaks city	7,630	\$ 1,890,606.79	\$ 945,303.40	\$ 945,303.39
Riverside city	549	\$ 136,034.49	\$ 68,017.25	\$ 68,017.24
Road Runner town	-	\$ -	\$ -	\$ -
Roanoke city	9,388	\$ 2,326,214.49	\$ 1,163,107.25	\$ 1,163,107.24
Roaring Springs town	231	\$ 57,238.55	\$ 28,619.28	\$ 28,619.27
Robert Lee city	1,048	\$ 259,679.67	\$ 129,839.84	\$ 129,839.83
Robinson city	11,926	\$ 2,955,095.23	\$ 1,477,547.62	\$ 1,477,547.61
Robstown city	11,261	\$ 2,790,317.57	\$ 1,395,158.79	\$ 1,395,158.78
Roby city	619	\$ 153,379.50	\$ 76,689.75	\$ 76,689.75
Rochester town	307	\$ 76,070.29	\$ 38,035.15	\$ 38,035.14
Rockdale city	5,503	\$ 1,363,566.08	\$ 681,783.04	\$ 681,783.04
Rockport city	10,604	\$ 2,627,522.20	\$ 1,313,761.10	\$ 1,313,761.10
Rocksprings town	1,135	\$ 281,237.05	\$ 140,618.53	\$ 140,618.52
Rockwall city	45,888	\$ 11,370,401.63	\$ 5,685,200.82	\$ 5,685,200.81
Rocky Mound town	75	\$ 18,583.95	\$ 9,291.98	\$ 9,291.97
Rogers town	1,252	\$ 310,228.01	\$ 155,114.01	\$ 155,114.00
Rollingwood city	1,585	\$ 392,740.73	\$ 196,370.37	\$ 196,370.36
Roma city	11,490	\$ 2,847,060.55	\$ 1,423,530.28	\$ 1,423,530.27
Roman Forest city	2,006	\$ 497,058.61	\$ 248,529.31	\$ 248,529.30
Ropesville city	427	\$ 105,804.60	\$ 52,902.30	\$ 52,902.30
Roscoe city	1,285	\$ 318,404.94	\$ 159,202.47	\$ 159,202.47
Rose City city	484	\$ 119,928.40	\$ 59,964.20	\$ 59,964.20
Rose Hill Acres city	436	\$ 108,034.67	\$ 54,017.34	\$ 54,017.33
Rosebud city	1,349	\$ 334,263.24	\$ 167,131.62	\$ 167,131.62
Rosenberg city	38,307	\$ 9,491,936.34	\$ 4,745,968.17	\$ 4,745,968.17
Ross city	284	\$ 70,371.21	\$ 35,185.61	\$ 35,185.60
Rosser village	400	\$ 99,114.38	\$ 49,557.19	\$ 49,557.19
Rotan city	1,438	\$ 356,316.19	\$ 178,158.10	\$ 178,158.09
Round Mountain town	169	\$ 41,875.83	\$ 20,937.92	\$ 20,937.91
Round Top town	90	\$ 22,300.74	\$ 11,150.37	\$ 11,150.37

Roxton city	639	\$ 158,335.22	\$ 79,167.61	\$ 79,167.61
Royse City city	14,702	\$ 3,642,949.02	\$ 1,821,474.51	\$ 1,821,474.51
Rule town	599	\$ 148,423.78	\$ 74,211.89	\$ 74,211.89
Runaway Bay city	1,576	\$ 390,510.66	\$ 195,255.33	\$ 195,255.33
Runge town	1,138	\$ 281,980.41	\$ 140,990.21	\$ 140,990.20
Rusk city	5,602	\$ 1,388,096.89	\$ 694,048.45	\$ 694,048.44
Sabinal city	1,673	\$ 414,545.89	\$ 207,272.95	\$ 207,272.94
Sachse city	26,046	\$ 6,453,832.82	\$ 3,226,916.41	\$ 3,226,916.41
Sadler city	383	\$ 94,902.02	\$ 47,451.01	\$ 47,451.01
Saginaw city	24,310	\$ 6,023,676.42	\$ 3,011,838.21	\$ 3,011,838.21
Salado village	2,370	\$ 587,252.70	\$ 293,626.35	\$ 293,626.35
San Augustine city	1,888	\$ 467,819.87	\$ 233,909.94	\$ 233,909.93
San Diego city	4,221	\$ 1,045,904.49	\$ 522,952.25	\$ 522,952.24
San Elizario city	9,089	\$ 2,252,126.49	\$ 1,126,063.25	\$ 1,126,063.24
San Felipe town	825	\$ 204,423.41	\$ 102,211.71	\$ 102,211.70
San Juan city	37,008	\$ 9,170,062.39	\$ 4,585,031.20	\$ 4,585,031.19
San Leanna village	507	\$ 125,627.48	\$ 62,813.74	\$ 62,813.74
San Patricio city	375	\$ 92,919.73	\$ 46,459.87	\$ 46,459.86
San Perlita city	556	\$ 137,768.99	\$ 68,884.50	\$ 68,884.49
San Saba city	3,168	\$ 784,985.89	\$ 392,492.95	\$ 392,492.94
Sanctuary town	321	\$ 79,539.29	\$ 39,769.65	\$ 39,769.64
Sandy Oaks city	4,660	\$ 1,154,682.52	\$ 577,341.26	\$ 577,341.26
Sandy Point city	236	\$ 58,477.48	\$ 29,238.74	\$ 29,238.74
Sanford town	156	\$ 38,654.61	\$ 19,327.31	\$ 19,327.30
Sanger city	8,732	\$ 2,163,666.91	\$ 1,081,833.46	\$ 1,081,833.45
Sansom Park city	5,748	\$ 1,424,273.63	\$ 712,136.82	\$ 712,136.81
Santa Anna town	1,007	\$ 249,520.45	\$ 124,760.23	\$ 124,760.22
Santa Clara city	751	\$ 186,087.25	\$ 93,043.63	\$ 93,043.62
Santa Fe city	13,449	\$ 3,332,473.23	\$ 1,666,236.62	\$ 1,666,236.61
Santa Rosa town	2,723	\$ 674,721.14	\$ 337,360.57	\$ 337,360.57
Savoy city	872	\$ 216,069.35	\$ 108,034.68	\$ 108,034.67
Schertz city	42,042	\$ 10,417,416.86	\$ 5,208,708.43	\$ 5,208,708.43
Schulenburg city	2,913	\$ 721,800.47	\$ 360,900.24	\$ 360,900.23
Scotland city	474	\$ 117,450.54	\$ 58,725.27	\$ 58,725.27
Scottsville city	354	\$ 87,716.23	\$ 43,858.12	\$ 43,858.11
Scurry town	781	\$ 193,520.83	\$ 96,760.42	\$ 96,760.41
Seabrook city	14,149	\$ 3,505,923.39	\$ 1,752,961.70	\$ 1,752,961.69
Seadrift city	1,493	\$ 369,944.42	\$ 184,972.21	\$ 184,972.21
Seagoville city	16,861	\$ 4,177,918.88	\$ 2,088,959.44	\$ 2,088,959.44
Seagraves city	2,936	\$ 727,499.55	\$ 363,749.78	\$ 363,749.77
Sealy city	6,446	\$ 1,597,228.23	\$ 798,614.12	\$ 798,614.11
Seguin city	29,992	\$ 7,431,596.18	\$ 3,715,798.09	\$ 3,715,798.09
Selma city	11,132	\$ 2,758,353.18	\$ 1,379,176.59	\$ 1,379,176.59
Seminole city	7,815	\$ 1,936,447.19	\$ 968,223.60	\$ 968,223.59
Seven Oaks city	129	\$ 31,964.39	\$ 15,982.20	\$ 15,982.19
Seven Points city	1,521	\$ 376,882.43	\$ 188,441.22	\$ 188,441.21
Seymour city	2,550	\$ 631,854.17	\$ 315,927.09	\$ 315,927.08

Shady Shores town	2,865	\$ 709,906.74	\$ 354,953.37	\$ 354,953.37
Shallowater city	2,574	\$ 637,801.03	\$ 318,900.52	\$ 318,900.51
Shamrock city	1,764	\$ 437,094.41	\$ 218,547.21	\$ 218,547.20
Shavano Park city	3,979	\$ 985,940.29	\$ 492,970.15	\$ 492,970.14
Shenandoah city	2,987	\$ 740,136.63	\$ 370,068.32	\$ 370,068.31
Shepherd city	2,413	\$ 597,907.49	\$ 298,953.75	\$ 298,953.74
Shiner city	2,162	\$ 535,713.22	\$ 267,856.61	\$ 267,856.61
Shoreacres city	1,593	\$ 394,723.02	\$ 197,361.51	\$ 197,361.51
Silsbee city	6,617	\$ 1,639,599.62	\$ 819,799.81	\$ 819,799.81
Silverton city	686	\$ 169,981.16	\$ 84,990.58	\$ 84,990.58
Simonton city	884	\$ 219,042.78	\$ 109,521.39	\$ 109,521.39
Sinton city	5,354	\$ 1,326,645.97	\$ 663,322.99	\$ 663,322.98
Skellytown town	449	\$ 111,255.89	\$ 55,627.95	\$ 55,627.94
Slaton city	5,890	\$ 1,459,459.24	\$ 729,729.62	\$ 729,729.62
Smiley city	570	\$ 141,237.99	\$ 70,619.00	\$ 70,618.99
Smithville city	4,515	\$ 1,118,753.56	\$ 559,376.78	\$ 559,376.78
Smyer town	478	\$ 118,441.68	\$ 59,220.84	\$ 59,220.84
Snook city	541	\$ 134,052.20	\$ 67,026.10	\$ 67,026.10
Snyder city	11,023	\$ 2,731,344.51	\$ 1,365,672.26	\$ 1,365,672.25
Socorro city	34,370	\$ 8,516,403.06	\$ 4,258,201.53	\$ 4,258,201.53
Somerset city	1,965	\$ 486,899.39	\$ 243,449.70	\$ 243,449.69
Somerville city	1,465	\$ 363,006.42	\$ 181,503.21	\$ 181,503.21
Sonora city	2,786	\$ 690,331.65	\$ 345,165.83	\$ 345,165.82
Sour Lake city	1,924	\$ 476,740.17	\$ 238,370.09	\$ 238,370.08
South Frydek city	-	\$ -	\$ -	\$ -
South Houston city	17,438	\$ 4,320,891.38	\$ 2,160,445.69	\$ 2,160,445.69
South Mountain town	365	\$ 90,441.87	\$ 45,220.94	\$ 45,220.93
South Padre Island town	2,778	\$ 688,349.37	\$ 344,174.69	\$ 344,174.68
Southlake city	32,376	\$ 8,022,317.88	\$ 4,011,158.94	\$ 4,011,158.94
Southmayd city	1,137	\$ 281,732.62	\$ 140,866.31	\$ 140,866.31
Southside Place city	1,883	\$ 466,580.94	\$ 233,290.47	\$ 233,290.47
Spearman city	3,256	\$ 806,791.05	\$ 403,395.53	\$ 403,395.52
Splendora city	2,255	\$ 558,757.31	\$ 279,378.66	\$ 279,378.65
Spofford city	97	\$ 24,035.24	\$ 12,017.62	\$ 12,017.62
Spring Branch city	254	\$ 62,937.63	\$ 31,468.82	\$ 31,468.81
Spring Valley Village city	4,319	\$ 1,070,187.51	\$ 535,093.76	\$ 535,093.75
Springlake town	102	\$ 25,274.17	\$ 12,637.09	\$ 12,637.08
Springtown city	3,190	\$ 790,437.18	\$ 395,218.59	\$ 395,218.59
Spur city	1,199	\$ 297,095.35	\$ 148,547.68	\$ 148,547.67
St. Hedwig town	2,488	\$ 616,491.44	\$ 308,245.72	\$ 308,245.72
St. Jo city	1,030	\$ 255,219.53	\$ 127,609.77	\$ 127,609.76
St. Paul town	1,051	\$ 260,423.03	\$ 130,211.52	\$ 130,211.51
Stafford city	17,362	\$ 4,302,059.64	\$ 2,151,029.82	\$ 2,151,029.82
Stagecoach town	592	\$ 146,689.28	\$ 73,344.64	\$ 73,344.64
Stamford city	2,941	\$ 728,738.48	\$ 364,369.24	\$ 364,369.24
Stanton city	3,000	\$ 743,357.85	\$ 371,678.93	\$ 371,678.92
Staples city	277	\$ 68,636.71	\$ 34,318.36	\$ 34,318.35

Star Harbor city	477	\$ 118,193.90	\$ 59,096.95	\$ 59,096.95
Stephenville city	21,247	\$ 5,264,708.05	\$ 2,632,354.03	\$ 2,632,354.02
Sterling City city	998	\$ 247,290.38	\$ 123,645.19	\$ 123,645.19
Stinnett city	1,770	\$ 438,581.13	\$ 219,290.57	\$ 219,290.56
Stockdale city	1,649	\$ 408,599.03	\$ 204,299.52	\$ 204,299.51
Stockton Bend city	356	\$ 88,211.80	\$ 44,105.90	\$ 44,105.90
Stratford city	2,057	\$ 509,695.70	\$ 254,847.85	\$ 254,847.85
Strawn city	671	\$ 166,264.37	\$ 83,132.19	\$ 83,132.18
Streetman town	246	\$ 60,955.34	\$ 30,477.67	\$ 30,477.67
Sudan city	895	\$ 221,768.42	\$ 110,884.21	\$ 110,884.21
Sullivan City city	4,170	\$ 1,033,267.41	\$ 516,633.71	\$ 516,633.70
Sulphur Springs city	16,234	\$ 4,022,557.09	\$ 2,011,278.55	\$ 2,011,278.54
Sun Valley city	83	\$ 20,566.23	\$ 10,283.12	\$ 10,283.11
Sundown city	1,425	\$ 353,094.98	\$ 176,547.49	\$ 176,547.49
Sunnyvale town	6,841	\$ 1,695,103.68	\$ 847,551.84	\$ 847,551.84
Sunray city	1,812	\$ 448,988.14	\$ 224,494.07	\$ 224,494.07
Sunrise Beach Village city	796	\$ 197,237.62	\$ 98,618.81	\$ 98,618.81
Sunset Valley city	672	\$ 166,512.16	\$ 83,256.08	\$ 83,256.08
Surfside Beach city	579	\$ 143,468.06	\$ 71,734.03	\$ 71,734.03
Sweeny city	3,717	\$ 921,020.37	\$ 460,510.19	\$ 460,510.18
Sweetwater city	10,469	\$ 2,594,071.10	\$ 1,297,035.55	\$ 1,297,035.55
Taft city	2,867	\$ 710,402.32	\$ 355,201.16	\$ 355,201.16
Tahoka city	2,649	\$ 656,384.98	\$ 328,192.49	\$ 328,192.49
Talco city	497	\$ 123,149.62	\$ 61,574.81	\$ 61,574.81
Talty town	2,760	\$ 683,889.22	\$ 341,944.61	\$ 341,944.61
Tatum city	1,384	\$ 342,935.75	\$ 171,467.88	\$ 171,467.87
Taylor city	17,383	\$ 4,307,263.15	\$ 2,153,631.58	\$ 2,153,631.57
Taylor Lake Village city	3,571	\$ 884,843.62	\$ 442,421.81	\$ 442,421.81
Taylor Landing city	240	\$ 59,468.63	\$ 29,734.32	\$ 29,734.31
Teague city	3,515	\$ 870,967.61	\$ 435,483.81	\$ 435,483.80
Tehuacana town	279	\$ 69,132.28	\$ 34,566.14	\$ 34,566.14
Tenaha town	1,146	\$ 283,962.70	\$ 141,981.35	\$ 141,981.35
Terrell city	18,869	\$ 4,675,473.07	\$ 2,337,736.54	\$ 2,337,736.53
Terrell Hills city	5,447	\$ 1,349,690.06	\$ 674,845.03	\$ 674,845.03
Texhoma city	323	\$ 80,034.86	\$ 40,017.43	\$ 40,017.43
Texline town	539	\$ 133,556.63	\$ 66,778.32	\$ 66,778.31
The Colony city	44,438	\$ 11,011,112.00	\$ 5,505,556.00	\$ 5,505,556.00
The Hills village	2,487	\$ 616,243.65	\$ 308,121.83	\$ 308,121.82
Thompsons town	350	\$ 86,725.08	\$ 43,362.54	\$ 43,362.54
Thorndale city	1,302	\$ 322,617.31	\$ 161,308.66	\$ 161,308.65
Thornton town	524	\$ 129,839.84	\$ 64,919.92	\$ 64,919.92
Thorntonville town	541	\$ 134,052.20	\$ 67,026.10	\$ 67,026.10
Thrall city	977	\$ 242,086.87	\$ 121,043.44	\$ 121,043.43
Three Rivers city	1,949	\$ 482,934.81	\$ 241,467.41	\$ 241,467.40
Throckmorton town	761	\$ 188,565.11	\$ 94,282.56	\$ 94,282.55
Tiki Island village	1,065	\$ 263,892.04	\$ 131,946.02	\$ 131,946.02
Timbercreek Canyon village	471	\$ 116,707.18	\$ 58,353.59	\$ 58,353.59

Timpson city	1,134	\$ 280,989.27	\$ 140,494.64	\$ 140,494.63
Tioga town	1,051	\$ 260,423.03	\$ 130,211.52	\$ 130,211.51
Tira town	313	\$ 77,557.00	\$ 38,778.50	\$ 38,778.50
Toco city	76	\$ 18,831.73	\$ 9,415.87	\$ 9,415.86
Todd Mission city	114	\$ 28,247.60	\$ 14,123.80	\$ 14,123.80
Tolar city	1,004	\$ 248,777.09	\$ 124,388.55	\$ 124,388.54
Tom Bean city	1,081	\$ 267,856.61	\$ 133,928.31	\$ 133,928.30
Tomball city	11,778	\$ 2,918,422.91	\$ 1,459,211.46	\$ 1,459,211.45
Tool city	2,302	\$ 570,403.25	\$ 285,201.63	\$ 285,201.62
Toyah town	108	\$ 26,760.88	\$ 13,380.44	\$ 13,380.44
Trent town	349	\$ 86,477.30	\$ 43,238.65	\$ 43,238.65
Trenton city	683	\$ 169,237.80	\$ 84,618.90	\$ 84,618.90
Trinidad city	870	\$ 215,573.78	\$ 107,786.89	\$ 107,786.89
Trinity city	2,756	\$ 682,898.07	\$ 341,449.04	\$ 341,449.03
Trophy Club town	12,451	\$ 3,085,182.85	\$ 1,542,591.43	\$ 1,542,591.42
Troup city	2,044	\$ 506,474.48	\$ 253,237.24	\$ 253,237.24
Troy city	2,016	\$ 499,536.47	\$ 249,768.24	\$ 249,768.23
Tulia city	4,655	\$ 1,153,443.59	\$ 576,721.80	\$ 576,721.79
Turkey city	378	\$ 93,663.09	\$ 46,831.55	\$ 46,831.54
Tuscola city	739	\$ 183,113.82	\$ 91,556.91	\$ 91,556.91
Tye city	1,333	\$ 330,298.67	\$ 165,149.34	\$ 165,149.33
Uhland city	1,294	\$ 320,635.02	\$ 160,317.51	\$ 160,317.51
Uncertain city	92	\$ 22,796.31	\$ 11,398.16	\$ 11,398.15
Union Grove city	385	\$ 95,397.59	\$ 47,698.80	\$ 47,698.79
Union Valley city	398	\$ 98,618.81	\$ 49,309.41	\$ 49,309.40
Universal City city	20,890	\$ 5,176,248.47	\$ 2,588,124.24	\$ 2,588,124.23
University Park city	24,985	\$ 6,190,931.93	\$ 3,095,465.97	\$ 3,095,465.96
Uvalde city	16,001	\$ 3,964,822.97	\$ 1,982,411.49	\$ 1,982,411.48
Valentine town	133	\$ 32,955.53	\$ 16,477.77	\$ 16,477.76
Valley Mills city	1,180	\$ 292,387.42	\$ 146,193.71	\$ 146,193.71
Valley View city	845	\$ 209,379.13	\$ 104,689.57	\$ 104,689.56
Van Alstyne city	4,378	\$ 1,084,806.88	\$ 542,403.44	\$ 542,403.44
Van city	2,741	\$ 679,181.29	\$ 339,590.65	\$ 339,590.64
Van Horn town	1,870	\$ 463,359.72	\$ 231,679.86	\$ 231,679.86
Vega city	924	\$ 228,954.22	\$ 114,477.11	\$ 114,477.11
Venus town	4,368	\$ 1,082,329.02	\$ 541,164.51	\$ 541,164.51
Vernon city	10,323	\$ 2,557,894.35	\$ 1,278,947.18	\$ 1,278,947.17
Vidor city	10,403	\$ 2,577,717.23	\$ 1,288,858.62	\$ 1,288,858.61
Vinton village	2,022	\$ 501,023.19	\$ 250,511.60	\$ 250,511.59
Volente village	599	\$ 148,423.78	\$ 74,211.89	\$ 74,211.89
Von Ormy city	1,287	\$ 318,900.52	\$ 159,450.26	\$ 159,450.26
Waelder city	1,133	\$ 280,741.48	\$ 140,370.74	\$ 140,370.74
Wake Village city	5,327	\$ 1,319,955.75	\$ 659,977.88	\$ 659,977.87
Waller city	3,488	\$ 864,277.39	\$ 432,138.70	\$ 432,138.69
Wallis city	1,303	\$ 322,865.09	\$ 161,432.55	\$ 161,432.54
Walnut Springs city	868	\$ 215,078.20	\$ 107,539.10	\$ 107,539.10
Warren City city	305	\$ 75,574.71	\$ 37,787.36	\$ 37,787.35

Waskom city	2,190	\$ 542,651.23	\$ 271,325.62	\$ 271,325.61
Watauga city	24,481	\$ 6,066,047.81	\$ 3,033,023.91	\$ 3,033,023.90
Waxahachie city	37,988	\$ 9,412,892.62	\$ 4,706,446.31	\$ 4,706,446.31
Weatherford city	33,547	\$ 8,312,475.23	\$ 4,156,237.62	\$ 4,156,237.61
Webberville village	485	\$ 120,176.19	\$ 60,088.10	\$ 60,088.09
Webster city	11,451	\$ 2,837,396.90	\$ 1,418,698.45	\$ 1,418,698.45
Weimar city	2,226	\$ 551,571.52	\$ 275,785.76	\$ 275,785.76
Weinert city	162	\$ 40,141.32	\$ 20,070.66	\$ 20,070.66
Weir city	530	\$ 131,326.55	\$ 65,663.28	\$ 65,663.27
Wellington city	2,068	\$ 512,421.34	\$ 256,210.67	\$ 256,210.67
Wellman city	203	\$ 50,300.55	\$ 25,150.28	\$ 25,150.27
Wells town	792	\$ 196,246.47	\$ 98,123.24	\$ 98,123.23
Weslaco city	41,629	\$ 10,315,081.26	\$ 5,157,540.63	\$ 5,157,540.63
West city	2,986	\$ 739,888.84	\$ 369,944.42	\$ 369,944.42
West Columbia city	3,830	\$ 949,020.18	\$ 474,510.09	\$ 474,510.09
West Lake Hills city	3,286	\$ 814,224.63	\$ 407,112.32	\$ 407,112.31
West Orange city	3,223	\$ 798,614.11	\$ 399,307.06	\$ 399,307.05
West Tawakoni city	2,006	\$ 497,058.61	\$ 248,529.31	\$ 248,529.30
West University Place city	15,585	\$ 3,861,744.01	\$ 1,930,872.01	\$ 1,930,872.00
Westbrook city	244	\$ 60,459.77	\$ 30,229.89	\$ 30,229.88
Westlake town	1,709	\$ 423,466.19	\$ 211,733.10	\$ 211,733.09
Weston city	540	\$ 133,804.41	\$ 66,902.21	\$ 66,902.20
Weston Lakes city	4,003	\$ 991,887.15	\$ 495,943.58	\$ 495,943.57
Westover Hills town	683	\$ 169,237.80	\$ 84,618.90	\$ 84,618.90
Westworth Village city	2,757	\$ 683,145.86	\$ 341,572.93	\$ 341,572.93
Wharton city	8,637	\$ 2,140,127.24	\$ 1,070,063.62	\$ 1,070,063.62
Wheeler city	1,477	\$ 365,979.85	\$ 182,989.93	\$ 182,989.92
White Deer town	955	\$ 236,635.58	\$ 118,317.79	\$ 118,317.79
White Oak city	6,322	\$ 1,566,502.77	\$ 783,251.39	\$ 783,251.38
White Settlement city	17,851	\$ 4,423,226.97	\$ 2,211,613.49	\$ 2,211,613.48
Whiteface town	412	\$ 102,087.81	\$ 51,043.91	\$ 51,043.90
Whitehouse city	8,905	\$ 2,206,533.87	\$ 1,103,266.94	\$ 1,103,266.93
Whitesboro city	4,120	\$ 1,020,878.11	\$ 510,439.06	\$ 510,439.05
Whitewright town	1,721	\$ 426,439.62	\$ 213,219.81	\$ 213,219.81
Whitney town	2,162	\$ 535,713.22	\$ 267,856.61	\$ 267,856.61
Wickett town	559	\$ 138,512.35	\$ 69,256.18	\$ 69,256.17
Willis city	7,028	\$ 1,741,439.65	\$ 870,719.83	\$ 870,719.82
Willow Park city	5,842	\$ 1,447,565.51	\$ 723,782.76	\$ 723,782.75
Wills Point city	3,651	\$ 904,666.50	\$ 452,333.25	\$ 452,333.25
Wilmer city	4,772	\$ 1,182,434.55	\$ 591,217.28	\$ 591,217.27
Wilson city	490	\$ 121,415.11	\$ 60,707.56	\$ 60,707.55
Wimberley city	3,232	\$ 800,844.19	\$ 400,422.10	\$ 400,422.09
Windcrest city	5,876	\$ 1,455,990.24	\$ 727,995.12	\$ 727,995.12
Windom town	205	\$ 50,796.12	\$ 25,398.06	\$ 25,398.06
Windthorst town	379	\$ 93,910.87	\$ 46,955.44	\$ 46,955.43
Winfield city	520	\$ 128,848.69	\$ 64,424.35	\$ 64,424.34
Wink city	1,028	\$ 254,723.96	\$ 127,361.98	\$ 127,361.98

Winnsboro city	3,299	\$ 817,445.85	\$ 408,722.93	\$ 408,722.92
Winona town	608	\$ 150,653.86	\$ 75,326.93	\$ 75,326.93
Winters city	2,448	\$ 606,580.00	\$ 303,290.00	\$ 303,290.00
Wixon Valley city	253	\$ 62,689.85	\$ 31,344.93	\$ 31,344.92
Wolfe City city	1,480	\$ 366,723.20	\$ 183,361.60	\$ 183,361.60
Wolfforth city	5,486	\$ 1,359,353.72	\$ 679,676.86	\$ 679,676.86
Woodbranch city	1,441	\$ 357,059.55	\$ 178,529.78	\$ 178,529.77
Woodcreek city	1,716	\$ 425,200.69	\$ 212,600.35	\$ 212,600.34
Woodloch town	208	\$ 51,539.48	\$ 25,769.74	\$ 25,769.74
Woodsboro town	1,410	\$ 349,378.19	\$ 174,689.10	\$ 174,689.09
Woodson town	241	\$ 59,716.41	\$ 29,858.21	\$ 29,858.20
Woodville town	2,428	\$ 601,624.28	\$ 300,812.14	\$ 300,812.14
Woodway city	9,024	\$ 2,236,020.40	\$ 1,118,010.20	\$ 1,118,010.20
Wortham town	996	\$ 246,794.81	\$ 123,397.41	\$ 123,397.40
Yantis town	428	\$ 106,052.39	\$ 53,026.20	\$ 53,026.19
Yoakum city	5,940	\$ 1,471,848.54	\$ 735,924.27	\$ 735,924.27
Yorktown city	2,050	\$ 507,961.20	\$ 253,980.60	\$ 253,980.60
Zavalla city	710	\$ 175,928.02	\$ 87,964.01	\$ 87,964.01

Note/ Funding provided to NEUs will be capped at 75% of the NEU's most recent budget as of January 27, 2020.



City of Lucas

City Council Agenda Request

August 5, 2021

Requester: City Council

Agenda Item Request

Consider the submission of City Manager Joni Clarke as a qualified person for election to the TML Health Benefits Pool Board of Trustees for Region 13.

Background Information

This Notice of Opportunity to Submit the Name of a Qualified Person for Election to the Board of Trustees Region 13 place is provided to all Employer Members in the affected region. The person elected shall take office on October 1, 2021 and serve a term for three (3) years. The 2021 election is for regional trustee places for TML Regions 12, 13, 14, 15, and 16.

The Trust Agreement provides that all Pool Employer Members in an affected region have the opportunity to submit the name of a qualified person for election to that designated place. The qualified person must be either an elected official or an employee of an incorporated city within the region. A qualified municipal employee must: hold a position of Department Head or higher; work at least 20 hours per week for an Employer Member; be paid by Employer Member with public funds; and be hired and fired only by another incorporated city official or by the incorporated city's governing body. Only submissions which certify that the vote was taken at an official meeting of the governing body and provide the date of the meeting will be accepted.

Joni Clarke is the incumbent Board Trustee for Region 13. Joni Clarke or any other qualified employee or elected official of an Employer Member of the region may have their name submitted to be placed on the ballot.

TML Health Benefits Pool Board of Trustee election process timeline:

- Step 1 Notice to Employer Members - July 2, 2021
- Step 2 Submission of Qualified Person Form - August 12, 2021
- Step 3 Ballots Sent to Employer Members - August 17, 2021
- Step 4 Ballots Returned to Board Secretary - September 27, 2021
- Step 5 Results Announced - October 8, 2021

Attachments/Supporting Documentation

1. Submission of Qualified Person to TML Health Benefits Pool

Budget/Financial Impact

N/A



City of Lucas

City Council Agenda Request

August 5, 2021

Recommendation

Submissions must be put forward on the Submission of Qualified Person to TML Health Benefits Pool and received by Leah Simon, Board Secretary, TML Health Benefits Pool, 1821 Rutherford Lane, Suite 300, Austin, Texas 78754, by 5:00 p.m. (CST) on August 12, 2021.

Submissions may be put forward to the Board Secretary by mail, facsimile (512)719-8349 or electronically to BoardSecretary@tmlhb.org. Ballots will be prepared and mailed to all Employer Members in TML Region 13 by August 17, 2021.

Motion

I make a motion to approve/deny authorizing the completion of the Submission of Qualified Person to TML Health Benefits Pool submitting Joni Clarke as a qualified person for election to the TML Health Benefits Pool Board of Trustees for Region 13.



Submission of Qualified Person



The governing body of the City of Lucas hereby submits the name of Joni Clarke, City Manager from the City of Lucas, as a qualified person to be placed on the ballot for the TML Health Benefits Pool Board of Trustees for Region 13. This qualified person is either an employee or an elected official of an incorporated city within the State of Texas that is a member of the TML Health Benefits Pool. If the qualified person is an “Employee”, the governing body hereby certifies that the municipal employee: holds a position of Department Head or higher; works at least 20 hours per week for an Employer Member; is paid by the Employer Member with public funds; and is hired and fired only by another incorporated city official or by the incorporated city’s governing body. This nominee, if elected, will not serve as both a voting member of TML Health and as a voting member of the Texas Municipal League or the Texas Municipal League Intergovernmental Risk Pool.

We certified that this submission is made in accordance with official action taken by the governing body at a duly called meeting on August 5, 2021.

City of Lucas

Signature: _____

Jim Olk, Mayor

Date:

August 5, 2021

Please provide a short statement for the elected or appointed official submitted for a place on the ballot describing why the official would like to serve on the TML Health Board of Trustees. This statement will be provided with the ballot packet to the Employer Members within the affected region:

In October 2019, I was provided with an opportunity to fill an unexpired term as Trustee for Region 13. It has been an interesting two years with many strategic initiatives coming to fruition including awarding Navitus as TML Health’s Pharmacy Benefit Manager and the implementation of a partnership with Businessolver to create a user-friendly benefits enrollment system. TML Health also selected BlueCross BlueShield of Texas as its Third-Party Administrator to provide quality healthcare products and excellent customer service. However, we have also experienced the challenges associated with the management of the pandemic with the Pool providing a \$14 million draw down in equity to cover COVID-19 costs without raising rates. The Pool is providing \$4 million in renewal credit for this year. It is a privilege to serve as a Trustee and as a member of the Finance Committee, and with the strong financial condition of the Pool, it places the Pool in a position to offer stable rates while providing quality healthcare products. My tenure as a public servant includes in excess of 20 years of service to several Texas municipalities in a variety of leadership roles. I am an ICMA Credentialed Manager, a Certified Public Manager and hold a BBA degree from Western Michigan University. I would appreciate the opportunity to continue my service to Region 13.



City of Lucas City Council Agenda Request August 5, 2021

Requestor: Mayor Jim Olk

Agenda Item Request

Executive Session.

As authorized by Section 551.076 of the Texas Government Code, the City Council will convene into closed Executive Session for the purpose of receiving confidential advice relating to implementation of cyber security devices and cyber security audits.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA



City of Lucas City Council Agenda Request August 5, 2021

Item No. 12

Requester: Mayor Jim Olk

Agenda Item Request

Reconvene from Executive Session and take any action necessary as a result of the Executive Session.

Background Information

NA

Attachments/Supporting Documentation

NA

Budget/Financial Impact

NA

Recommendation

NA

Motion

NA