



CITY OF LAGUNA HILLS CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA Tuesday, August 24, 2021 – 7:00 PM (Closed Session at 6:00 PM when scheduled)

Erica Pezold, Mayor

Don Sedgwick, Mayor Pro Tempore
Bill Hunt, Council Member

Janine Heft, Council Member
Dave Wheeler, Council Member

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, CA 92653

Any person wishing to address the City Council/Planning Agency on any matter, whether or not it appears on this Agenda, is asked to complete a pink "Request to Speak" form available on the table at the back of the Chamber. The completed form is to be submitted to the City Clerk prior to an individual being heard by the City Council/Planning Agency. Completion of the form is voluntary. All persons may attend the meeting regardless of whether this form is completed.

Members of the public wishing to address the City Council can do so during the Public Comments portion of the Agenda with a time limitation of three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes for Public Comments. If you are commenting on an Agenda item, your comments will be heard at the time that item is scheduled on the Agenda. If you are addressing the City Council on an item not listed on the Agenda, the City Council is prohibited by law from discussing or taking any action on that item.

Submission of Electronic Public Comments: While you may attend this meeting in person, those wishing to make electronic public comments may submit their comments by email to the City Clerk at publiccomments@lagunahillsCA.gov, by 5:00 p.m. on August 24, 2021. In the subject line of the email, please state your name and the item number you are commenting on. Any public comment received that does not specify a particular agenda item number will be announced during the general public comment portion of the agenda. If you wish to submit a public comment on more than one agenda item, please send a separate email for each item you are commenting on. All comments received by 5:00 p.m. on the date of the meeting will be provided to the City Council in advance to allow time for the Council Members to read them.

Announcement of Electronic Public Comments: During the applicable agenda item, the City Clerk will announce the name of the sender and subject matter of all email comments received by 5:00 p.m. on August 24, 2021. Email comments will NOT be read by the City Clerk during the meeting. Electronic public comments may only be submitted via email and comments via text and social media (Facebook, Twitter, etc.) will not be accepted. The email comments, including your name, will become part of the record of the City Council meeting and will be public information.

CLOSED SESSION - CONVENING AT 6:00 PM**CALL TO ORDER**

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

ROLL CALL OF CITY COUNCIL MEMBERS**ANNOUNCEMENT OF CLOSED SESSION ITEM(S)**

The City Council will convene into Closed Session, in the City Council Conference Room, City Hall, Laguna Hills Civic Center, to consider the following matter(s):

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9

Initiation of litigation pursuant to paragraph (4) of subdivision (d) of California Government Code Section 54956.9: (1 potential case).

Based on existing facts and circumstances, City Council will convene into closed session to consider and determine whether to join pending litigation.

Name of Case: Orange County Council of Governments, a Joint Powers Agency, Petitioner, v. Gustavo Velasquez, Interim Director of Department of Housing and Community Development, California Department of Housing and Community Development, et al., Respondents, Southern California Association of Governments, a Joint Powers Agency, Real Party In Interest.

Los Angeles County Superior Court Case No.: 21STCP01970.

PUBLIC COMMENT ON CLOSED SESSION ITEM(S)**CONVENE INTO CLOSED SESSION**

The City Council will convene into Closed Session to consider the matter(s) listed above.

RECONVENE TO CITY COUNCIL CHAMBER**RECESS**



CITY OF LAGUNA HILLS CITY COUNCIL/PLANNING AGENCY

REGULAR MEETING AGENDA Tuesday, August 24, 2021 – 7:00 PM (Closed Session at 6:00 PM when scheduled)

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Don Sedgwick, Mayor Pro Tempore
Bill Hunt, Council Member

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Dave Wheeler, Council Member

Location: City Council Chamber, 24035 El Toro Road, Laguna Hills, CA 92653

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Submission of Electronic Public Comments: While you may attend this meeting in person, those wishing to make electronic public comments may submit their comments by email to the City Clerk at publiccomments@lagunahillsCA.gov, by 5:00 p.m. on August 24, 2021. In the subject line of the email, please state your name and the item number you are commenting on. Any public comment received that does not specify a particular agenda item number will be announced during the general public comment portion of the agenda. If you wish to submit a public comment on more than one agenda item, please send a separate email for each item you are commenting on. All comments received by 5:00 p.m. on the date of the meeting will be provided to the City Council in advance to allow time for the Council Members to read them.

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GENERAL BUSINESS - CONVENING AT 7:00 PM**CALL TO ORDER**

Resolution No. 96-04-09-1 established rules of decorum for public meetings held by the City of Laguna Hills. Resolution No. 96-04-09-1 is available on the table at the back of the City Council Chamber.

INVOCATION: Rabbi Tzali Stillerman of Chabad Jewish Center of Aliso Viejo & Laguna Woods

PLEDGE OF ALLEGIANCE: Council Member Heft

ROLL CALL OF CITY COUNCIL MEMBERS**CLOSED SESSION REPORT****1. PRESENTATIONS AND PROCLAMATIONS****1.1 Twenty-Five Year Anniversary Recognition**

Recommendation: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, recognizing Janice Reyes for twenty-five years of service to the City."

2. SCHEDULE OF FUTURE EVENTS**2.1 Schedule of Future Events**

Recommendation: That the Interim City Manager announce the upcoming City events for the months of August and September 2021.

3. PUBLIC COMMENTS

This is the time to address the City Council on any matter not listed on this Agenda that is within the subject matter jurisdiction of the City Council. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

4. CONSENT CALENDAR

All matters listed under "CONSENT CALENDAR" are considered to be routine and will be enacted by one motion approving the recommendation listed on the Agenda. There will be no separate discussion unless Members of the City Council or Staff request specific items be removed from the Consent Calendar.

4.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all ordinances and resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

4.2 Approval of Minutes for July 13, 2021, Regular Meeting

Recommendation: That the City Council approve the Minutes for the July 13, 2021, Regular Meeting.

4.3 Approval of Minutes for July 22, 2021, Special Meeting

Recommendation: That the City Council approve the Minutes for the July 22, 2021, Special Meeting.

4.4 Ratification of August 24, 2021, Warrant Register

Recommendation: That the City Council ratify the accompanying Warrant Register for the period from July 2, 2021, to August 12, 2021, in the amount of \$2,326,576.30.

4.5 City Council Review and Confirm the Necessity for Continuing the Local Emergency Related to the On-Going Threat of the Novel COVID-19 Virus and Confirmation of the Interim Director of Emergency Services/Interim City Manager's Executive Orders Related Thereto

Recommendation: That the City Council: 1) Review and confirm the necessity for continuing the local emergency declared in response to the Novel COVID-19 virus; and 2) Confirm the Interim Director of Emergency Services/Interim City Manager's Executive Orders related thereto.

4.6 Progress Payment No. 1 for Laguna Hills Civic Center EV Charging Stations, CIP No. 505

Recommendation: That the City Council approve Progress Payment No. 1, in the net amount of \$44,887.50, to GC Electric Solar Corporation, for Laguna Hills Civic Center EV Charging Stations Project, CIP No. 505.

4.7 Award of Professional Services Agreement to De Novo Planning Group for Development of the Local Hazard Mitigation Plan

Recommendation: That the City Council award a Professional Services Agreement to De Novo Planning Group for Development of the Local Hazard Mitigation Plan and authorize the Mayor to execute the Agreement.

4.8 Agreement with Southern California Edison Company (SCE) for Conversion of Existing Street Lighting Fixtures to Light Emitting Diode (LED) Fixtures

Recommendation: That the City Council approve the "Schedule LS-1 Option E Energy Efficiency-Light Emitting Diode (LED) Fixture Replacement Rate Agreement" with SCE and authorize the Interim City Manager to execute the Agreement.

4.9 Award of a Public Works Construction Contract for the 2021-2022 Fiscal Year Citywide Pavement Rehabilitation Project, CIP No. 101-L, & Ridge Route Drive Pavement Resurfacing, CIP No. 188, to Petrochem Materials Innovation, LLC, in the Total Amount (Base Bid Plus Alternate Bid No. 1) of \$2,686,489.00

Recommendation: That the City Council: 1) Find that the Project is categorically exempt from the California Environmental Quality Act (CEQA), as a Class 1 Existing Facilities, pursuant to CEQA Guidelines, Section 15301; 2) Award the Public Works Construction Contract to the lowest responsive, responsible bidder, Petrochem Materials Innovation, LLC, of Carlsbad, California, in the base bid amount of \$2,470,937.00, plus the Alternate Bid No. 1 in the amount of \$215,552.00, for a grand total amount of \$2,686,489.00 and reject all other bids; and 3) Authorize the Mayor to execute the proposed Public Works Construction Contract.

4.10 2021 Fourth of July Post Event Report

Recommendation: That the City Council receive and file the report.

ITEMS REMOVED FROM THE CONSENT CALENDAR**5. PLANNING AGENCY****5.1. ROLL CALL OF PLANNING AGENCY MEMBERS**

5.2. PUBLIC COMMENTS

This is the time to address the Planning Agency on any matter not listed on this Agenda that is within the subject matter jurisdiction of the Planning Agency. Public Comments are limited to three minutes per person, an overall time limit of ten minutes for any one subject, and a total time limit of thirty minutes.

5.3. APPROVAL OF MINUTES**5.3.1 Approval of Minutes for July 13, 2021, Regular Meeting**

Recommendation: That the Planning Agency approve the Minutes for the July 13, 2021, Regular Meeting.

5.4. ADMINISTRATIVE REPORTS**5.5. PLANNING AGENCY PUBLIC HEARINGS****PLANNING AGENCY ADJOURNMENT****6. CITY COUNCIL PUBLIC HEARINGS****7. ADMINISTRATIVE REPORTS****7.1. City Manager****7.1.1 A Resolution in Support of Local Control of Land Use and Other Matters**

Recommendation: That the City Council adopt a Resolution entitled "A Resolution of the City Council of the City of Laguna Hills, California, opposing any legislation which erodes local control over land use, zoning, housing, and other local matters and supporting legislation which maintains and enhances local discretion."

7.1.2 Private Donation Policy for Public Improvements

Recommendation: That the City Council direct Staff to prepare a formal City Council Policy on the acceptance of private financial donations in support of Public Improvements.

7.1.3 Review of Development Agreement Negotiator Proposals Received for the Village at Laguna Hills Project

Recommendation: That the City Council receive and review the Development Agreement Negotiator Services Proposals received regarding the proposed Village at Laguna Hills Project and establish dates for City Council interviews of Council-selected Proposing Firms.

7.2. Deputy City Manager/Community Services Director**7.2.1 2021 Memorial Day Post Event Report and Resolution Authorizing Community Assistance Funding for the 3/5 Marine Support Committee**

Recommendation: That the City Council: 1) Receive and file the report; and 2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, authorizing community assistance funding for the 3rd Battalion, 5th Marines, 1st Division Support Committee, a California non-profit corporation.

7.2.2 Renovation of the "LH" on the Hill Monument

Recommendation: That the City Council approve Option A for the renovation of the LH on the hill monument and direct Staff to prepare plans and specifications and a budget to implement the project.

7.2.3 Celebration of the City's 30TH Year of Incorporation

Recommendation: That the City Council approve of recommended events and activities proposed to recognize the City's 30th Anniversary of Incorporation and provide further direction on additional events and activities desired.

7.2.4 City Website/Social Media Presence Update and City YouTube Channel

Recommendation: That the City Council receive and file this report regarding the City website and Social Media Channel update and further determine if it is desirable to establish a City YouTube Channel with the services of a Public Relations Firm to establish YouTube content that promotes the City of Laguna Hills.

7.3. Finance Director**7.3.1 Utilization of State and Local Fiscal Recovery Funds as Authorized Under the American Rescue Plan Act**

Recommendation: That the City Council appropriate the City's full allocation of Coronavirus-related State and Local Fiscal Recovery Funds, as authorized under the American Rescue Plan Act, for: 1) the provision of government services to the full extent of the reduction in revenue (revenue loss) due to the COVID-19 public health emergency; and 2) to respond to the public health emergency caused by COVID-19 or its negative economic impacts.

7.4. Deputy City Manager/City Clerk**7.4.1 Honoring Former City Council Member and Mayor Dore J. Gilbert, M.D.**

Recommendation: That the City Council adjourn the August 24, 2021, City Council meeting in the memory of former City Council Member and Mayor Dore J. Gilbert, M.D.

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS**9. CITY COUNCIL MEMBER COMMITTEE REPORTS****10. CITY COUNCIL MEMBER COMMENTS****ADJOURNMENT**

The next Regular Meeting of the City Council/Planning Agency will be September 14, 2021, in the City Council Chamber, located at 24035 El Toro Road, Laguna Hills, California.

CERTIFICATION

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, do hereby certify that a copy of the foregoing Agenda was posted at Laguna Hills City Hall, Laguna Hills Community Center, and the Courtyard at La Paz Center by August 20, 2021, at 5:00 pm.



City Clerk

August 17, 2021

Date

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the office of the City Clerk at (949) 707-2635. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Materials related to an item on this Agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office at 24035 El Toro Road, Laguna Hills, California, during normal business hours.

City Council Members receive no additional compensation or stipend as a result of simultaneously convening meetings of the Laguna Hills Planning Agency.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Melissa Au-Yeung
Deputy City Manager
ISSUE: Twenty-Five Year Anniversary Recognition

RECOMMENDATION: That the City Council adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, recognizing Janice Reyes for twenty-five years of service to the City."

SUMMARY:

At this meeting, Mayor Pezold will recognize Janice Reyes, Finance Director, for twenty-five years of service to the City of Laguna Hills. Ms. Reyes started with the City as a Finance Intern on June 1, 1994, and was hired to a full-time position of Junior Accountant on August 12, 1996. She has since served the City as Accountant, Accounting Supervisor, Finance Manager and was promoted to her current position of Finance Director on February 9, 2018.

Employees are presented with a Certificate of Recognition and a City of Laguna Hills pen and pencil set when they complete their first five years of service. Employees with ten, fifteen, and twenty years of service are presented with a Certificate of Recognition at a City Council meeting. Employees that reach the milestone of twenty-five years of service are recognized with a Resolution presented by the Mayor and a gift certificate.

ATTACHMENTS:

- Proposed Resolution
- Certificate of Recognition

RESOLUTION NO. 2021-08-24-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA HILLS, CALIFORNIA, RECOGNIZING
JANICE REYES FOR TWENTY-FIVE YEARS OF SERVICE
TO THE CITY

WHEREAS, Janice Reyes started with the City as a Finance Intern on June 1, 1994, was hired to a full-time position of Junior Accountant on August 12, 1996, and has since served as Accountant, Accounting Supervisor, Finance Manager and Finance Director; and

WHEREAS, it is the policy and practice of the City of Laguna Hills to attract and retain highly qualified and motivated people; and

WHEREAS, Janice Reyes has served the City of Laguna Hills in a professional, caring and conscientious manner for twenty-five years; and

WHEREAS, Ms. Reyes' service has greatly contributed to the overall success of the City in its efforts to provide quality local government services, programs, and projects to the residents and businesses of Laguna Hills; and

WHEREAS, it is an honor to recognize the length and quality of Ms. Reyes' service to the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, does hereby express appreciation to Janice Reyes for twenty-five years of service to the City of Laguna Hills.

PASSED, APPROVED, AND ADOPTED this 24th day of August 2021.

ERICA PEZOLD, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

Attachment: Proposed Resolution (2548 : Twenty Five Year Anniversary Recognition)

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2021-08-24-X adopted by the City Council of the City of Laguna Hills, California, at
a Regular Meeting thereof held on the 24th day of August 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK



CITY OF LAGUNA HILLS

CERTIFICATE OF RECOGNITION

JANICE REYES Finance Director Twenty-Five Year Service Award

WHEREAS, Janice Reyes started with the City as a Finance Intern on June 1, 1994, was hired to a full-time position of Junior Accountant on August 12, 1996, and has since served as Accountant, Accounting Supervisor, Finance Manager and Finance Director; and

WHEREAS, it is the policy and practice of the City of Laguna Hills to attract and retain highly qualified and motivated people; and

WHEREAS, Janice Reyes has served the City of Laguna Hills in a professional, caring and conscientious manner for twenty-five years; and

WHEREAS, Ms. Reyes' service has greatly contributed to the overall success of the City in its efforts to provide quality local government services, programs, and projects to the residents and businesses of Laguna Hills; and

WHEREAS, it is an honor to recognize the length and quality of Ms. Reyes' service to the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, does hereby express appreciation to Janice Reyes for twenty-five years of service to the City of Laguna Hills.

Dated this 24th day of August 2021.

ERICA PEZOLD, MAYOR

Attachment: Certificate of Recognition (2548 : Twenty Five Year Anniversary Recognition)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services

ISSUE: Schedule of Future Events

RECOMMENDATION: That the Interim City Manager announce the upcoming City events for the months of August and September 2021.

SUMMARY:

The following is a list of upcoming events for the City of Laguna Hills in the month of August and September 2021:

National Night Out

Thursday, August 26, 2021, 6:00 pm to 8:00 pm, at the Laguna Hills Community Center & Sports Complex.

Rooted Volunteer Campaign

Saturday, September 4, 2021, 9:00 a.m., Intersection of Aliso Hills Drive and La Paz Road planting event

Regular City Council Meeting

Tuesday, September 14, 2021, 7:00 p.m., at the Laguna Hills Civic Center Council Chamber

Traffic Commission Meeting

Wednesday, September 15, 2021, 7:00 p.m., at the Laguna Hills Civic Center Council Chamber

Regular City Council Meeting

Tuesday, September 28, 2021, 7:00 p.m., at the Laguna Hills Civic Center Council Chamber



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for July 13, 2021, Regular Meeting

RECOMMENDATION: That the City Council approve the Minutes for the July 13, 2021, Regular Meeting.

ATTACHMENTS:

- 210713 CC Minutes

**CITY OF LAGUNA HILLS
CITY COUNCIL/PLANNING AGENCY**

**REGULAR MEETING
MINUTES
Tuesday, July 13, 2021**

GENERAL BUSINESS - CONVENING AT 7:00 PM

CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Mayor Pezold.

INVOCATION: Mayor Pro Tempore Sedgwick

PLEDGE OF ALLEGIANCE: Council Member Hunt

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Erica Pezold	Mayor	Present	
Don Sedgwick	Mayor Pro Tempore	Present	
Janine Heft	Council Member	Present	
Bill Hunt	Council Member	Present	
Dave Wheeler	Council Member	Present	

1. PRESENTATIONS AND PROCLAMATIONS

1.1 Presentation by Mercy House on Homeless Outreach

Recommendation: The City Council received an update from Timothy Huynh on Mercy House's homeless outreach efforts in the City of Laguna Hills.

2. SCHEDULE OF FUTURE EVENTS

2.1 Schedule of Future Events

Recommendation: The Interim City Manager announced the upcoming City events for the months of July and August 2021.

The following individual(s) addressed the City Council on this item:

Robin Jochims, a resident of Laguna Hills, spoke regarding the City's business outreach program.

3. PUBLIC COMMENTS

The following individual(s) addressed the City Council on non-agendized items:

Neel Patel, a resident of Laguna Hills, spoke regarding the City's online presence, the master sign program for the redevelopment of the mall, maintenance of wayfinding signs, possibility of an overnight parking ordinance, and maintenance of trail underpasses.

4. CONSENT CALENDAR

Motion to approve the Consent Calendar with Council Member Wheeler removing Item No. 4.6, Item No. 4.9, and Item No. 4.13; Council Member Heft removing Item No. 4.10, Item No. 4.11, Item No. 4.17 and Item No. 4.18; and Mayor Pezold removing Item No. 4.8 and Item No. 4.15.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Council Member; Bill Hunt
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.1 Waive Reading in Full of all Ordinances and Resolutions on the Agenda

Recommendation: That the City Council waive reading in full of all ordinances and resolutions on the agenda and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

4.2 Approval of Minutes for June 22, 2021, Regular Meeting

Recommendation: That the City Council approve the Minutes for the June 22, 2021, Regular Meeting.

4.3 Approval of Minutes for June 24, 2021, Special Meeting

Recommendation: That the City Council approve the Minutes for the June 24, 2021, Special Meeting.

4.4 Approval of Minutes for June 29, 2021, Special Meeting

Recommendation: That the City Council approve the Minutes for the June 29, 2021, Special Meeting.

4.5 Ratification of July 13, 2021, Warrant Register

Recommendation: That the City Council ratify the accompanying Warrant Register for the period from June 16, 2021, to July 1, 2021, in the amount of \$599,348.34.

4.7 Adoption of Fiscal Year 2021-2022 Civic Center Budget

Recommendation: That the City Council approve and adopt the Fiscal Year 2021-2022 Civic Center Budget.

4.12 Award of Citywide General Street Maintenance Services Agreement

Recommendation: That the City Council award the Citywide General Street Maintenance Services Agreement to Charles Abbott Associates, Inc., in the low annual bid amount of \$681,324.20, reject all other bids, and authorize the Mayor to execute the Agreement.

4.14 Award of Professional Services Agreements for On-Call Civil Engineering, Building and Safety, Civil Plan Check, and Building Services

Recommendation: That the City Council award the Professional Services Agreements for On-Call Civil Engineering, Building and Safety, Civil Plan Check, and Building Services to Charles Abbott Associates, Inc., and HR Green Pacific, Inc., and authorize the Mayor to execute the Agreements.

4.16 Cooperative Agreement C-1-3240 Between the Orange County Transportation Authority and City of Laguna Hills for Senior Mobility Program for the City of Laguna Hills Senior Dial-A-Taxi Program

Recommendation: That the City Council approve the Cooperative Agreement No. C-1-3240 between the Orange County Transportation Authority and City of Laguna Hills for Senior Mobility Program and authorize the Mayor to execute the Agreement.

ITEMS REMOVED FROM THE CONSENT CALENDAR**4.6 City Council Review and Confirm the Necessity for Continuing the Local Emergency Related to the On-Going Threat of the Novel COVID-19 Virus**

Council Member Wheeler removed Item No. 4.6 from the Consent Calendar to request additional information.

The following individual(s) addressed the City Council on this item:

Scott Cebula, owner of GameCraft Brewery, spoke in favor of continuing the local emergency to assist businesses in the City.

City Attorney Simonian responded to Council Member requests for additional information.

Recommendation: That the City Council review and confirm the necessity for continuing the local emergency declared in response to the Novel COVID-19 virus.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dave Wheeler, Council Member
SECONDER:	Janine Heft, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.8 Memorandum of Understanding Between the City of Laguna Hills and the Laguna Hills City Employees Association

Mayor Pezold removed Item No. 4.8 from the Consent Calendar to request additional information.

Motion to table the item was made by Mayor Pezold and no second was made. As a result, no action was taken on this motion.

City Attorney Simonian responded to Council Member requests for additional information.

Interim City Manager Rosenfield responded to Council Member requests for additional information.

Deputy City Manager/City Clerk Au-Yeung responded to Council Member requests for additional information.

Recommendation: That the City Council: 1) Adopt Resolution No. 2021-07-13-1: "A Resolution of the City Council of the City of Laguna Hills, California, adopting a Memorandum of Understanding between the City of Laguna Hills and the Laguna Hills City Employees Association (LHCEA), and superseding all previous LHCEA Memorandums of Understanding effective July 1, 2021"; and 2) Authorize the City Manager to execute the Memorandum of Understanding.

RESULT:	APPROVED [4 TO 0]
MOVER:	Don Sedgwick, Mayor Pro Tempore
SECONDER:	Janine Heft, Council Member
AYES:	Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member
ABSTAIN:	Erica Pezold, Mayor

4.9 Amendments to the ERMAC Joint Powers Agreement and Bylaws

Council Member Wheeler removed Item No. 4.9 from the Consent Calendar to request additional information.

Interim City Manager Rosenfield responded to Council Member requests for additional information.

Recommendation: That the City Council approve Amendments to the Exclusive Risk Management Authority of California Joint Powers Agreement and Bylaws.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dave Wheeler, Council Member
SECONDER:	Bill Hunt, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.10 Rejection of Bid Proposals for Citywide Pavement Rehabilitation, CIP No. 101-L & Ridge Route Drive Pavement Resurfacing, CIP No. 188

Council Member Heft removed Item No. 4.10 from the Consent Calendar to request additional information.

The following individual(s) addressed the City Council on this item:

Lance Allen, Manager at Roy Allen Slurry Seal, Inc., spoke regarding the bid process.

City Attorney Simonian responded to Council Member requests for additional information.

Interim City Manager Rosenfield responded to Council Member requests for additional information.

Recommendation: That the City Council reject all Bid Proposals for Citywide Pavement Rehabilitation, CIP No. 101-L & Ridge Route Drive Pavement Resurfacing, CIP No. 188 and direct Staff to reissue the Notice Inviting Bids and Specifications.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bill Hunt, Council Member
SECONDER:	Don Sedgwick, Mayor Pro Tempore
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.11 Award of Contract for Laguna Hills Civic Center Tenant & Site Improvements, Suite 160

Council Member Heft removed Item No. 4.11 from the Consent Calendar to provide comments in favor of the Item.

Recommendation: That the City Council award the contract for Laguna Hills Civic Center Tenant & Site Improvements, Suite 160, to SD Design Construction Corporation, in the low bid amount of \$231,300, reject the proposal from A2Z Construct, Inc., as non-responsive, reject all other bids, and authorize the Mayor to sign the construction contract.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Bill Hunt, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.13 Award of Citywide Tree Maintenance Services Agreement

Council Member Wheeler removed Item No. 4.13 from the Consent Calendar to request additional information.

Interim City Manager Rosenfield responded to Council Member requests for additional information.

Recommendation: That the City Council award the Citywide Tree Maintenance Services Agreement to West Coast Arborists, Inc., in the low bid amount of \$246,505.00, reject all other bids, and authorize the Mayor to execute the Agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Mayor Pro Tempore
SECONDER:	Janine Heft, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.15 Extension of Interim Regulations for Temporary Outdoor Dining

Mayor Pezold removed Item No. 4.15 from the Consent Calendar to provide comments suggesting a different approach to the matter.

The following individual(s) addressed the Council Member on this item:

Scott Cebula, owner of GameCraft Brewery, spoke in favor of the extension of interim regulations for temporary outdoor dining.

Interim City Manager Rosenfield responded to Council Member requests for additional information.

Recommendation: That the City Council adopt Resolution No. 2021-07-13-2: "A Resolution of the City Council of the City of Laguna Hills, California, extending the temporary outdoor dining permit program and waiver of application and appeal fees in order to further assist local restaurants in recovering from the COVID-19 pandemic."

Motion to move Staff's recommendation with modification to Section 1.C. Appeal, to read: "Any decision made by the Community Development Director, pursuant to the authority granted the Community Development Director under this Resolution, may be appealed by the applicant/permittee to the City Council by notifying the City Clerk of the appeal within three (3) calendar days of the decision. The City Council shall have authority to sustain, reverse, or modify the decision of the Community Development Director. The City Council's decision shall be final."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Mayor Pro Tempore
SECONDER:	Janine Heft, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.17 Award of Senior Transportation Mobility Services Agreement to California Yellow Cab for Transportation Services for the City of Laguna Hills' Senior Dial-A-Taxi Program

Council Member Heft removed Item No. 4.17 from the Consent Calendar to request additional information.

Interim City Manager Rosenfield responded to Council Member requests for additional information.

Recommendation: That the City Council approve the Senior Transportation Mobility Services Agreement with Cabco Yellow, Inc., dba California Yellow Cab and authorize the Mayor to execute the Agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Erica Pezold, Mayor
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

4.18 2021 Holiday Lighting and Decorations Agreement with the Christmas Kings

Council Member Heft removed Item No. 4.18 from the Consent Calendar to request additional information.

Community Services Superintendent Meehan responded to Council Member requests for additional information.

Recommendation: That the City Council waive competitive formal bidding requirements and procedures set forth in the City of Laguna Hills Municipal Code (LHMC) Section 3-08.90 with regard to approval of the proposed holiday lighting agreement with The Christmas Kings, as it is hereby found and determined, pursuant to LHMC Section 3-08.110, that compliance is not in the City's best

interest at this time based on the information presented herein by City Staff, approve the Lighting Agreement, and authorize the Interim City Manager to execute the Lighting Agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Erica Pezold, Mayor
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

5. PLANNING AGENCY

Mayor Pezold recessed the City Council Meeting, and acting in capacity as Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 9:38 p.m.

5.1. ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Erica Pezold	Chair	Present	
Don Sedgwick	Vice Chair	Present	
Janine Heft	Agency Member	Present	
Bill Hunt	Agency Member	Present	
Dave Wheeler	Agency Member	Present	

5.2. PUBLIC COMMENTS

There were no Planning Agency public comments on non-agendized items.

5.3. APPROVAL OF MINUTES

5.3.1 Approval of Minutes for June 22, 2021, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the June 22, 2021, Regular Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Vice Chair
SECONDER:	Bill Hunt, Agency Member

AYES:	Erica Pezold, Chair; Don Sedgwick, Vice Chair; Janine Heft, Agency Member; Bill Hunt, Agency Member; Dave Wheeler, Agency Member
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5.4. ADMINISTRATIVE REPORTS

There were no Planning Agency administrative reports.

5.5. PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency public hearings.

PLANNING AGENCY ADJOURNMENT

Chair Pezold adjourned the Planning Agency Meeting at 9:43 p.m. All Council Members were present in chamber.

6. CITY COUNCIL PUBLIC HEARINGS

6.1 Confirmation of 2021 Weed Abatement Cost Report

Interim City Manager Rosenfield reviewed the information provided in the staff report and responded to Council Member requests for additional information.

Mayor Pezold opened the public hearing.

There were no public comments on the public hearing item.

Mayor Pezold closed the public hearing.

Recommendation: That the City Council conduct a public hearing regarding the 2021 Weed Abatement Cost Report and adopt Resolution No. 2021-07-13-3 "A Resolution of the City Council of the City of Laguna Hills, California, confirming the 2021 Weed Abatement Cost Report and providing for the collection of weed abatement assessments on the next regular tax bill levied against the subject parcel for municipal purposes."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Dave Wheeler, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

7. ADMINISTRATIVE REPORTS**7.1. City Manager****7.1.1 Employment Classifications, Salary Ranges, and Benefits for Management, Confidential, and Part-Time Classes of Employment with the City**

Interim City Manager Rosenfield reviewed the information provided in the staff report and responded to Council Member requests for additional information.

Deputy City Manager/City Clerk Au-Yeung reviewed the information provided in the staff report, provided a PowerPoint presentation and responded to Council requests for additional information.

Recommendation: That the City Council adopt Resolution No. 2021-07-13-4: "A Resolution of the City Council of the City of Laguna Hills, California, regarding employment and establishing salary ranges and benefits for Management, Confidential, and Part-time classes of employment with the City and rescinding Resolution No. 2018-06-26-2."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Bill Hunt, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

Mayor Pezold recessed the meeting at 9:59 p.m.

Mayor Pezold reconvened the meeting at 10:11 p.m.

7.1.2 Public Safety Update

Interim City Manager Rosenfield reviewed the information provided in the staff report and responded to Council Member requests for additional information.

The following individual(s) addressed the City Council on this item:

Robin Jochims, a resident of Laguna Hills, spoke regarding a crime free rental housing ordinance.

Neel Patel, a resident of Laguna Hills, spoke regarding a crime free rental housing ordinance.

Recommendation: That the City Council approve the Actions underway to improve public safety at and around the Laguna Hills Community Center and Sports Complex.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Mayor Pro Tempore
SECONDER:	Janine Heft, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

8. MATTERS AGENDIZED AND PRESENTED BY CITY COUNCIL MEMBERS

There were no matters agendized and presented by City Council Members.

9. CITY COUNCIL MEMBER COMMITTEE REPORTS

There were no City Council Member committee reports.

10. CITY COUNCIL MEMBER COMMENTS

Mayor Pro Tempore Sedgwick

Mayor Pro Tempore Sedgwick thanked Staff for the City's 4th of July event.

Council Member Wheeler

Council Member Wheeler requested a list of the remaining executive orders and clarification regarding the selection of a qualified development negotiator.

Council Member Heft

Council Member Heft supported Mayor Pro Tempore Sedgwick's comments on the City's 4th of July event.

Council Member Heft reported that an Association of California Cities-Orange County Board of Directors Strategy Planning Workshop is scheduled for Thursday, July 15, 2021.

Mayor Pezold

Mayor Pezold described positive responses she received regarding the City's 4th of July event and emphasized the positive response regarding the Sheriff's Department's participation and a job well done by Staff.

Mayor Pezold indicated that a discussion regarding Orange County Council of Governments entering into litigation with the CA Department of Housing & Development and a discussion on social media presence are important to have agendaized for a future meeting.

Mayor Pezold stated some things have changed and suggested a need for a meeting be scheduled to have a discussion regarding the Interim City Manager and received a second from Council Member Hunt.

Mayor Pezold requested that a discussion regarding establishment of a local control resolution be agendaized for a future meeting and received a second from Council Member Heft.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Pezold declared the meeting adjourned at 11:34 p.m.

Melissa Au-Yeung, City Clerk

ATTEST:

Erica Pezold, Mayor

Approved at meeting of August 24, 2021



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for July 22, 2021, Special Meeting

RECOMMENDATION: That the City Council approve the Minutes for the July 22, 2021, Special Meeting.

ATTACHMENTS:

- 210722 CC Special Minutes

**CITY OF LAGUNA HILLS
CITY COUNCIL**

**SPECIAL MEETING
MINUTES
Thursday, July 22, 2021**

CALL TO ORDER

The meeting was called to order at 6:59 p.m. by Mayor Pezold.

PLEDGE OF ALLEGIANCE: Council Member Wheeler

ROLL CALL OF CITY COUNCIL MEMBERS

Attendee Name	Title	Status	Arrived
Erica Pezold	Mayor	Present	
Don Sedgwick	Mayor Pro Tempore	Absent	
Janine Heft	Council Member	Present	
Bill Hunt	Council Member	Present	
Dave Wheeler	Council Member	Present	

ANNOUNCEMENT OF CLOSED SESSION ITEM(S)

A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) and paragraph (1) of subdivision (e) of Government Code Section 54956.9: (1 potential case).

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957(b)(1)

Public Employee Title: Interim City Manager

PUBLIC COMMENTS

There were no public comments on closed session item(s).

ADJOURN TO CITY COUNCIL CONFERENCE ROOM OR COUNCIL CHAMBER

CONVENE INTO CLOSED SESSION

The City Council convened into closed session to consider the matter(s) listed above.

RECONVENE TO CITY COUNCIL CHAMBER

The City Council reconvened the City Council Meeting at 8:59 p.m. All Council Members were present with the exception of Mayor Pro Tempore Sedgwick.

CLOSED SESSION REPORT**A. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Pursuant to Government Code Section 54956.9

Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) and paragraph (1) of subdivision (e) of Government Code Section 54956.9: (1 potential case).

B. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957(b)(1)

Public Employee Title: Interim City Manager

City Attorney Simonian stated that the City Council convened into closed session this evening pursuant to the authorities listed on the Agenda with no reportable action taken.

ADJOURNMENT

There being no further business before the City Council at this session, Mayor Pezold declared the meeting adjourned at 8:59 p.m.

Melissa Au-Yeung, City Clerk

ATTEST:

Erica Pezold, Mayor

Approved at meeting of August 24, 2021



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: Ratification of August 24, 2021, Warrant Register

RECOMMENDATION: That the City Council ratify the accompanying Warrant Register for the period from July 2, 2021, to August 12, 2021, in the amount of \$2,326,576.30.

SUMMARY:

The City issues accounts payable disbursements on a regular basis and presents it to City Council for ratification at its next regularly scheduled City Council Meeting. The attached Warrant Register containing checks and electronic funds transfers for the period from July 2, 2021, to August 12, 2021, is being presented for ratification by the City Council. Payments have been reviewed and approved by the appropriate departmental staff. The Director of Finance certifies to the accuracy of the attached register and to the availability of monies for payment thereof.

ATTACHMENTS:

- Warrant Register - August 24, 2021
- Payables Detail Report - August 24, 2021



City of Laguna Hills, CA

Warrant Register - August 24, 2021

By Check Number

Date Range: 07/02/2021 - 08/12/2021

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
Payment Type: Regular				
8819459	B-0377	BIG TOP RENTALS	07/08/2021	1,198.09
8819460	C-1179	CANON SOLUTIONS AMERICA	07/08/2021	81.17
8819461	C-1144	CHARLES ABBOTT ASSOCIATES, INC	07/08/2021	112,777.59
8819462	C-0023	COX COMMUNICATION	07/08/2021	611.91
8819463	E-0554	ECONOMICS, INC.	07/08/2021	6,964.14
8819464	G-0843	GRIEGO-SANDS, CINDY	07/08/2021	35.45
8819465	M-1583	MOORE IACOFANO GOLTSMAN, INC.	07/08/2021	1,680.00
8819466	M-1302	MOULTON NIGUEL WATER DISTRICT	07/08/2021	21,720.42
8819467	P-1839	PAPER DEPOT	07/08/2021	31.75
8819468	Q-1717	QUADIENT FINANCE USA, INC.	07/08/2021	1,000.00
8819469	S-2289	SANDS, CINDY	07/08/2021	579.53
8819470	S-1949	SMART & FINAL	07/08/2021	115.34
8819471	S-1944	SOUTHERN CALIF MUN ATHLETIC FEDERATION	07/08/2021	553.50
8819472	S-1904	SOUTHERN CALIFORNIA EDISON	07/08/2021	4,673.07
8819473	S-2295	SOUTHERN COMPUTER WAREHOUSE	07/08/2021	10.71
8819474	S-2250	SPARKLETTES	07/08/2021	104.48
8819475	S-2201	SUNSET PROPERTY SERVICES JONSET CORPORATION	07/08/2021	18,414.17
8819476	U-2165	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	07/08/2021	180.99
8819477	V-2224	VERIZON WIRELESS	07/08/2021	2,134.48
8819478	W-2337	WEST COAST ARBORISTS, INC.	07/08/2021	19,015.20
8819479	W-2448	WEST GATE CONTRACTOR	07/08/2021	30,544.06
8819480	W-2389	WOLFE ENGINEERING & DESIGN	07/08/2021	525.00
8819481	Z-CD-0309	BRODINO BROTH COMPANY	07/08/2021	1,070.00
8819482	E-0588	ENVIRONMENTAL SYS RESEARCH, IND (ESRI)	07/08/2021	8,700.00
8819483	Z-CD-0311	HAUTER, JAMES E	07/08/2021	489.13
8819484	Z-CS-0367	LABRA, IMELDA	07/08/2021	1,000.00
8819485	M-1475	MUSCO SPORTS LIGHTING, LLC	07/08/2021	1,350.00
8819486	O-1568	OC COUNCIL OF GOVERNMENTS	07/08/2021	5,376.35
8819487	O-1525	OCCMA	07/08/2021	1,188.00
8819488	R-1967	RUSSELL, RICHARD WYATT	07/08/2021	1,568.00
8819489	S-2259	STRAIGHT 78	07/08/2021	1,650.00
8819490	T-2698	TPX COMMUNICATIONS	07/08/2021	577.00
8819491	Z-CD-0310	VERGARA, VICTOR	07/08/2021	900.00
8819492	V-2251	VIZUAL SYMPHONY, INC.	07/08/2021	20,000.00
8819493	A-0365	AT&T - CALNET 3	07/15/2021	23.67
8819494	C-0023	COX COMMUNICATION	07/15/2021	195.86
8819495	C-1122	CROSTOWN ELECTRICAL & DATA, INC.	07/15/2021	7,716.66
8819496	I-0942	IRVINE RANCH WATER DISTRICT	07/15/2021	187.09
8819497	J-1057	JAMEY CLARK, INC.	07/15/2021	376.00
8819498	O-1546	OFFICE SOLUTIONS	07/15/2021	301.77
8819499	O-1575	ORANGE COUNTY REGISTER-FREEDOM CA. NEWSPAPER PARTNERSHIP	07/15/2021	6,257.60
8819500	C-1003	PARKING VIOLATIONS OC TREASURER-TAX COLLECTOR	07/15/2021	1,076.00
8819501	P-1834	PLACEWORKS, INC.	07/15/2021	3,955.05
8819502	R-1855	RICHARD FISHER ASSOCIATES	07/15/2021	1,551.90
8819503	R-1977	RJ ELECTRIC	07/15/2021	510.85
8819504	R-1946	RK ENGINEERING GROUP, INC.	07/15/2021	3,420.00
8819505	S-1902	SAN DIEGO GAS & ELECTRIC	07/15/2021	10,520.61
8819506	S-1980	STATE DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	07/15/2021	64.00
8819507	S-2209	STUDIO TWO BLACK DIAMOND	07/15/2021	37.71
8819508	V-2249	US BANK VOYAGER FLEET SYSTEM	07/15/2021	790.57
8819509	V-2254	VITUITY - URGENT CARE SERVICES, PC	07/15/2021	100.00
8819510	B-0437	BRINKS, INCORPORATED	07/15/2021	160.14
8819511	D-0541	DIAMOND ENVIRONMENTAL SERVICES	07/15/2021	69.73

Attachment: Warrant Register - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Warrant Register - August 24, 2021

Date Range: 07/02/2021 - 08/12/2021

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
8819512	J-1071	JCTEES.COM CORPORATION	07/15/2021	1,151.74
8819513	Z-CD-0312	MILLER, ALEX	07/15/2021	545.04
8819514	O-1546	OFFICE SOLUTIONS	07/15/2021	339.53
8819515	R-1967	RUSSELL, RICHARD WYATT	07/15/2021	96.00
8819516	B-0430	BASICS OF SKATEBOARDING	07/22/2021	1,365.00
8819517	A-0380	AGRICULTURAL PEST CONTROL SERVICES	07/22/2021	628.00
8819518	A-0365	AT&T - CALNET 3	07/22/2021	247.47
8819519	B-0430	BASICS OF SKATEBOARDING	07/22/2021	945.00
8819520	C-1177	CANON FINANCIAL SERVICES, INC.	07/22/2021	851.52
8819521	C-1203	CHRISTMAS KINGS, THE	07/22/2021	49,855.00
8819522	C-1139	COMPLETE OFFICE OF CALIFORNIA	07/22/2021	96.96
8819523	C-0023	COX COMMUNICATION	07/22/2021	976.91
8819524	H-0934	HOME DEPOT	07/22/2021	94.44
8819525	L-1382	LOYA, RICKY	07/22/2021	90.00
8819526	M-1388	MOBILE MINI, INC.	07/22/2021	217.80
8819527	P-1804	PATROL ONE	07/22/2021	910.00
8819528	Q-1715	QUESTYS SOLUTIONS	07/22/2021	2,000.00
8819529	R-1830	RALPHS GROCERY COMPANY	07/22/2021	19.07
8819530	R-1855	RICHARD FISHER ASSOCIATES	07/22/2021	2,750.00
8819531	S-2107	STAGE PLUS	07/22/2021	2,800.00
8819532	A-0359	ANDERSON PENNA PARTNERS, INC.	07/22/2021	17,230.50
8819533	C-1133	CALIFORNIA YELLOW CAB	07/22/2021	568.00
8819534	C-1177	CANON FINANCIAL SERVICES, INC.	07/22/2021	1,744.01
8819535	D-0541	DIAMOND ENVIRONMENTAL SERVICES	07/22/2021	100.00
8819536	H-0934	HOME DEPOT	07/22/2021	277.84
8819537	K-1196	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	07/22/2021	9,661.25
8819538	M-1590	MILLENNIUM ALARM SYSTEMS, INC.	07/22/2021	9,004.64
8819539	P-1834	PLACEWORKS, INC.	07/22/2021	481.95
8819540	R-1982	RENEGADE ENTERPRISES LLC	07/22/2021	1,751.88
8819541	S-1904	SOUTHERN CALIFORNIA EDISON	07/22/2021	165.16
8819543	T-2002	TAB PRODUCTS COMPANY	07/22/2021	713.75
8819544	V-2255	VERITEXT LLC	07/22/2021	1,000.00
8819545	S-2306	STOP DROWNING NOW	07/28/2021	5,000.00
8819546	C-1096	CODE PUBLISHING COMPANY, INC.	07/29/2021	110.85
8819547	F-0604	FEDERAL EXPRESS CORPORATION	07/29/2021	31.52
8819548	H-0829	HARTZOG & CRABILL, INC.	07/29/2021	3,921.09
8819549	H-0960	HR GREEN PACIFIC, INC.	07/29/2021	35,465.64
8819550	K-1193	KOSMONT COMPANIES	07/29/2021	18,723.28
8819551	L-1250	LOCAL GOVERNMENT PUBLICATIONS	07/29/2021	143.56
8819552	M-1600	MERCY HOUSE LIVING CENTERS, INC.	07/29/2021	4,124.95
8819553	M-1302	MOULTON NIGUEL WATER DISTRICT	07/29/2021	7,024.28
8819554	P-1834	PLACEWORKS, INC.	07/29/2021	3,610.81
8819555	P-1695	PRESENTA PLAQUE, INC.	07/29/2021	141.13
8819556	S-1902	SAN DIEGO GAS & ELECTRIC	07/29/2021	27,151.35
8819557	S-2296	SHUTE, MIHALY WEINBERGER LLP	07/29/2021	417.60
8819558	S-1904	SOUTHERN CALIFORNIA EDISON	07/29/2021	72.76
8819559	S-2250	SPARKLETTS	07/29/2021	144.75
8819560	W-2302	THOMSON REUTERS - WEST	07/29/2021	559.88
8819561	R-1801	WOODRUFF, SPRADLIN & SMART	07/29/2021	101,346.83
8819563	A-0360	ARC DOCUMENT SOLUTIONS, LLC	07/29/2021	114.75
8819564	C-0333	CALIF PARK & REC SOCIETY, INC.	07/29/2021	700.00
8819565	C-0023	COX COMMUNICATION	07/29/2021	443.91
8819566	Z-CD-0313	DRC ENGINEERING, INC.	07/29/2021	2,031.94
8819567	E-0504	EL TORO WATER DISTRICT	07/29/2021	20,468.72
8819568	C-1190	FINGERPRINT ID (AFIS) LAW ENF. - COUNTY OF ORANGE	07/29/2021	1,233.00
8819569	G-0864	G C ELECTRIC CORPORATION	07/29/2021	44,887.50
8819570	H-0960	HR GREEN PACIFIC, INC.	07/29/2021	4,851.84
8819571	J-1057	JAMEY CLARK, INC.	07/29/2021	1,394.20
8819572	G-0709	JOE A. GONSALVES & SON	07/29/2021	2,900.00
8819573	N-1464	NEXTECH SYSTEMS, INC.	07/29/2021	7,205.59
8819574	O-1546	OFFICE SOLUTIONS	07/29/2021	491.01

Attachment: Warrant Register - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Warrant Register - August 24, 2021

Date Range: 07/02/2021 - 08/12/2021

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
8819575	P-1832	PRINTEX PRINTING AND GRAPHICS INC.	07/29/2021	1,774.00
8819576	R-1977	RJ ELECTRIC	07/29/2021	2,275.00
8819577	S-2250	SPARKLETTES	07/29/2021	38.42
8819578	C-1102	CALIFORNIA BUILDING STANDARDS COMMISSION	08/05/2021	451.80
8819579	C-1068	CITY OF ALISO VIEJO	08/05/2021	2,352.17
8819580	C-1122	CROSSTOWN ELECTRICAL & DATA, INC.	08/05/2021	8,606.26
8819581	D-0453	DEPARTMENT OF CONSERVATION	08/05/2021	480.51
8819582	D-0423	DIVISION OF THE STATE ARCHITECT STATE OF CALIFORNIA	08/05/2021	139.60
8819583	Q-1716	QUADIENT LEASING USA, INC.	08/05/2021	176.74
8819584	S-1904	SOUTHERN CALIFORNIA EDISON	08/05/2021	4,327.83
8819585	S-1904	SOUTHERN CALIFORNIA EDISON	08/05/2021	13,026.37
8819586		**Void**	08/05/2021	-
8819587	V-2249	US BANK VOYAGER FLEET SYSTEM	08/05/2021	144.81
8819588	W-2377	WILLDAN ENGINEERING	08/05/2021	147.00
8819589	A-0254	A. C. LANDSCAPE, INC.	08/05/2021	225.00
8819590	A-0360	ARC DOCUMENT SOLUTIONS, LLC	08/05/2021	74.90
8819591	A-0190	AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA	08/05/2021	53.00
8819592	C-1181	CIVIC PLUS	08/05/2021	951.38
8819593	C-0023	COX COMMUNICATION	08/05/2021	214.81
8819594	D-0541	DIAMOND ENVIRONMENTAL SERVICES	08/05/2021	248.55
8819595	Z-CD-0314	ECKERT, BRIAN	08/05/2021	362.99
8819596	F-0714	FIREWORKS & STAGE FX AMERICA, INC.	08/05/2021	13,250.00
8819597	H-0848	HDL, COREN & CONE	08/05/2021	2,828.28
8819598	K-1126	KNIGHT, LORNA	08/05/2021	954.80
8819599	N-1474	NIEVES LANDSCAPE, INC.	08/05/2021	87,725.73
8819600	O-1528	OCTA	08/05/2021	24,501.15
8819601	P-1779	PUBLIC STORAGE	08/05/2021	7,008.00
8819602	Q-1716	QUADIENT LEASING USA, INC.	08/05/2021	353.48
8819603	R-1967	RUSSELL, RICHARD WYATT	08/05/2021	672.00
8819604	S-2194	SECURE LIVE SCAN	08/05/2021	75.00
8819605	S-2201	SUNSET PROPERTY SERVICES JONSET CORPORATION	08/05/2021	17,012.20
8819606	T-2698	TPX COMMUNICATIONS	08/05/2021	675.72
8819607	U-2165	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	08/05/2021	179.34
8819608	V-2224	VERIZON WIRELESS	08/05/2021	1,240.13
8819609	W-2448	WEST GATE CONTRACTOR	08/05/2021	6,500.00
8819610	C-1102	CALIFORNIA BUILDING STANDARDS COMMISSION	08/12/2021	441.00
8819611	D-0423	DIVISION OF THE STATE ARCHITECT STATE OF CALIFORNIA	08/12/2021	182.00
8819612	J-1057	JAMEY CLARK, INC.	08/12/2021	225.00
8819613	S-1904	SOUTHERN CALIFORNIA EDISON	08/12/2021	282.58
8819614	B-0430	BASICS OF SKATEBOARDING	08/12/2021	525.00
8819615	B-0304	BEE MAN, THE	08/12/2021	661.50
8819616	B-0437	BRINKS, INCORPORATED	08/12/2021	160.57
8819617	C-1144	CHARLES ABBOTT ASSOCIATES, INC	08/12/2021	19,505.40
8819618	C-0023	COX COMMUNICATION	08/12/2021	195.86
8819619	E-0554	ECONOMICS, INC.	08/12/2021	11,818.11
8819620	I-0942	IRVINE RANCH WATER DISTRICT	08/12/2021	218.46
8819621	J-1057	JAMEY CLARK, INC.	08/12/2021	871.00
8819622	M-1302	MOULTON NIGUEL WATER DISTRICT	08/12/2021	30,114.90
8819623	O-1546	OFFICE SOLUTIONS	08/12/2021	82.36
8819624	O-1500	ORANGE COUNTY REGISTER	08/12/2021	371.35
8819625	P-1834	PLACEWORKS, INC.	08/12/2021	4,991.63
8819626	Q-1707	QUEST DIAGNOSTICS	08/12/2021	68.74
8819627	R-1946	RK ENGINEERING GROUP, INC.	08/12/2021	3,000.00
8819628	R-1967	RUSSELL, RICHARD WYATT	08/12/2021	864.00
8819629	S-1902	SAN DIEGO GAS & ELECTRIC	08/12/2021	10,520.61
8819630	W-2302	THOMSON REUTERS - WEST	08/12/2021	279.94
Total Regular:				991,952.92

Attachment: Warrant Register - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Warrant Register - August 24, 2021

Date Range: 07/02/2021 - 08/12/2021

Check Number	Vendor Number	Vendor Name	Payment Date	Payment Amount
Payment Type: Bank Draft				
DFT0001675	B-0276	BANK OF AMERICA VISA CARD	07/14/2021	1,254.21
DFT0001676	B-0276	BANK OF AMERICA VISA CARD	07/14/2021	18,455.33
DFT0001677	B-0276	BANK OF AMERICA VISA CARD	07/14/2021	1,172.55
DFT0001678	B-0276	BANK OF AMERICA VISA CARD	07/14/2021	384.00
DFT0001679	B-0276	BANK OF AMERICA VISA CARD	07/14/2021	919.83
DFT0001691	C-1007	OCSD LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX COLLECTOR	07/23/2021	563,685.19
DFT0001692	C-1007	OCSD LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX COLLECTOR	07/30/2021	748,752.27
Total Bank Draft:				1,334,623.38

Bank Code AP Bank Summary

	Payable	Payment		
Payment Type	Count	Count	Discount	Payment
Regular Checks	231	169	0.00	991,952.92
Manual Checks	0	0	0.00	0.00
Voided Checks	0	1	0.00	0.00
Bank Drafts	7	7	0.00	1,334,623.38
EFT's	0	0	0.00	0.00
	238	177	0.00	2,326,576.30

Attachment: Warrant Register - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

All Bank Codes Check Summary

Payment Type	Payable Count	Payment Count	Discount	Payment
Regular Checks	231	169	0.00	991,952.92
Manual Checks	0	0	0.00	0.00
Voided Checks	0	1	0.00	0.00
Bank Drafts	7	7	0.00	1,334,623.38
EFT's	0	0	0.00	0.00
	238	177	0.00	2,326,576.30

Fund Summary

Fund	Name	Period	Amount
998	POOL	7/2021	2,046,236.74
998	POOL	8/2021	280,339.56
			2,326,576.30



City of Laguna Hills, CA

Payables Detail Report

By Fund

Payment Dates 07/02/2021 - 08/12/2021

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
Fund: 100 - GENERAL FUND					
07/08/2021	MOORE IACOFANO GOLTSMAN, INC.	0068828	Professional Services, Feb '21	100-000-223000	1,680.00
07/08/2021	MOORE IACOFANO GOLTSMAN, INC.	0068828	Professional Services, Feb '21	100-000-452000	(1,680.00)
07/08/2021	MOORE IACOFANO GOLTSMAN, INC.	0068828	Professional Services, Feb '21	100-225-700201	1,680.00
07/08/2021	COX COMMUNICATION	050821	Traffic Signal, May '21	100-195-630000	84.00
07/08/2021	COX COMMUNICATION	060821	Traffic Signal, Jun '21	100-195-630000	84.00
07/08/2021	COX COMMUNICATION	061821	T-1 Line, Jun '21	100-195-630000	443.91
07/08/2021	SOUTHERN CALIFORNIA EDISON	062321	Street Lights, Traffic Control, Apr '21	100-355-631900	4,327.83
07/08/2021	QUADIENT FINANCE USA, INC.	062721	Postage Replenishment, May '21	100-195-625000	1,000.00
07/08/2021	SOUTHERN CALIFORNIA EDISON	062821 - Acct #7002345C	Street Lights, Traffic Control, Apr '21	100-355-631400	198.98
07/08/2021	SOUTHERN CALIFORNIA EDISON	063021 - Acct #7002345C	Street Lights, Traffic Control, May '21	100-355-631400	146.26
07/08/2021	STRAIGHT 78	070621	Program Expense, 4th of July Event	100-310-695508	1,650.00
07/08/2021	OCCMA	070721	Membership, FY 21/22	100-155-610000	1,188.00
07/08/2021	GRIEGO-SANDS, CINDY	070721	Mileage Reimbursement, Gen Gov, 5/26/21 - 6/30/21	100-155-613000	35.45
07/08/2021	SANDS, CINDY	070721	Petty Cash Replenishment, Apr - Jun '21	100-155-622000	513.78
07/08/2021	SANDS, CINDY	070721	Petty Cash Replenishment, Apr - Jun '21	100-225-622000	7.75
07/08/2021	SANDS, CINDY	070721	Petty Cash Replenishment, Apr - Jun '21	100-355-611000	27.00
07/08/2021	SANDS, CINDY	070721	Petty Cash Replenishment, Apr - Jun '21	100-355-613100	31.00
07/08/2021	RUSSELL, RICHARD WYATT	070821	Contract Instructor Services, Tennis	100-310-721500	1,568.00
07/08/2021	MOULTON NIGUEL WATER DISTRICT	070821	Water Usage, Public Services, Jun '21	100-355-635000	21,720.42
07/08/2021	SPARKLETTTS	12194330 062321	Operating Supplies, Comm Ctr, Jun	100-310-622005	104.48
07/08/2021	SUNSET PROPERTY SERVICES JONSET CORPORATION	125068	Parks Contract Repair, Jun '21	100-355-720701	1,266.66
07/08/2021	VIZUAL SYMPHONY, INC.	13955	Audio Visual Maint Agreement, 7/1/21 - 6/30/23	100-195-720050	20,000.00
07/08/2021	TPX COMMUNICATIONS	144415345-0	Communications Expense, Jul '21	100-195-630000	577.00
07/08/2021	WEST COAST ARBORISTS, INC.	174124	Tree Trimming Services, Jun '21	100-355-720702	19,015.20
07/08/2021	OC COUNCIL OF GOVERNMENTS	2021-180	OCCOG Membership Dues, FY 21/22	100-155-610003	5,376.35
07/08/2021	WEST GATE CONTRACTOR	26	Graffiti Removal, Public Services, Jun '21	100-355-720500	10,000.00
07/08/2021	WOLFE ENGINEERING & DESIGN	3483	Engineering Services, CIP 101-L, May '21	100-600-790600	525.00
07/08/2021	MUSCO SPORTS LIGHTING, LLC	351007	Lighting Maintenance, Community Center, FY 21/22	100-310-622502	1,350.00
07/08/2021	SMART & FINAL	3831400014606	Operating Supplies, Jun '21	100-195-622000	25.78
07/08/2021	SMART & FINAL	3831400030003	Office & Operating Supplies, Jun '21	100-155-622000	29.46
07/08/2021	SMART & FINAL	3831400030003	Office & Operating Supplies, Jun '21	100-195-620000	20.46
07/08/2021	SMART & FINAL	3831400030003	Office & Operating Supplies, Jun '21	100-195-622000	39.64
07/08/2021	WEST GATE CONTRACTOR	4 (FINAL)	Community Center Renovation, CIP 513-B, Retention	100-000-201001	20,544.06
07/08/2021	CANON SOLUTIONS AMERICA	4036697813	Copier Usage, Community Services, Jun '21	100-195-641200	81.17
07/08/2021	SOUTHERN CALIF MUN ATHLETIC FEDERATION	8472	Program Class Insurance, CS	100-310-690500	553.50
07/08/2021	BIG TOP RENTALS	90377	Operating Supplies, Jun '21	100-195-622000	1,198.09
07/08/2021	ENVIRONMENTAL SYS RESEARCH, IND (ESRI)	94061418	GIS Maintenance Agreement, FY	100-195-720050	8,700.00
07/08/2021	VERIZON WIRELESS	9882747980	Communication Expense, Jun '21	100-195-630000	2,134.48
07/08/2021	BRODINO BROTH COMPANY	CD-0716-BLDC-0109-202	Refund, C&D Deposit, REC-004763-2021	100-000-227001	1,070.00
07/08/2021	HAUTER, JAMES E	CD-0717-BLDR-0228-201	Refund, Permit Fees, R #5623	100-000-442000	364.57

Attachment: Payables Detail Report - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Payables Detail Report

Payment Dates: 07/02/2021 - 08/12/2021

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
07/08/2021	HAUTER, JAMES E	CD-0718-ELER-0239-2019	Refund, Permit Fees, R #5623	100-000-442000	41.52
07/08/2021	HAUTER, JAMES E	CD-0719-MEER-0130-2019	Refund, Permit Fees, R #5623	100-000-442000	41.52
07/08/2021	HAUTER, JAMES E	CD-0720-PLMR-0175-2019	Refund, Permit Fees, R #5623	100-000-442000	41.52
07/08/2021	VERGARA, VICTOR	CD-0721-BLDR-0824-2020	Refund, C&D Deposit, REC-004938-2021	100-000-227001	900.00
07/08/2021	LABRA, IMELDA	FRDCOV-0367	Refund, Facility Deposit, R #1033933.002	100-000-222000	500.00
07/08/2021	LABRA, IMELDA	FRFCOV-0008	Refund, Facility Rental, R #1034168.002	100-000-451100	500.00
07/08/2021	SOUTHERN COMPUTER WAREHOUSE	IN-000698220	Computer Supplies, Jun '21	100-195-940000	10.71
07/08/2021	PAPER DEPOT	IN16081	Professional Services, City Clerk, Jun '21	100-155-700030	31.75
07/14/2021	BANK OF AMERICA VISA CARD	062021 COMDEV	Departmental Expenditure, Jun '21	100-225-700225	384.00
07/14/2021	BANK OF AMERICA VISA CARD	062021 COMSVCS	Departmental Expenditure, Jun '21	100-310-611000	125.00
07/14/2021	BANK OF AMERICA VISA CARD	062021 COMSVCS	Departmental Expenditure, Jun '21	100-310-695500	75.00
07/14/2021	BANK OF AMERICA VISA CARD	062021 COMSVCS	Departmental Expenditure, Jun '21	100-310-695502	9.99
07/14/2021	BANK OF AMERICA VISA CARD	062021 COMSVCS	Departmental Expenditure, Jun '21	100-310-695507	16,749.15
07/14/2021	BANK OF AMERICA VISA CARD	062021 GENGOV2	Departmental Expenditure, Jun '21	100-155-612000	25.00
07/14/2021	BANK OF AMERICA VISA CARD	062021 GENGOV2	Departmental Expenditure, Jun '21	100-155-622000	130.56
07/14/2021	BANK OF AMERICA VISA CARD	062021 GENGOV2	Departmental Expenditure, Jun '21	100-195-617000	1,034.00
07/14/2021	BANK OF AMERICA VISA CARD	062021 GENGOV2	Departmental Expenditure, Jun '21	100-195-622000	64.65
07/14/2021	BANK OF AMERICA VISA CARD	062021 POLSVCS	Departmental Expenditure, Jun '21	100-420-622000	919.83
07/14/2021	BANK OF AMERICA VISA CARD	062021 PUBSVCS	Departmental Expenditure, Jun '21	100-355-610000	95.00
07/14/2021	BANK OF AMERICA VISA CARD	062021 PUBSVCS	Departmental Expenditure, Jun '21	100-355-611000	10.00
07/14/2021	BANK OF AMERICA VISA CARD	062021 PUBSVCS	Departmental Expenditure, Jun '21	100-355-622000	32.72
07/14/2021	BANK OF AMERICA VISA CARD	062021 PUBSVCS	Departmental Expenditure, Jun '21	100-355-646100	684.88
07/14/2021	BANK OF AMERICA VISA CARD	062021 PUBSVCS	Departmental Expenditure, Jun '21	100-355-720500	70.99
07/14/2021	BANK OF AMERICA VISA CARD	062021 PUBSVCS	Departmental Expenditure, Jun '21	100-355-720701	240.25
07/15/2021	AT&T - CALNET 3	000016710178	Traffic Signal, Public Services, Jun '21	100-356-630000	23.67
07/15/2021	ORANGE COUNTY REGISTER-FREEDOM CA. NEWSPAPER	0000516932	Legal Advertising, Jun '21	100-155-624001	6,257.60
07/15/2021	DIAMOND ENVIRONMENTAL	0003315945	Program Expense, Jul '21	100-310-695501	69.73
07/15/2021	COX COMMUNICATION	062821	WiFi, Community Center, Jun '21	100-195-630000	195.86
07/15/2021	IRVINE RANCH WATER DISTRICT	070621	Water Usage, Public Services, Jun '21	100-355-635000	187.09
07/15/2021	SAN DIEGO GAS & ELECTRIC	070621	Street Lights, Traffic Control, Jun '21	100-356-631400	10,520.61
07/15/2021	RUSSELL, RICHARD WYATT	071421	Contract Instructor Services, Tennis	100-310-721500	96.00
07/15/2021	BRINKS, INCORPORATED	11618346	Courier Fee, Armored Transport, Jul '21	100-155-625000	160.14
07/15/2021	VITUTY - URGENT CARE SERVICES,	282K20515	Recruitment, May '21	100-195-617000	100.00
07/15/2021	CROSSTOWN ELECTRICAL & DATA,	3589 - 3627	Traffic Signal Maintenance, Jun '21	100-356-720420	7,716.66
07/15/2021	RICHARD FISHER ASSOCIATES	4418	Landscape Maint Services, CIP 237, Jun '21	100-355-720700	1,159.40
07/15/2021	RICHARD FISHER ASSOCIATES	4418	Landscape Maint Services, CIP 237, Jun '21	100-600-790600	392.50
07/15/2021	STATE DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	519546	Pre-employment Fingerprinting	100-195-617000	64.00
07/15/2021	RJ ELECTRIC	59760	Parks Contract Repair, Jun '21	100-355-720701	510.85
07/15/2021	JAMEY CLARK, INC.	72627	Graffiti Removal, Public Services, Jun '21	100-355-720500	376.00
07/15/2021	JCTEES.COM CORPORATION	7327	Program Expense, Community Services, Jul '21	100-310-695501	1,151.74
07/15/2021	US BANK VOYAGER FLEET SYSTEM	8693219192126 COMDEV	Vehicle Fuel, Jun '21	100-225-613100	171.07
07/15/2021	US BANK VOYAGER FLEET SYSTEM	8693219272126 COMSVCS	Vehicle Fuel, Jun '21	100-310-613100	85.02
07/15/2021	US BANK VOYAGER FLEET SYSTEM	8693220322126 POLSVC	Vehicle Fuel, Jun '21	100-420-613100	68.81
07/15/2021	US BANK VOYAGER FLEET SYSTEM	8693220402126 PUBWKS	Vehicle Fuel, Jun '21	100-355-613100	465.67
07/15/2021	STUDIO TWO BLACK DIAMOND	97546	Printing Services, Jun '21	100-195-623000	37.71
07/15/2021	MILLER, ALEX	CD-0722-LEG-0004-2021	Refund, Permit Fees, REC-005164-2021	100-000-452001	545.04
07/15/2021	OFFICE SOLUTIONS	I-01888172	Operating Supplies, Jun '21	100-195-622000	301.77
07/15/2021	OFFICE SOLUTIONS	I-01890440	Office Supplies, Jul '21	100-195-620000	339.53
07/15/2021	PARKING VIOLATIONS OC TREASURER-TAX COLLECTOR	JUN 21	Parking Fee Surcharge, Jun '21	100-420-720823	1,076.00

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Payables Detail Report

Payment Dates: 07/02/2021 - 08/12/2021

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
07/22/2021	AT&T - CALNET 3	000016715731	Alarm, Com Ctr & City Hall Lines, Jul '21	100-195-630000	155.61
07/22/2021	AT&T - CALNET 3	000016715731	Alarm, Com Ctr & City Hall Lines, Jul '21	100-310-630100	91.86
07/22/2021	RALPHS GROCERY COMPANY	0621124589_21748118	Operating Supplies, Comm Svcs, Jul	100-310-622005	19.07
07/22/2021	COX COMMUNICATION	070521	T-1 Line, Jul '21	100-195-630000	892.91
07/22/2021	BASICS OF SKATEBOARDING	070621	Contract Instructor Services, Skateboard Instr	100-310-721500	1,365.00
07/22/2021	COX COMMUNICATION	070721	Traffic Signal, Jul '21	100-195-630000	84.00
07/22/2021	SOUTHERN CALIFORNIA EDISON	071321 - Acct #7002345C	Street Lights, Traffic Control, Apr - Jun '21	100-356-631400	165.16
07/22/2021	CHRISTMAS KINGS, THE	071521	Special Events, Program Service, Holiday Lights	100-310-695500	49,855.00
07/22/2021	RICHARD FISHER ASSOCIATES	071521	Professional Services, CIP 403, Jul '21	100-600-790600	2,750.00
07/22/2021	LOYA, RICKY	072021	Umpire Fees, Community Services, Jul '21	100-310-622502	90.00
07/22/2021	BASICS OF SKATEBOARDING	072021	Contract Instructor Services, Skateboard Instr	100-310-721500	945.00
07/22/2021	RENEGADE ENTERPRISES LLC	1005	Event Management Services, 1/2 Marathon	100-310-695507	1,751.88
07/22/2021	ANDERSON PENNA PARTNERS, INC.	115886	Inspection Services, Jun '21	100-356-700255	17,230.50
07/22/2021	HOME DEPOT	1273755	July Fourth Expense	100-310-695508	33.98
07/22/2021	TAB PRODUCTS COMPANY	2489915	Office Supplies, General Government, Jun '21	100-155-620000	713.75
07/22/2021	COMPLETE OFFICE OF CALIFORNIA	2579502-0	Computer Supplies, Jul '21	100-195-621000	96.96
07/22/2021	CANON FINANCIAL SERVICES, INC.	27062679	Lease - Copier, Comm Ctr, 7/1/21 - 7/31/21	100-195-641200	279.86
07/22/2021	CANON FINANCIAL SERVICES, INC.	27062680	Lease - Copier, City Hall, 7/1/21 - 7/31/21	100-195-641200	253.84
07/22/2021	CANON FINANCIAL SERVICES, INC.	27062681	Lease - Copier, New Admin Copier, 4/1/21 - 6/30/21	100-195-641200	1,744.01
07/22/2021	CANON FINANCIAL SERVICES, INC.	27062681a	Lease - Copier, New Admin Copier, 7/1/21 - 7/31/21	100-195-641200	317.82
07/22/2021	HOME DEPOT	3064807	Rooted Campaign Event, Jun '21	100-310-695500	129.04
07/22/2021	STAGE PLUS	334521-1 Laguna Hills	Program Expense, 4th of July Event	100-310-695508	2,800.00
07/22/2021	VERITEXT LLC	4297423	Legal Services, Apr '20	100-155-700011	425.00
07/22/2021	VERITEXT LLC	4311281	Legal Services, May '20	100-155-700011	575.00
07/22/2021	PATROL ONE	460149	Fourth of July, FY 21/22	100-310-695508	910.00
07/22/2021	HOME DEPOT	5514233	Program Expense, Build A Fort	100-310-695501	31.98
07/22/2021	AGRICULTURAL PEST CONTROL SERVICES	597631	Landscape Maintenance, Jul '21	100-355-720700	628.00
07/22/2021	HOME DEPOT	7011133	Program Supplies, Community Services, Jun '21	100-310-645500	14.94
07/22/2021	HOME DEPOT	7011133	Program Supplies, Community Services, Jun '21	100-310-695501	133.86
07/22/2021	HOME DEPOT	7011133a	July Fourth Expense	100-310-695508	28.48
07/22/2021	PLACEWORKS, INC.	75751	Professional Services, USE-0055-2021, Jun '21	100-000-223000	481.95
07/22/2021	PLACEWORKS, INC.	75751	Professional Services, USE-0055-2021, Jun '21	100-000-452000	(481.95)
07/22/2021	PLACEWORKS, INC.	75751	Professional Services, USE-0055-2021, Jun '21	100-225-700201	481.95
07/22/2021	MOBILE MINI, INC.	9011049606	Storage Rental, Community Center, 7/14 - 8/10/21	100-310-641000	217.80
07/22/2021	MILLENNIUM ALARM SYSTEMS, INC.	JAN010194	Camera Installation, Comm Ctr, Jun	100-195-720050	4,233.66
07/22/2021	MILLENNIUM ALARM SYSTEMS, INC.	JAN010195	Camera Installation, Comm Ctr, Jun	100-195-720050	4,770.98
07/22/2021	QUESTYS SOLUTIONS	QSICT00000012	Questys Migration, Jul '21	100-195-720050	2,000.00
07/23/2021	OCSO LAW ENFORCEMENT	SH 59464	Law Enforcement Services, Jun '21	100-420-720800	563,685.19
07/28/2021	CONTRACT, OC TREASURER-TAX STOP DROWNING NOW	072121	Drowning Prevention Donation	100-155-695000	5,000.00
07/29/2021	SAN DIEGO GAS & ELECTRIC	071621	Street Lights, Traffic Control, Com Ctr, Jun '21	100-310-631100	5,065.43

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Payables Detail Report

Payment Dates: 07/02/2021 - 08/12/2021

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
07/29/2021	SAN DIEGO GAS & ELECTRIC	071621	Street Lights, Traffic Control, Com Ctr, Jun '21	100-355-631000	5,622.14
07/29/2021	SAN DIEGO GAS & ELECTRIC	071621	Street Lights, Traffic Control, Com Ctr, Jun '21	100-356-631400	13,099.80
07/29/2021	SAN DIEGO GAS & ELECTRIC	071621	Street Lights, Traffic Control, Com Ctr, Jun '21	100-356-631900	3,363.98
07/29/2021	COX COMMUNICATION	071721	T-1 Line, Jul '21	100-195-630000	443.91
07/29/2021	CALIF PARK & REC SOCIETY, INC.	072021	Membership, Public Services, RH	100-355-610000	150.00
07/29/2021	CALIF PARK & REC SOCIETY, INC.	072021a	Membership, Public Services, KR	100-355-610000	550.00
07/29/2021	SOUTHERN CALIFORNIA EDISON	072221 - Acct #70007600	Street Lights, Traffic Control, Apr & Jun '21	100-355-631000	37.46
07/29/2021	SOUTHERN CALIFORNIA EDISON	072221 - Acct #70007600	Street Lights, Traffic Control, Apr & Jun '21	100-356-631400	35.30
07/29/2021	MOULTON NIGUEL WATER DISTRICT	072921	Water Usage, Public Services & Com Ctr, Jun '21	100-310-635100	741.80
07/29/2021	MOULTON NIGUEL WATER DISTRICT	072921	Water Usage, Public Services & Com Ctr, Jun '21	100-355-635000	6,282.48
07/29/2021	EL TORO WATER DISTRICT	072921	Water Usage, Public Services, Jul '21	100-355-635000	20,468.72
07/29/2021	ARC DOCUMENT SOLUTIONS, LLC	10983616	Printing Services, Engineering, Jul '21	100-355-623000	114.75
07/29/2021	HR GREEN PACIFIC, INC.	144737	Building Services, Community Development, Jun '21	100-225-700000	20,285.00
07/29/2021	HR GREEN PACIFIC, INC.	144739	Plan Check, Community Development, Jun '21	100-225-700000	11,845.00
07/29/2021	HR GREEN PACIFIC, INC.	145183	Inspection Charging Stations, CIP #505, Jun '21	100-600-790600	3,335.64
07/29/2021	HR GREEN PACIFIC, INC.	145184	Inspection Charging Stations, CIP #505, Jul '21	100-600-790600	4,851.84
07/29/2021	JOE A. GONSALVES & SON	159167	Legislative Services, Aug '21	100-155-700020	2,900.00
07/29/2021	HARTZOG & CRABILL, INC.	21-0196	Traffic Signal Mgmt Services, May-Jun '21	100-356-700101	1,215.00
07/29/2021	HARTZOG & CRABILL, INC.	21-0305	Traffic Signal Mgmt Services, Jun '21	100-356-700101	2,706.09
07/29/2021	LOCAL GOVERNMENT PUBLICATIONS	21-300	Publication, Community Development, Jun '21	100-225-626000	143.56
07/29/2021	PRINTEX PRINTING AND GRAPHICS INC.	21917 (1)	Housing Element, Jul '21	100-225-700225	1,774.00
07/29/2021	PRESENTA PLAQUE, INC.	26500	Office Supplies, Jun '21	100-155-620000	141.13
07/29/2021	SHUTE, MIHALY WEINBERGER LLP	273238	Professional Services, Legal, May '21	100-155-700011	208.80
07/29/2021	SHUTE, MIHALY WEINBERGER LLP	273584	Professional Services, Legal, Jun '21	100-155-700011	208.80
07/29/2021	SPARKLETTES	4228482 061821	Operating Supplies, Jun '21	100-195-622000	96.83
07/29/2021	SPARKLETTES	4228482 071621	Delivery Services, Jun '21	100-195-622000	47.92
07/29/2021	SPARKLETTES	4228482 071621a	Delivery Services, Jul '21	100-195-622000	38.42
07/29/2021	MERCY HOUSE LIVING CENTERS, INC.	5003-21-06	Contract Services - Homelessness, Jun '21	100-310-720302	4,124.95
07/29/2021	RJ ELECTRIC	59736	July Fourth Expense, Jul '21	100-310-695508	2,275.00
07/29/2021	CODE PUBLISHING COMPANY, INC.	68552	Municipal Code, Print Supplement, Dec '20	100-155-700030	110.85
07/29/2021	WOODRUFF, SPRADLIN & SMART	68790 - 68791	Professional Services Legal, Jun '21	100-155-700010	25,281.54
07/29/2021	WOODRUFF, SPRADLIN & SMART	68790 - 68791	Professional Services Legal, Jun '21	100-155-700011	2,332.00
07/29/2021	JAMEY CLARK, INC.	72652	Park Repairs, Public Services, Jul '21	100-355-720701	1,079.20
07/29/2021	JAMEY CLARK, INC.	72653	Park Repairs, Public Services, Jul '21	100-355-720701	315.00
07/29/2021	FEDERAL EXPRESS CORPORATION	7-430-35577	Delivery Services, Jun '21	100-195-625000	31.52
07/29/2021	PLACEWORKS, INC.	75779	Building Services, Community Development, Jun '21	100-225-700225	3,610.81
07/29/2021	THOMSON REUTERS - WEST	844432970	Subscription, City Clerk, May '21	100-155-626000	279.94
07/29/2021	THOMSON REUTERS - WEST	844599043	Subscription, City Clerk, Jun '21	100-155-626000	279.94
07/29/2021	DRC ENGINEERING, INC.	CD-0723-GRA-04-20-000	Refund, Grading Permit Deposit, R #7134, #7505	100-000-220444	2,031.94
07/29/2021	OFFICE SOLUTIONS	I-01895369	Office Supplies, Jul '21	100-195-620000	491.01
07/29/2021	G C ELECTRIC CORPORATION	Progress Payment #1	EV Charging Stations, CIP #505, Jul	100-000-201001	(2,362.50)
07/29/2021	G C ELECTRIC CORPORATION	Progress Payment #1	EV Charging Stations, CIP #505, Jul	100-600-790600	47,250.00
07/29/2021	FINGERPRINT ID (AFIS) LAW ENF. - COUNTY OF ORANGE	SH 59441	Fingerprint ID System Charges, Jul	100-420-720835	1,233.00

Attachment: Payables Detail Report - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Payables Detail Report

Payment Dates: 07/02/2021 - 08/12/2021

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
07/30/2021	OCSD LAW ENFORCEMENT CONTRACT, OC TREASURER-TAX	SH 59521	Law Enforcement Services, Jul '21	100-420-720800	748,752.27
08/05/2021	A. C. LANDSCAPE, INC.	00020241 A	Irrigation Repairs, Jul '21	100-355-720700	225.00
08/05/2021	DIAMOND ENVIRONMENTAL	0003372222	Program Expense, Jul '21	100-310-695501	248.55
08/05/2021	WILLDAN ENGINEERING	00621471	Professional Services, Jun '21	100-000-220444	147.00
08/05/2021	CALIFORNIA BUILDING STANDARDS COMMISSION	033121 Q1	Building Standard Fund, Jan-Mar '21	100-000-221011	502.00
08/05/2021	DIVISION OF THE STATE ARCHITECT STATE OF CALIFORNIA	033121 Q1	Disability Access Fees, Jan-Mar '21	100-000-221012	1,396.00
08/05/2021	CALIFORNIA BUILDING STANDARDS COMMISSION	033121 Q1	Building Standard Fund, Jan-Mar '21	100-000-442000	(50.20)
08/05/2021	DEPARTMENT OF CONSERVATION	063021	Remittance, SMIP Fee, Apr-Jun '21	100-000-221001	207.91
08/05/2021	DEPARTMENT OF CONSERVATION	063021	Remittance, SMIP Fee, Apr-Jun '21	100-000-221002	272.60
08/05/2021	COX COMMUNICATION	071821	Cable, City Hall, Jul '21	100-195-630000	32.19
08/05/2021	COX COMMUNICATION	071921	WiFi, City Hall, Jul '21	100-195-630000	182.62
08/05/2021	SOUTHERN CALIFORNIA EDISON	072321 - Acct #70016247	Street Lights, Traffic Control, May '21	100-356-631900	4,327.83
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021A - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	41.13
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021B - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	45.26
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021C - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	88.77
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021D - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	42.53
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021E - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	41.90
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021F - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	245.46
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021G - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	42.53
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021H - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	40.21
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021I - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	43.19
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021N - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	41.13
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021O - Acct #7002345	Street Lights, Traffic Control, Apr & May '21	100-355-631000	30.34
08/05/2021	SOUTHERN CALIFORNIA EDISON	073021P - Acct #7002345	Street Lights, Traffic Control, Mar '21	100-355-631000	14.30
08/05/2021	SOUTHERN CALIFORNIA EDISON	073121J - Acct #7002345	Street Lights, Traffic Control, Mar & Apr '21	100-355-631000	337.40
08/05/2021	SOUTHERN CALIFORNIA EDISON	073121K - Acct #7002345	Street Lights, Traffic Control, Mar - May '21	100-355-631000	311.87
08/05/2021	SOUTHERN CALIFORNIA EDISON	073121L - Acct #7002345	Street Lights, Traffic Control, May & Jun '21	100-355-631000	316.08
08/05/2021	SOUTHERN CALIFORNIA EDISON	073121M - Acct #7002345	Street Lights, Traffic Control, Mar - Jun '21	100-355-631000	399.55
08/05/2021	SOUTHERN CALIFORNIA EDISON	073121M - Acct #7002345	Street Lights, Traffic Control, Mar - Jun '21	100-356-631400	10,944.72
08/05/2021	RUSSELL, RICHARD WYATT	080221	Contract Instructor Services, Tennis	100-310-721500	672.00
08/05/2021	KNIGHT, LORNA	080321	Contract Instructor Services, Yoga	100-310-721500	954.80
08/05/2021	PUBLIC STORAGE	080421	Storage Unit, Public Services, FY	100-355-640000	7,008.00
08/05/2021	AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA	080521	Membership, Comm Svcs, FY 21-22	100-310-610000	53.00
08/05/2021	ARC DOCUMENT SOLUTIONS, LLC	10986386	Printing Services, Engineering, Jul '21	100-000-220444	74.90
08/05/2021	SECURE LIVE SCAN	11308	Pre-employment Fingerprinting, Jul	100-195-617000	75.00
08/05/2021	TPX COMMUNICATIONS	145571469-0	Communications Expense, Aug '21	100-195-630000	675.72
08/05/2021	FIREWORKS & STAGE FX AMERICA, INC.	20206	4th of July Event	100-310-695508	13,250.00
08/05/2021	CITY OF ALISO VIEJO	2021-1311	Cost Share, Dairy Fork CIP 410	100-600-790600	2,352.17
08/05/2021	CIVIC PLUS	215585	Annual Maintenance, Website, IT, 21/22	100-195-720050	951.38

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Payment Dates: 07/02/2021 - 08/12/2021

Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
08/05/2021	WEST GATE CONTRACTOR	27	Graffiti Removal, Public Services, Jul '21	100-355-720500	6,500.00
08/05/2021	CROSSTOWN ELECTRICAL & DATA,	3551 - 3588	Traffic Signal Maintenance, May '21	100-356-720420	8,606.26
08/05/2021	NIEVES LANDSCAPE, INC.	70028	Monthly and Misc Landscape, Jul '21	100-355-720700	87,636.69
08/05/2021	NIEVES LANDSCAPE, INC.	70112	Monthly and Misc Landscape, Jul '21	100-355-720700	89.04
08/05/2021	US BANK VOYAGER FLEET SYSTEM	8693219272130 COMSV	Vehicle Fuel, Jun '21	100-310-613100	10.44
08/05/2021	US BANK VOYAGER FLEET SYSTEM	8693220322130 POLSVC	Vehicle Fuel, Jun '21	100-420-613100	56.89
08/05/2021	US BANK VOYAGER FLEET SYSTEM	8693220402130 PUBWK	Vehicle Fuel, Jun '21	100-356-613100	77.48
08/05/2021	VERIZON WIRELESS	9884913312	Communication Expense, Jul '21	100-195-630000	1,240.13
08/05/2021	OCTA	AR142689	City Share, CIP 168-G	100-600-790600	24,501.15
08/05/2021	ECKERT, BRIAN	CD-0724-USE-0066-2021	Refund, Permit Fees, REC-005163-2021	100-000-452001	362.99
08/05/2021	QUADIENT LEASING USA, INC.	N8976563	Lease - Mailing Equip, Jun '21	100-195-641000	176.74
08/05/2021	QUADIENT LEASING USA, INC.	N8976563a	Lease - Mailing Equip, Jul - Aug '21	100-195-641000	353.48
08/05/2021	HDL, COREN & CONE	SIN010266	Property Tax Audit, Jul - Sep '21	100-155-700055	2,828.28
08/12/2021	CALIFORNIA BUILDING STANDARDS COMMISSION	063021 Q2	Building Standard Fund, Apr-Jun '21	100-000-221011	490.00
08/12/2021	DIVISION OF THE STATE ARCHITECT	063021 Q2	Disability Access Fees, Apr-Jun '21	100-000-221012	1,820.00
08/12/2021	STATE OF CALIFORNIA	063021 Q2	Building Standard Fund, Apr-Jun '21	100-000-442000	(49.00)
08/12/2021	CALIFORNIA BUILDING STANDARDS COMMISSION	072821	Subscription, City Hall, 8/26/21 - 11/25/21	100-155-626000	371.35
08/12/2021	ORANGE COUNTY REGISTER	072821	Subscription, City Hall, 8/26/21 - 11/25/21	100-155-626000	371.35
08/12/2021	COX COMMUNICATION	072921	WiFi, Community Center, Jul '21	100-195-630000	195.86
08/12/2021	MOULTON NIGUEL WATER DISTRICT	072921a	Water Usage, Public Services, Jul '21	100-355-635000	30,114.90
08/12/2021	IRVINE RANCH WATER DISTRICT	080321	Water Usage, Public Services, Jul '21	100-355-635000	218.46
08/12/2021	SAN DIEGO GAS & ELECTRIC	080421	Street Lights, Traffic Control, Aug '21	100-356-631400	10,520.61
08/12/2021	SOUTHERN CALIFORNIA EDISON	080621 - Acct #7002345C	Street Lights, Traffic Control, Jun '21	100-355-631000	282.58
08/12/2021	BASICS OF SKATEBOARDING	081221	Contract Instructor Services, Skateboard Instr	100-310-721500	525.00
08/12/2021	RUSSELL, RICHARD WYATT	081221	Contract Instructor Services, Tennis	100-310-721500	864.00
08/12/2021	BEE MAN, THE	115354	Bee Removal, Public Services, Jul '21	100-355-720701	301.50
08/12/2021	BEE MAN, THE	115355	Bee Removal, Public Services, Jul '21	100-355-720701	180.00
08/12/2021	BEE MAN, THE	115356	Bee Removal, Public Services, Jul '21	100-355-720701	180.00
08/12/2021	BRINKS, INCORPORATED	11653570	Courier Fee, Armored Transport, Aug '21	100-155-625000	160.57
08/12/2021	CHARLES ABBOTT ASSOCIATES, INC	62911-A - PARKS BILLING	Parks Contract Repair, Jul '21	100-355-720701	751.76
08/12/2021	JAMEY CLARK, INC.	72615	Park Repairs, Public Services, Jun '21	100-355-720701	225.00
08/12/2021	JAMEY CLARK, INC.	72660	Park Repairs, Public Services, Jul '21	100-355-720701	495.00
08/12/2021	JAMEY CLARK, INC.	72665	Graffiti Removal, Public Services, Jul '21	100-355-720500	376.00
08/12/2021	PLACEWORKS, INC.	75900	Housing Element, Jul '21	100-225-700225	4,991.63
08/12/2021	THOMSON REUTERS - WEST	844760363	Subscription, City Clerk, Jul '21	100-155-626000	279.94
08/12/2021	QUEST DIAGNOSTICS	9194218404	Pre-employment Drug Testing	100-195-617000	68.74
08/12/2021	OFFICE SOLUTIONS	I-01901821	Office Supplies, Aug '21	100-195-620000	82.36
Fund 100 - GENERAL FUND Total:					2,022,735.82

Fund: 101 - MGP DEVELOPMENT APPLICATION - VALH PROJECT

07/15/2021	RK ENGINEERING GROUP, INC.	210606	Traffic Study, Village at Laguna Hills, Jun '21	101-000-223000	3,420.00
07/15/2021	RK ENGINEERING GROUP, INC.	210606	Traffic Study, Village at Laguna Hills, Jun '21	101-000-450000	(3,420.00)
07/15/2021	RK ENGINEERING GROUP, INC.	210606	Traffic Study, Village at Laguna Hills, Jun '21	101-225-700101	3,420.00
07/15/2021	PLACEWORKS, INC.	75648	Prof Services, Village at LH Expenses, Jun '21	101-000-223000	3,955.05
07/15/2021	PLACEWORKS, INC.	75648	Prof Services, Village at LH Expenses, Jun '21	101-000-450000	(3,955.05)
07/15/2021	PLACEWORKS, INC.	75648	Prof Services, Village at LH Expenses, Jun '21	101-225-700200	3,955.05
07/22/2021	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	070121	Professional Services, Jun '21	101-000-223000	9,661.25

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07/22/2021	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	070121	Professional Services, Jun '21	101-000-450000	(9,661.25)
07/22/2021	KELLY ASSOCIATES MANAGEMENT GROUP, LLC	070121	Professional Services, Jun '21	101-225-700040	9,661.25
07/29/2021	KOSMONT COMPANIES	1911.5-020	Prof Services, Village at Laguna Hills, Jun '21	101-000-223000	18,723.28
07/29/2021	KOSMONT COMPANIES	1911.5-020	Prof Services, Village at Laguna Hills, Jun '21	101-000-450000	(18,723.28)
07/29/2021	KOSMONT COMPANIES	1911.5-020	Prof Services, Village at Laguna Hills, Jun '21	101-225-700000	18,723.28
07/29/2021	WOODRUFF, SPRADLIN & SMART	68790 - 68791	Professional Services Legal, Jun '21	101-000-223000	73,733.29
07/29/2021	WOODRUFF, SPRADLIN & SMART	68790 - 68791	Professional Services Legal, Jun '21	101-000-450000	(73,733.29)
07/29/2021	WOODRUFF, SPRADLIN & SMART	68790 - 68791	Professional Services Legal, Jun '21	101-225-700012	73,733.29
08/12/2021	RK ENGINEERING GROUP, INC.	2107008	Traffic Study, Village at Laguna Hills, Jul '21	101-000-223000	3,000.00
08/12/2021	RK ENGINEERING GROUP, INC.	2107008	Traffic Study, Village at Laguna Hills, Jul '21	101-000-450000	(3,000.00)
08/12/2021	RK ENGINEERING GROUP, INC.	2107008	Traffic Study, Village at Laguna Hills, Jul '21	101-225-700101	3,000.00
Fund 101 - MGP DEVELOPMENT APPLICATION - VALH PROJECT Total:					112,492.87
Fund: 212 - MEASURE M					
07/08/2021	SUNSET PROPERTY SERVICES JONSET CORPORATION	125406	Street Sweeping Services, Jun '21	212-355-720410	4,508.40
07/08/2021	SUNSET PROPERTY SERVICES JONSET CORPORATION	125407	Street Maintenance, Jun '21	212-355-720400	12,639.11
07/08/2021	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	620210376	Street Maintenance, Jun '21	212-355-720400	123.85
07/08/2021	CHARLES ABBOTT ASSOCIATES, INC	62751	Road Maintenance, Jun '21	212-355-720400	112,777.59
07/08/2021	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	dsb20203216	Street Maintenance, Jun '21	212-355-720400	57.14
07/14/2021	BANK OF AMERICA VISA CARD	062021 PUBSVCS	Departmental Expenditure, Jun '21	212-355-720400	38.71
07/29/2021	NEXTECH SYSTEMS, INC.	INV819	Street Maintenance, Jul '21	212-355-720400	7,205.59
08/05/2021	SUNSET PROPERTY SERVICES JONSET CORPORATION	125476	Street Maintenance, Jul '21	212-355-720400	380.00
08/05/2021	SUNSET PROPERTY SERVICES JONSET CORPORATION	125477	Street Maintenance, Jul '21	212-355-720400	16,632.20
08/05/2021	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	720210382	Street Maintenance, Jul '21	212-355-720400	122.20
08/05/2021	UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA	dsb20203775	Street Maintenance, Jul '21	212-355-720400	57.14
08/12/2021	CHARLES ABBOTT ASSOCIATES, INC	62911	Road Maintenance, Jul '21	212-355-720400	18,753.64
Fund 212 - MEASURE M Total:					173,295.57
Fund: 221 - SENIOR MOBILITY PROGRAM					
07/22/2021	CALIFORNIA YELLOW CAB	5406021	Senior Mobility Program, May '21	221-310-720000	328.00
07/22/2021	CALIFORNIA YELLOW CAB	6406021	Senior Mobility Program, Jun '21	221-310-720000	240.00
Fund 221 - SENIOR MOBILITY PROGRAM Total:					568.00
Fund: 305 - BEVERAGE RECYCLING					
07/14/2021	BANK OF AMERICA VISA CARD	062021 COMSVCS	Departmental Expenditure, Jun '21	305-355-622000	538.17
Fund 305 - BEVERAGE RECYCLING Total:					538.17
Fund: 307 - C & D FORFEITED DEPOSITS					
07/08/2021	ECONOMICS, INC.	2017-2018.48	Professional Services, Recycling Program, Jun '21	307-355-700000	6,964.14
08/12/2021	ECONOMICS, INC.	2017-2018.49	Professional Services, Recycling Program, Jul '21	307-355-700000	11,818.11
Fund 307 - C & D FORFEITED DEPOSITS Total:					18,782.25
Fund: 312 - CASp					
08/05/2021	DIVISION OF THE STATE ARCHITECT STATE OF CALIFORNIA	033121 Q1	Disability Access Fees, Jan-Mar '21	312-000-442000	(1,256.40)
08/12/2021	DIVISION OF THE STATE ARCHITECT STATE OF CALIFORNIA	063021 Q2	Disability Access Fees, Apr-Jun '21	312-000-442000	(1,638.00)
Fund 312 - CASp Total:					(2,894.40)

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Payment Date	Vendor Name	Payable Number	Description (Payable)	Account Number	Amount
Fund: 430 - CARES Act Assistance - State					
07/14/2021	BANK OF AMERICA VISA CARD	062021 COMSVCS	Departmental Expenditure, Jun '21	430-420-940000	958.02
07/22/2021	DIAMOND ENVIRONMENTAL	0003312581	Contract Serv - Sanitation, Comm Ctr, Jun '21	430-420-721505	50.00
07/22/2021	DIAMOND ENVIRONMENTAL	0003351344	Contract Serv - Sanitation, Cabot Park, Jun '21	430-420-721505	50.00
Fund 430 - CARES Act Assistance - State Total:					1,058.02
Fund: 600 - CAPITAL IMPROVEMENT PROJECT					
07/08/2021	WOLFE ENGINEERING & DESIGN	3483	Engineering Services, CIP 101-L, May '21	600-000-490100	(525.00)
07/08/2021	WOLFE ENGINEERING & DESIGN	3483	Engineering Services, CIP 101-L, May '21	600-251-950101	525.00
07/15/2021	RICHARD FISHER ASSOCIATES	4418	Landscape Maint Services, CIP 237, Jun '21	600-000-490100	(392.50)
07/15/2021	RICHARD FISHER ASSOCIATES	4418	Landscape Maint Services, CIP 237, Jun '21	600-252-950237	392.50
07/22/2021	RICHARD FISHER ASSOCIATES	071521	Professional Services, CIP 403, Jul '21	600-000-490100	(2,750.00)
07/22/2021	RICHARD FISHER ASSOCIATES	071521	Professional Services, CIP 403, Jul '21	600-254-950403	2,750.00
07/29/2021	HR GREEN PACIFIC, INC.	145183	Inspection Charging Stations, CIP #505, Jun '21	600-000-490100	(3,335.64)
07/29/2021	HR GREEN PACIFIC, INC.	145183	Inspection Charging Stations, CIP #505, Jun '21	600-255-950505	3,335.64
07/29/2021	HR GREEN PACIFIC, INC.	145184	Inspection Charging Stations, CIP #505, Jul '21	600-000-490100	(4,851.84)
07/29/2021	HR GREEN PACIFIC, INC.	145184	Inspection Charging Stations, CIP #505, Jul '21	600-255-950505	4,851.84
07/29/2021	G C ELECTRIC CORPORATION	Progress Payment #1	EV Charging Stations, CIP #505, Jul	600-000-490100	(47,250.00)
07/29/2021	G C ELECTRIC CORPORATION	Progress Payment #1	EV Charging Stations, CIP #505, Jul	600-255-955505	47,250.00
08/05/2021	CITY OF ALISO VIEJO	2021-1311	Cost Share, Dairy Fork CIP 410	600-000-490100	(2,352.17)
08/05/2021	CITY OF ALISO VIEJO	2021-1311	Cost Share, Dairy Fork CIP 410	600-254-950410	2,352.17
08/05/2021	OCTA	AR142689	City Share, CIP 168-G	600-000-490100	(24,501.15)
08/05/2021	OCTA	AR142689	City Share, CIP 168-G	600-251-950168	24,501.15
Fund 600 - CAPITAL IMPROVEMENT PROJECT Total:					-
Grand Total:					2,326,576.30

Attachment: Payables Detail Report - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Report Summary

Fund Summary

Fund	Expense Amount	Payment Amount
100 - GENERAL FUND	2,022,735.82	2,022,735.82
101 - MGP DEVELOPMENT APPLICATION - VALH PROJECT	112,492.87	112,492.87
212 - MEASURE M	173,295.57	173,295.57
221 - SENIOR MOBILITY PROGRAM	568.00	568.00
305 - BEVERAGE RECYCLING	538.17	538.17
307 - C & D FORFEITED DEPOSITS	18,782.25	18,782.25
312 - CASp	(2,894.40)	(2,894.40)
430 - CARES Act Assistance - State	1,058.02	1,058.02
600 - CAPITAL IMPROVEMENT PROJECT	-	-
Grand Total:	2,326,576.30	2,326,576.30

Account Summary

Account Number	Account Name	Expense Amount	Payment Amount
100-000-201001	Accounts Payable - Retention	18,181.56	18,181.56
100-000-220444	EncroachmentGrading	2,253.84	2,253.84
100-000-221001	SMIP - Residential	207.91	207.91
100-000-221002	SMIP - Commercial	272.60	272.60
100-000-221011	Building Standards Fee	992.00	992.00
100-000-221012	SB1186 ADA CASp Fees	3,216.00	3,216.00
100-000-222000	Refundable Deposits	500.00	500.00
100-000-223000	Plan Application Deposit	2,161.95	2,161.95
100-000-227001	SecurityDeposit-WasteRecycling	1,970.00	1,970.00
100-000-442000	Building Related Permits	389.93	389.93
100-000-451100	Recreation Fees-Reservation	500.00	500.00
100-000-452000	Plan Check Fee - Fee Base	(2,161.95)	(2,161.95)
100-000-452001	Planning & Zoning Related Fees	908.03	908.03
100-155-610000	Memberships and Dues Expense	1,188.00	1,188.00
100-155-610003	Memberships and Dues - OCCOG	5,376.35	5,376.35
100-155-612000	Travel, Conferences & Meetings	25.00	25.00
100-155-613000	Mileage Reimbursement	35.45	35.45
100-155-620000	Office Supplies	854.88	854.88
100-155-622000	Operating Supplies	673.80	673.80
100-155-624001	Advertising - Legal	6,257.60	6,257.60
100-155-625000	Postage & Delivery	320.71	320.71
100-155-626000	Subscriptions & Books	1,211.17	1,211.17
100-155-695000	CommunityAsstnc/PublicRelation	5,000.00	5,000.00
100-155-700010	Legal Services-General Counsel	25,281.54	25,281.54
100-155-700011	Legal Services-Litigation	3,749.60	3,749.60
100-155-700020	Professional Services - Legislative	2,900.00	2,900.00
100-155-700030	Professional Svcs- City Clerk	142.60	142.60
100-155-700055	Professional Services -	2,828.28	2,828.28
100-195-617000	Recruitment	1,341.74	1,341.74
100-195-620000	Office Supplies	933.36	933.36
100-195-621000	Computer Supplies	96.96	96.96
100-195-622000	Operating Supplies	1,813.10	1,813.10
100-195-623000	Printing	37.71	37.71
100-195-625000	Postage & Delivery	1,031.52	1,031.52
100-195-630000	Telephone & Communication	7,422.20	7,422.20
100-195-641000	Rent/Lease - Equipment	530.22	530.22
100-195-641200	Rent/Lease - Copier	2,676.70	2,676.70
100-195-720050	Contract Serv-Software Support	40,656.02	40,656.02
100-195-940000	Computer Hardware & Software	10.71	10.71
100-225-613100	Vehicle-Fuel	171.07	171.07
100-225-622000	Operating Supplies	7.75	7.75
100-225-626000	Subscriptions & Books	143.56	143.56
100-225-700000	Prof. Svcs - Building & Safety	32,130.00	32,130.00
100-225-700201	Plan Application	2,161.95	2,161.95

Attachment: Payables Detail Report - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Payables Detail Report

Payment Dates: 07/02/2021 - 08/12/2021

Account Summary

Account Number	Account Name	Expense Amount	Payment Amount
100-225-700225	Housing Element	10,760.44	10,760.44
100-310-610000	Memberships and Dues Expense	53.00	53.00
100-310-611000	Training and Education	125.00	125.00
100-310-613100	Vehicle-Fuel	95.46	95.46
100-310-622005	Operating Supplies Comm Ctr	123.55	123.55
100-310-622502	Supplies-Adult Leagues	1,440.00	1,440.00
100-310-630100	Phone & Communication Comm	91.86	91.86
100-310-631100	Utilities - Electric Comm Ctr	5,065.43	5,065.43
100-310-635100	Utilities - Water Comm Ctr	741.80	741.80
100-310-641000	Rent/Lease - Equipment	217.80	217.80
100-310-645500	Maint&Repair-Facility Comm Ctr	14.94	14.94
100-310-690500	Insurance - Recreational Classes	553.50	553.50
100-310-695500	Special Events-Program Service	50,059.04	50,059.04
100-310-695501	Day Camps & Build A Fort	1,635.86	1,635.86
100-310-695502	Special Needs Program	9.99	9.99
100-310-695507	Marathon 5k	18,501.03	18,501.03
100-310-695508	July Fourth Celebration	20,947.46	20,947.46
100-310-720302	Contract Services - Homelessness	4,124.95	4,124.95
100-310-721500	Contract Services-Program Svce	6,989.80	6,989.80
100-355-610000	Memberships and Dues Expense	795.00	795.00
100-355-611000	Training and Education	37.00	37.00
100-355-613100	Vehicle-Fuel	496.67	496.67
100-355-622000	Operating Supplies	32.72	32.72
100-355-623000	Printing	114.75	114.75
100-355-631000	Utilities - Electric	8,023.83	8,023.83
100-355-631400	Electric-Street Lights/Signals	345.24	345.24
100-355-631900	UtilitiesElectricOnBillFinancing	4,327.83	4,327.83
100-355-635000	Utilities - Water	78,992.07	78,992.07
100-355-640000	Rent/Lease - Facility	7,008.00	7,008.00
100-355-646100	Maint & Repairs - Vehicles	684.88	684.88
100-355-720500	Graffiti Removal	17,322.99	17,322.99
100-355-720700	Landscape Maintenance Contract	89,738.13	89,738.13
100-355-720701	Parks Contract Repair	5,545.22	5,545.22
100-355-720702	Tree Maintenance	19,015.20	19,015.20
100-356-613100	MOE Vehicle Fuel	77.48	77.48
100-356-630000	MOE Telephone &	23.67	23.67
100-356-631400	MOE Electricity-Streetlights &	45,286.20	45,286.20
100-356-631900	MOE Electrcity On-bill Financing	7,691.81	7,691.81
100-356-700101	MOE Traffic Engineer Services	3,921.09	3,921.09
100-356-700255	MOE Improvement Inspection	17,230.50	17,230.50
100-356-720420	MOE Traffic Signal Maintenance	16,322.92	16,322.92
100-420-613100	Vehicle-Fuel	125.70	125.70
100-420-622000	Operating Supplies	919.83	919.83
100-420-720800	General Law Enforcement	1,312,437.46	1,312,437.46
100-420-720823	Parking Citation Processing	1,076.00	1,076.00
100-420-720835	Fingerprint Identification Svc	1,233.00	1,233.00
100-600-790600	Transfers Out - Capital Imprv	85,958.30	85,958.30
101-000-223000	Plan Application Deposit	112,492.87	112,492.87
101-000-450000	Planning Fees	(112,492.87)	(112,492.87)
101-225-700000	Consultant Services	18,723.28	18,723.28
101-225-700012	Legal Services	73,733.29	73,733.29
101-225-700040	Consultant Services, Project	9,661.25	9,661.25
101-225-700101	Consultant Services, Traffic	6,420.00	6,420.00
101-225-700200	Consultant Services, Planning	3,955.05	3,955.05
212-355-720400	Street Maintenance	168,787.17	168,787.17
212-355-720410	Street Sweeping	4,508.40	4,508.40
221-310-720000	Contract Services	568.00	568.00
305-355-622000	Operating Supplies	538.17	538.17

Attachment: Payables Detail Report - August 24, 2021 (2546 : Warrant Register, August 24, 2021)

Payables Detail Report

Payment Dates: 07/02/2021 - 08/12/2021

Account Summary

Account Number	Account Name	Expense Amount	Payment Amount
307-355-700000	Professional Services	18,782.25	18,782.25
312-000-442000	Building Related Permits	(2,894.40)	(2,894.40)
430-420-721505	Contract Services-	100.00	100.00
430-420-940000	Computer Hard/Software- Public	958.02	958.02
600-000-490100	Transfer In- General Fund	(85,958.30)	(85,958.30)
600-251-950101	CIP-Annual Street Maintenance	525.00	525.00
600-251-950168	TrafficSignalImprovCoordination	24,501.15	24,501.15
600-252-950237	Parks Refurbishment Project	392.50	392.50
600-254-950403	CIP-Misc Storms Drains	2,750.00	2,750.00
600-254-950410	NPDES Permit & Fees	2,352.17	2,352.17
600-255-950505	CIP-Civic Center Improvements	8,187.48	8,187.48
600-255-955505	CIP- Civic Ctr Hattox Design	47,250.00	47,250.00
Grand Total:		2,326,576.30	2,326,576.30

Project Account Summary

Project Account Key	Expense Amount	Payment Amount
None	2,326,576.30	2,326,576.30
Grand Total:	2,326,576.30	2,326,576.30

Attachment: Payables Detail Report - August 24, 2021 (2546 : Warrant Register, August 24, 2021)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Interim Director of Emergency Services/Interim City Manager

ISSUE: City Council Review and Confirm the Necessity for Continuing the Local Emergency Related to the On-Going Threat of the Novel COVID-19 Virus and Confirmation of the Interim Director of Emergency Services/Interim City Manager's Executive Orders Related Thereto

RECOMMENDATION: That the City Council: 1) Review and confirm the necessity for continuing the local emergency declared in response to the Novel COVID-19 virus; and 2) Confirm the Interim Director of Emergency Services/Interim City Manager's Executive Orders related thereto.

SUMMARY:

On March 18, 2020, the City Manager, acting in his capacity as Director of Emergency Services, proclaimed the existence of a local emergency relating to COVID-19 (the "novel coronavirus"), at which time the City Council was not in session. On March 24, 2020, during a special meeting, the City Council ratified and confirmed the City Manager's proclamation declaring the existence of a local emergency and the issuance of Executive Orders. Since that time, the rate of infection and threat to public health and safety has been significant and growing. As of August 16, 2021, there were more than 207 million worldwide cases of COVID-19, and 4.37 million deaths; locally, there were approximately 293,000 confirmed cases and 5,161 deaths in Orange County. While COVID-19 cases have recently been on the decline and the public acceptance of vaccines has increased, allowing some Executive Orders to be relaxed, there is still a public health risk. Pursuant to Laguna Hills Municipal Code ("LHMC") Section 2-32.060, the City Council must review the necessity for continuing the local emergency no less frequently

Continuation of Local Emergency and Confirmation of Related Executive Orders

August 24, 2021

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than at every subsequent regular meeting of the City Council until the emergency is terminated. LPMC Section 2-32.150 further requires any rules and regulations, such as Executive Orders, issued by the Interim Director of Emergency Services/Interim City Manager that are reasonably related to the local emergency, such as for the protection of life and property as affected by the emergency, to be confirmed as soon as practicable by the City Council. Most Executive Orders have been rescinded to match the state of the emergency, however, it is recommended the proclamation of local emergency remain in place at this time.

BACKGROUND:

On January 30, 2020, the World Health Organization ("WHO") declared the outbreak of COVID-19 a "public health emergency of international concern" and by March 11, 2020, the WHO elevated the public health emergency to the status of a pandemic. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. On February 26, 2020, the County of Orange and County Health Officer Dr. Nichole Quick declared a local emergency and a local health emergency to prepare for COVID-19, and on March 4, 2020, the Governor declared a State of Emergency in California allowing state agencies to take any action necessary to address COVID-19.

On March 11, 2020, the Governor and the California Department of Health issued a statement entitled "California Public Health Experts: Mass Gatherings Should be Postponed or Canceled Statewide to Slow the Spread of COVID-19" determining that gatherings should be postponed or canceled across the state until at least the end of March. Non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can implement social distancing of six (6) feet per person. Gatherings of individuals who are at higher risk for severe illness from COVID-19 should be limited to no more than ten (10) people, while also following social distancing guidelines. Furthermore, essential gatherings should only be conducted if the essential activity could not be postponed or achieved without gathering, meaning that some other means of communication could not be used to conduct the essential function.

Within a short period of time thereafter, COVID-19 began to spread rapidly throughout California necessitating more stringent public health emergency orders. On March 12, 2020, the Governor issued Executive Order N-25-20, ordering that all

Continuation of Local Emergency and Confirmation of Related Executive Orders

August 24, 2021

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residents are to heed the orders and guidance of state and local public health officials. Subsequently, on March 13, 2020, President Donald J. Trump declared a National Emergency to provide disaster funding, speed up the United States response to the crisis created by COVID-19, and to offer maximum flexibility to attack the problem. By March 16, 2020, President Trump advised the public to avoid groups of more than ten (10) people to fight the COVID-19 outbreak. On March 17, 2020, the Orange County Health Officer issued a Public Health Order prohibiting all public and private gatherings of any number of people, including at places of work, occurring outside a single household or living unit, until March 31, 2020, except for the purposes of engaging in an Essential Activity, as defined. This Public Health Order was superseded by the State's Executive Order and continues in effect until further notice.

In light of these events, on March 18, 2020, the City Manager, acting as the Director of Emergency Services pursuant to LHMC Section 2-32.060(B), proclaimed the existence of a local emergency within the City of Laguna Hills by enacting Proclamation No. 2020-03-18-1, at which time the City Council was not in session. A copy of Proclamation No. 2020-03-18-1 is attached hereto. On March 24, 2020, the City Council unanimously ratified and confirmed the City Manager's proclamation declaring the existence of a local emergency during a special meeting, as required by LHMC Section 2-32.060(B). In accordance with the local emergency proclamation, the City Manager issued a variety of Executive Orders to effectuate safe and healthy practices of City operations.

In order to mitigate the impact of COVID-19 across the State, on March 19, 2020, the Governor issued Executive Order N-33-20, which directed and ordered all residents to: 1) immediately heed the current State public health directives; and 2) to stay at home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors. On March 22, 2020, President Donald J. Trump declared California a major disaster area, thereby making federal emergency aid available for the State to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic beginning on January 1, 2020, and continuing.

Effective August 31, 2020, Governor Newsom implemented a "Blueprint for a Safer Economy," within the COVID-19 portion of the state's website at: <https://covid19.ca.gov/safer-economy/>, which allows the public to enter a County and a desired activity to verify if it is open. The system also labels each county's risk level using a four color-coded tier system for COVID-19 monitoring that will replace any former county-based monitoring systems.

Continuation of Local Emergency and Confirmation of Related Executive Orders
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On December 3, 2020, Governor Newsom announced a new Regional Stay Home Order that prohibited gatherings of any size, closed operations except for critical infrastructure and retail, and required 100% masking and physical distancing. Orange County is part of the Southern California Region that includes the counties of Imperial, Inyo, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, and Ventura. This Regional Stay Home Order went into effect within 24 hours in regions with less than 15% ICU availability. The order then remained in effect for at least three weeks and, after that period, will be lifted when a region's projected ICU capacity meets or exceeds 15% based on a weekly assessment. On December 6, 2020, the Southern California Region was placed on a Regional Stay at Home Order that ended on January 25, 2021. County restrictions return to their assigned risk level tier. On March 14, 2021, the County of Orange was moved up from the risk factor of Widespread to be labeled with a risk factor of Substantial, was further moved up on March 31st to be labeled with a risk factor of Moderate and on May 19, 2021 the County moved up to be labeled with a risk factor of Minimal. On June 15, 2021, California reopened the economy and retired the Blueprint for a Safer Economy. All sectors are allowed to return to usual operations (with limited exceptions for Mega Events).

As of August 16, 2021, there were more than 207 million worldwide cases of COVID-19, and 4.37 million deaths; locally, there were approximately 293,000 confirmed cases and 5,161 deaths in Orange County. While COVID-19 cases have recently been on the decline and the public acceptance of vaccines has increased, allowing some Executive Orders to be relaxed, there is still a public health risk. The rate of infection, potential impact to health care systems, and the threat to public health and safety have not fully abated. The state of local emergency continues to exist.

It is recommended that the City Council: 1) Review and confirm the necessity for continuing the local emergency declared in response to the Novel COVID-19 virus; and 2) Confirm the Interim Director of Emergency Services/Interim City Manager's Executive Orders related thereto. A full list of originally issued, superseded and rescinded City Executive Orders is attached for information. Most of the City's Executive Orders have been rescinded matching the state of the emergency. It is noted that of 47 issued Executive Orders, only nine remain in effect.

Based on the recommendations of the Interim Director of Emergency Services/Interim City Manager and the Chief of Police Services, it has been determined that the need for the locally declared emergency, pursuant to Proclamation No. 2020-03-18-1, continues to exist and should not be terminated at this time.

Continuation of Local Emergency and Confirmation of Related Executive Orders
August 24, 2021
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ATTACHMENTS:

- Proclamation No. 2020-03-18-1, Declaration of Existence of a Local Emergency
- Executive Order, Interim Director of Emergency Services Interim City Manager, August 15, 2021
- Full List of Executive Orders

PROCLAMATION NO. 2020-03-18-1

A PROCLAMATION OF THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF LAGUNA HILLS, CALIFORNIA, DECLARING THE EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, Laguna Hills Municipal Code Section 2-32.060 empowers the City Council (while in session), or the Director of Emergency Services (if the City Council is not in session), to declare the existence or threatened existence of a local emergency; and

WHEREAS, California Government Code Section 8550 *et seq.*, including Section 8558(c), authorizes the Director of Emergency Services to proclaim a local emergency when the City is threatened by conditions of disaster or extreme peril to the safety of persons and property within the City that are likely to be beyond the control of the services, personnel, equipment, and facilities of the City; and

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness and in some cases death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a significant public health threat; and

WHEREAS, Chinese health officials have reported tens of thousands of cases of COVID-19 in China, with the virus reportedly spreading from person-to-person. COVID-19 illnesses, most of them associated with travel from Wuhan, are also being reported in numerous countries, with thousands of cases, including the United States; and

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared the outbreak a "public health emergency of international concern" and on March 11, 2020, the WHO elevated the public health emergency to the status of a pandemic. On January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. On February 26, 2020, the County of Orange declared a local emergency and a local health emergency. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency in California; and

WHEREAS, on February 2, 2020, the federal government initiated the suspension of entry of foreign nationals who were in China during the 14-day period preceding their entry or attempted entry into the United States; and

WHEREAS, as of March 10, 2020, the WHO reported that, to date, 125,048 confirmed cases of COVID-19, 4,613 of which resulted in death, across 117 countries; and

WHEREAS, the Governor and the California Department of Health on March 11, 2020, issued a statement entitled "California Public Health Experts: Mass Gatherings Should be Postponed or Canceled Statewide to Slow the Spread of COVID-19," determining that gatherings should be postponed or canceled across the state until at least the end of March. Non-essential gatherings must be limited to no more than 250 people, while smaller events can proceed only if the organizers can implement social distancing of 6 feet per person. Gatherings of individuals who are at higher risk for severe illness from COVID-19 should be limited to no more than 10 people, while also following social distancing guidelines. Furthermore, essential gatherings should only be conducted if the essential activity could not be postponed or achieved without gathering, meaning that some other means of communication could not be used to conduct the essential function; and

WHEREAS, the Governor on March 12, 2020, issued Executive Order N-25-20, ordering, inter alia, that all residents are to heed the orders and guidance of state and local public health officials; and

WHEREAS, President Donald J. Trump on March 13, 2020, declared a national emergency to provide disaster funding, speed up the United States response to the crisis created by COVID-19, and to offer maximum flexibility to attack the problem; and

WHEREAS, on March 15, 2020, Governor Newsome requested bars and nightclubs to close, restaurants to reduce capacity by half, and all Californians aged 65 and older to self-isolate; and

WHEREAS, on March 16, 2020, President Donald J. Trump advised the public to avoid groups of more than 10 people to fight the coronavirus outbreak; and

WHEREAS, the City of Laguna Hills has the authority to impose measures to promote social distancing including, but not limited to, limitations on public events; and

WHEREAS, the City of Laguna Hills is a significantly populated city within Orange County, which is the sixth largest county in the United States; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen due to the potential introduction of COVID-19 to the City of Laguna Hills and Orange County; and

WHEREAS, such conditions are beyond the control of the services, personnel, equipment, and facilities of the City of Laguna Hills and require the combined forces of other political subdivisions to combat; and

WHEREAS, it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS, if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the community, and limits the spread of infection in the community and within the healthcare delivery system; and

WHEREAS, the mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully responding to COVID-19; and

WHEREAS, the Director of Emergency Services has the authority to declare a local emergency as authorized by California Government Code Section 8630 and Laguna Hills Municipal Code Section 2-32.060.

NOW, THEREFORE, IT IS HEREBY PROCLAIMED AND ORDERED BY DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF LAGUNA HILLS AS FOLLOWS:

Section 1. As contemplated in the Emergency Services Act contained in California Government Code Section 8550 *et seq.*, including Section 8558(c), and Chapter 2-32 of Title 2 of the Laguna Hills Municipal Code, a local emergency exists based on the existence of conditions of disaster or of extreme peril to the safety of persons and property caused by an epidemic, as detailed in the recitals set forth above.

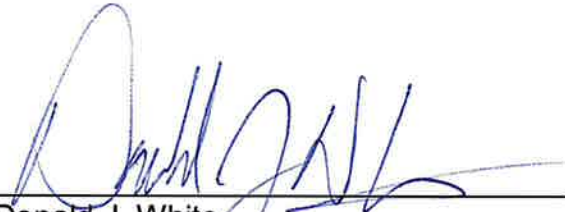
Section 2. The area of the City of Laguna Hills which is endangered/imperiled is the entire city.

Section 3. During the existence of this local emergency, the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law and by ordinances, resolutions, and orders of this City, including but not limited to the City's Emergency Operations Plan.

Section 4. The City Council shall review and ratify this proclamation of the City Manager within **seven (7) days** as required by state law, and if ratified, shall continue to exist until the City Council proclaims the termination of this local emergency. The City Council shall review the need for continuing the local emergency as required by state and local law until it terminates the local emergency, and shall terminate the local emergency at the earliest possible date that conditions warrant.

Section 5. A copy of this proclamation shall be forwarded to the Director of California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with state law; that the Governor of California, pursuant to the Emergency Services Act, issue a proclamation declaring an emergency in the City of Laguna Hills; that the Governor waive regulations that may hinder response and recovery efforts; that recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate federal disaster relief programs.

PROCLAIMED this 18th day of March 2020.


Donald J. White,
Director of Emergency Services/
City Manager

ATTEST:


Melissa Au-Yeung, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Proclamation No. 2020-03-18-1 adopted by the Director of Emergency Services of the City of Laguna Hills, California, on the 18th day of March 2020.

(SEAL)


MELISSA AU-YEUNG, CITY CLERK



CITY OF LAGUNA HILLS

City Manager

OFFICE OF THE CITY MANAGER/DIRECTOR OF EMERGENCY SERVICES

Executive Orders

**Pursuant to Proclamation No. 20-03-18-01
Declaring the Existence of a Local Emergency**

RE: NOVEL CORONAVIRUS, COVID-19

Issue Date: August 15, 2021

On March 18, 2020, in the City Manager's capacity as the Director of Emergency Services (LHMC 2-32.060), the City Manager issued Proclamation 20-03-18-01 Declaring the Existence of a Local Emergency in response to severe public health concerns and economic impacts relating to the COVID-19 pandemic. The novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan, Hubei Province, China in December 2019. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in multiple cases resulted in death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a significant public health threat, and States of Emergency have been declared by the County of Orange, the State of California and the federal government of the United States. On March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20, which bans gatherings, public and private, and orders residents to stay at home at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as defined, in order to mitigate the impact of COVID-19. Executive Order N-33-20 is enforceable pursuant to California law per Government Code Section 8665.

In order to comply with all applicable Public Health and Executive Orders and to protect public health in the City of Laguna Hills, the following Executive Order is in effect until further notice:

47. The City-owned Skate Park, located at the Laguna Hills Community Center and Sports Complex, is open to the public. Executive Order No. 31, dated October 23, 2020, is hereby rescinded.

Additional Executive Orders may be issued at any time relating to this public health emergency. Additional Executive Orders are cumulative, and do not negate or reverse these Executive Orders contained herein unless explicitly stated.



Kenneth H. Rosenfield
Interim Director of Emergency Services/
Interim City Manager

Cc:

Mayor and City Council
Greg Simonian, City Attorney
Melissa Au-Yeung, Deputy City Manager
David Reynolds, Deputy City Manager
David Chantarangsu, Community Services Director
Janice Reyes, Finance Director
Matthew Stiverson, Police Chief

Updated: August 16, 2021

(Res) = rescinded

(NA) - not applicable as matter has returned to normal

March 19, 2020 Executive Orders 1-7

Executive Order	Order Description
1	Within the boundaries of the City of LH, all County & State COVID-19 Public Health Orders are hereby deemed mandatory; all residents are directed to heed the current County & State public health directives in order to mitigate the impact of the COVID-19 pandemic.
2 (Res)	City Hall is closed to the public. Services and hours have been modified as posted. (Rescinded on June 15, 2021.)
3 (Res)	The Community Center is closed to the public. All recreational programs and activities at the Community Center, including facility reservations/rentals, are canceled or suspended until further notice. Refunds and credits will be automatically processed. The LH Technology Library, located within the Community Center, is also closed to the public. (Rescinded on September 9, 2020.)
4 (Res)	All playground equipment at all City & privately owned are closed. (Rescinded on October 8, 2020.)
5 (Res)	All employees of the City are placed on paid administrative leave/work from home status with the following exceptions: all management staff, Robert Oros, Sal Quinones, Ryan Hanley, and Cindy Sands. Furthermore, all such employees are directed to stay at home pursuant to the Governor's Executive Order, unless otherwise directed by their addition, they are strongly encouraged to abide by the Governor's Executive Order at all times beyond their normal working hours. (Rescinded on June 5, 2020.)
6 (Res)	Cabot Park and the Sports Complex restrooms are closed to the public. (Rescinded on November 17, 2020.)
7 (Res)	The City-owned skate park is closed to the public. (Rescinded on June 12, 2020.)

March 24, 2020 Executive Orders 8-11

8 (Res)	Building Division Services are available on a modified basis. Building Division staff will conduct business by phone & email only. (Rescinded on June 15, 2021.)
9	Outdoor Building inspections and inspections of non-occupied spaces will continue with the application of the order of practicing social distancing. Building inspections occurring within occupied spaces will be conducted on a case by case basis. The Building Official may utilize technology, including video-conferencing, for inspections. Certain inspections may also be conducted under self-certification, as determined by the Building Official.
10 (Res)	Planning Services are available on a modified level. All plan check submissions and permit issuances will be conducted electronically. (Rescinded on June 15, 2021.)
11 (NA)	Volunteer Connection Day is canceled.

March 30, 2020 Executive Orders 12-18

12 (Res)	Street sweeping parking violations are suspended. No citations will be issued for vehicles parked during posted "No Parking for Street Sweeping" Periods. (Rescinded on June 15, 2021.)
13 (Res)	The City will place a portable restroom (s) and hand-washing station at the Laguna Hills Civic Center, the Laguna Hills Community Center and Sports Complex, and at Cabot Park, to further promote public health and sanitation. (Rescinded on June 15, 2021.)
14 (Res)	Citations for violations of parking on public streets are hereby suspended, except for instances where a vehicle impedes traffic, causes a potential safety or traffic hazard, and/or blocks emergency access, as determined by Police Services personnel. (Rescinded on June 15, 2021.)
15	Law enforcement will increase neighborhood patrol checks and increase surveillance of City parks to ensure members of the public remain in compliance with all applicable County and State Public Health Orders.
16 (NA)	The Memorial Day Half Marathon, 10k and 5k event is canceled.
17 (Res)	Community Center Drive and Community Center parking lot closest to the Skate Park will be closed until further notice. (Rescinded on June 15, 2021.)
18	The City will work with tenants of the Civic Center to explore options, including rent deferral, as requested on a case-by-case basis.

April 10, 2020 Executive Order 19

19 (NA)	This upcoming week of April 13th represents a critical week in the effort to "flatten the curve" by complying with the Governor's "Stay at Home" order. To that effect, as well as taking into account the addition of two Special Meetings during the week of April 14, 2020, Regular City Council meeting will be canceled. All agenda items that would otherwise be scheduled for the April 14, 2020, City Council Meeting will be rescheduled for consideration at the April 21, 2020, Special Meeting.
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April 25, 2020 Executive Order 20

20 (NA)	In consideration of the addition of two Special Meetings during the week of April 20th, the Regular City Council Meeting, currently scheduled for April 28, 2020, City Council meeting will be rescheduled for consideration at the May 12, 2020, Special Meeting.
May, 18, 2020 Executive Orders 21-22	
21 (Res)	All recreation programs and activities, including facility reservations/rentals, are canceled through September 10, 2020. Consequently, the following part-time employees covered by Resolution No. 2018-06-26-02 are furloughed, effective May 25, 2020, indefinitely: Community Services Leader I, Community Services Leader II, and Part Time Receptionist. (Rescinded on June 15, 2021.)
22	Existing full-time employees in the Community Services Department will be transitioned to the newly-established Coronavirus Recovery Team and hereby deemed essential. These designated employees are David Reynolds, Daniel Meehan, Todd Smyser, Matt Durham and Kayle McDonald
June 3, 2020 Executive Order 23	
23	Interim procedures to allow for the operation of certain outdoor business activities. This is an executive order authorizing the Community Development Director to administratively grant emergency temporary use permits to lawfully established commercial businesses for the utilization of private property, parking lots, sidewalks, and public property.
June 5, 2020 Executive Order 24	
24 (Res)	Beginning on June 8, City employees will return to work on a modified and limited schedule. In coordination with their respective Department Heads, employees will work staggered shifts that adhere to social distancing protocol. The use of paid administrative leave will be discontinued as of June 8, 2020. Executive Order No. 5, dated March 19, 2020, is hereby rescinded. (Rescinded on June 15, 2021.)
June 12, 2020 Executive Order 25	
25 (Res)	The City-owned skatepark is open to the public beginning on June 12, 2020. Executive Order No. 7, dated March 19, 2020 is hereby rescinded. (Rescinded on July 3, 2020.)
June 29, 2020 Executive Order 26	
26 (NA)	The Street Sweeping Maintenance Services Agreement for Citywide Street and Roadway Cleaning between the City and Jonset Corporation, INC, dba Sunset Property Services, dated July 1, 2015, is a currently scheduled to expire by operation of its own terms on June 30, 2020. The Parties will enter into Amendment No. 1 to the Agreement for the purpose of extending the term of the Agreement for one-year in order to provide for continued, uninterrupted citywide street sweeping maintenance services at the same hourly rates, charges, and unit pricing and pursuant to the same terms and conditions set forth in the Agreement, subject only to a 3.3% cost of living increase in order to defer operating cost increases. The proposed one-year extension does not create the need to increase the total Maximum Annual Contract Amount set forth in Section 2.1 of the Agreement.
July 3, 2020 Executive Order 27	
27 (Res)	The City-owned skatepark is open to the public beginning on July 3, 2020. Executive Order No. 25, dated June 12, 2020 is hereby rescinded. (Rescinded on October 23, 2020.)
September 9, 2020 Executive Order 28-29	
28 (Res)	The City of Laguna Hills Community Center remain closed to the public until further notice, except for the Laguna Hills Technology Branch of the Orange County Public Library and other authorized events and programs. Facility reservations/rentals, unless otherwise permitted by applicable public health orders and/or state and county public health guidelines, shall remain cancelled or suspended until further notice. Executive Order No. 3, dated March 19, 2020, is hereby rescinded. (Rescinded on June 15, 2021.)
29 (Res)	Recreation programs, classes and activities, unless otherwise permitted by applicable public health orders and/or state and county public health guidelines, shall remain suspended until further notice. (Rescinded on June 15, 2021.)
October 8, 2020 Executive Order 30	
30 (Res)	Outdoor playground facilities. Located within the City's public parks, are hereby reopened on a limited basis pursuant to the public health guidelines issued for Outdoor Playgrounds on September 28, 2020, by the California Department of Public Health. The use of all outdoor playground equipment, located within the City's public parks, by members of the public shall be in conformance with the public health guidelines, including the specific outdoor playground facility use restrictions and requirements, promulgated by the California Department of Public Health. Executive Order No. 4, dated March 19, 2020, is hereby rescinded. (Rescinded on June 15, 2021.)
October 23, 2020 Executive Order 31-32	
31 (Res)	The City -owned Skate Park facility, located at the Laguna Hills Community Center and Sports Complex, is hereby re-opened to the public on a limited basis and will operate in accordance with the public health guidelines issued by the California Department of Public Health (CDPH) on October 14, 2020. Attendees must adhere to physical distancing requirements and mask wearing as outlined in the CDPH's Outdoor Playground Guidance. Executive Order No. 27 related to operational status of the City- owned Skate Park, dated July 3, 2020 is hereby rescinded.

32	Subsection (k) of executive order No. 23, dated June 3, 2020, entitled "Interim Procedures to Allow for the Operation of Certain Outdoor Business Activities, " is hereby amended and restated in it's entirety to read as follows: "K. Expiration. Any emergency temporary use permit shall expire fourteen (14) days after the locally declared emergency pursuant to Proclamation No. 2020-03-18-1 is terminated, unless such temporary use permit is revoked earlier by order of the Community Development Director, as authorized herein.
November 17, 2020 Executive Order 33	
33 (NA)	Cabot Park and Community Center Sports Complex restrooms are reopened to the public. Executive Order No. 6, dated March 19, 2020, is hereby rescinded.
December 7, 2020 Executive Order 34	
34 (Res)	With the exception of management staff, Robert Oros, Sal Quinones, Ryan Hanley and Cindy Sands, all other employees of the City are hereby placed on work from home status until further notice. Those who are not able to work from home will be placed on paid administrative leave status. All employees, whether on paid administrative leave or on work from home status, are to be available by phone and/or electronic communication during their normal working hours. (Rescinded on March 11, 2021.)
March 11, 2021 Executive Orders 35-36	
35 (NA)	Community Center Drive and Community Center parking lot closest to the Skate Park are open. Executive Order No. 17, dated March 30, 2020, is hereby rescinded.
36 (Res)	With the exception of management staff, Robert Oros, Sal Quinones, Ryan Hanley and Cindy Sands, Dan Meehan, Kayle McDonald, Matt Durham, and Todd Smyser all other employees of the City are hereby placed on work from home status until further notice. Those who are not able to work from home will be placed on paid administrative leave status. All employees, whether on paid administrative leave or on work from home status, are to be available by phone and/or electronic communication during their normal working hours. Executive order No. 34, dated December 7, 2020, is hereby rescinded. (Rescinded on June 15, 2021.)
June 15, 2021 Executive Orders 37-46	
37 (NA)	City Hall is open to the public during normal business hours. Executive Order No. 2, dated March 19, 2020, is hereby rescinded.
38 (NA)	Building Department services are available during normal business hours. Executive Order No. 8, dated March 24, 2020, is hereby rescinded.
39 (NA)	Planning Department services are available during normal business hours. Executive Order No. 10, dated March 24, 2020 is hereby rescinded.
40 (NA)	Citations for all violations of parking on public streets will recommence on June 15, 2021, including, but not limited to, street sweeping parking violations. Executive Order No. 12 and Executive Order No. 14, both dated March 30, 2020, are hereby rescinded.
41 (NA)	Portable restrooms are no longer needed. Executive Order No. 13, dated March 30, 2020, is hereby rescinded.
42 (NA)	Furlough for part-time employees is cancelled. Executive Order No. 21, dated May 18, 2020, is hereby rescinded.
43 (NA)	The Laguna Hills Community Center is open to the public during normal business hours. Executive Order No. 28, dated September 9, 2020, is hereby rescinded.
44 (NA)	Recreation programs, classes and activities, will resume in accordance with normal operating procedures and the approved budget. Executive Order No. 29, dated September 9, 2020, is hereby rescinded.
45 (NA)	Outdoor playground facilities are open to the public. Executive Order No. 30, dated October 8, 2020, is hereby rescinded.
46	City Employees are returned to work during normal office hours Monday through Thursday and, in coordination with their respective Department Heads, employees will work remotely on Fridays. The use of paid administrative leave will be discontinued as of June 1, 2021. Executive Order No. 24, dated June 5, 2020, is hereby rescinded. Executive Order No. 36, dated March 11, 2021 is hereby rescinded.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services

ISSUE: Progress Payment No. 1 for Laguna Hills Civic Center EV Charging Stations, CIP No. 505

RECOMMENDATION: That the City Council approve Progress Payment No. 1, in the net amount of \$44,887.50, to GC Electric Solar Corporation, for Laguna Hills Civic Center EV Charging Stations Project, CIP No. 505.

SUMMARY:

Work on the Laguna Hills Civic Center EV Charging Stations Project, CIP No. 505, began on July 1, 2021, and is being performed by GC Electric Solar Corporation. Work performed in July included installation of electrical conduits, an electrical power supply, and installation of two electrical vehicle charging stations. The contractor has submitted the first progress payment request for approval.

BACKGROUND:

A routine monthly action for capital improvement projects is the submission, review, and approval of the contractor's invoice. Procedurally, field staff verifies the contractor's quantities and matches them with the submitted invoice. The unit prices and total costs of the project are confirmed by the office staff and a progress payment is then processed. A five-percent (5%) retention is withheld from each payment to assure final performance of the work. The contractor for this project, GC Electric Solar Corporation, has submitted the first progress payment for the subject project as follows:

Progress Payment No. 1 for Laguna Hills Civic Center EV Charging Stations, CIP No. 505

August 24, 2021

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ITEM #	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	\$ AMOUNT
1	General Conditions and other Costs	1	LS	\$5,750.00	\$5,750.00
2	Best Management Practices	1	LS	\$2,000.00	\$2,000.00
3	Design and Preparation of Plans and Specifications	1	LS	\$1,500.00	\$1,500.00
5	Installation of Electrical Conduits and Electric Connection to supply power for complete installation and operation of EV Chargers	1	LS	\$5,500.00	\$5,500.00
6	Furnish and Installation of (2) ChargePoint CT4000 dual-port charging stations including all appurtenances for a complete in-place system	1	LS	\$24,500.00	\$24,500.00
8	Furnish and Install protective bollards	0.5	LS	\$2000.00	\$1,000.00
9	Remove and replace full sidewalk panels as necessary to install electrical conduit, color matching concrete to existing	1	LS	\$5,000.00	\$5,000.00
10	Testing and commission of EV charging stations	1	LS	\$1,000.00	\$1,000.00
13	Standard 1-Year Warranty including parts and labor for any defect in manufacturing or workmanship	1	LS	\$1,000.00	\$1,000.00

TOTAL TO DATE	\$47,250.00	
LESS PRIOR BILLING	0.00	
TOTAL THIS PERIOD	\$47,250.00	\$47,250.00
LESS 5% RETENTION		\$(2,362.50)
DUE		\$44,887.50

FISCAL IMPACT:

The progress payment is within the Capital Improvement Program Budget for the Laguna Hills Civic Center EV Charging Stations Project, CIP No. 505.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services

ISSUE: Award of Professional Services Agreement to De Novo Planning Group
for Development of the Local Hazard Mitigation Plan

RECOMMENDATION: That the City Council award a Professional Services Agreement to De Novo Planning Group for Development of the Local Hazard Mitigation Plan and authorize the Mayor to execute the Agreement.

SUMMARY:

The City is the recipient of a Grant for the preparation of the Local Hazard Mitigation Plan (LHMP). A formal competitive Request for Proposal was issued for consultant services for the necessary scope of work for this purpose. Two Proposals were received by the due date and evaluated by a Staff team. It was unanimously determined that the proposal of the De Novo Planning Group was the best Proposal and the firm was the best qualified for this engagement. Staff recommends the City Council approve the attached proposed Professional Services Agreement, including the attached Proposal, with De Novo Planning Group for preparation of the City's LHMP.

BACKGROUND:

A Local Hazard Mitigation Plan (LHMP) is used to identify risks and vulnerabilities associated with natural disasters and develop long-term strategies for protecting people and property from future hazards. Having a Federal Emergency Management Agency (FEMA) approved LHMP is necessary for the City to be eligible to receive certain types of non-emergency disaster assistance, including funding for mitigation projects, in the future.

Professional Services Agreement for Development of Local Hazard Mitigation Plan
August 24, 2021
Page 2

On October 23, 2020, the California Department of Emergency Services (CalOES) notified the City of the award of a grant to prepare the City's Local Hazard Mitigation Plan. The grant approval is identified as a "Notification of Subapplication Approval for FY19 Pre-Disaster Mitigation Competitive Grant Program, Grant #2020-0006, Project #PL0114, FIPS #059-39220, Amendment #2" in the amount of \$30,000, plus the requirement for a \$10,000 local match.

On January 12, 2021, the City Council approved and adopted the CalOES Resolution (City Resolution No. 2021-1-12-1) for Designation of Subrecipient's Agent Resolution, designating the City Manager or Assistant City Manager as authorized agents for the purpose of obtaining federal financial assistance for Disaster Relief and Emergency Assistance and/or state financial assistance under the California Disaster Assistance Act, effectively accepting the Grant.

In accordance with the City's Procurement Code, Staff prepared and issued a formal competitive Request for Proposals (RFP) on June 29, 2021, for LHMP consultant services. The City received two Proposals by the due date of July 29, 2021 as follows:

- De Novo Planning Group
- AARC Consultants, LLC

As part of the selection process, an internal committee was assembled to independently evaluate the proposals. The committee was comprised of three Staff members. After independent evaluations were completed, the best qualified candidate firm was unanimously determined to be the De Novo Planning Group based upon their education, training, and experience. The Interim City Manager, as well, interviewed the De Novo Planning Group and agrees with the assessment that they are the best qualified firm for this engagement.

The De Novo Planning Group is a land use and environmental planning firm with full-service offices in northern and southern California. The local office in Tustin, CA, will provide staffing for this project. The firm's principal-level staff have successfully completed over 350 projects consisting of comprehensive general plans, specific plans, housing elements, zoning code updates, sign plans, CEQA and NEPA analyses, and Local Hazard Mitigation Plans.

The determination of the De Novo Planning Group as being the best qualified firm includes the acknowledgement of their staff's requisite education, training and experience and the following points.

Professional Services Agreement for Development of Local Hazard Mitigation Plan
August 24, 2021
Page 3

- 1) The Project Manager and Consultant staff have extensive experience in preparing all manner of planning documents for public agencies and will be able to initiate this project without any steep learning curve requirements.
- 2) The Project Manager for the LHMP has very extensive personal experience preparing these documents with a great track record of successful approval of the LHMP by local agencies, CalOES and FEMA.
- 3) The Consultant and Project Manager have a proven track record of completing deliverables on-time.

The De Novo Planning Group scope of work includes the required public outreach of the LHMP, which will be presented to the Traffic Commission, Parks and Recreation Commission and City Council. The schedule for the preparation of the LHMP anticipates its completion before the end of 2022, subject to the review process time employed by CalOES and FEMA. The City is obligated to complete this process by July 2024.

Staff recommends the City Council approve the attached proposed Professional Services Agreement, including the attached Proposal, with De Novo Planning Group for preparation of the City's LHMP.

FISCAL IMPACT:

The 2021-2022 Fiscal Year Budget for the development of the local hazard mitigation plan is \$40,000, consisting of a \$30,000 State/Federal grant and \$10,000 in City matching funds. The proposed cost for this engagement is \$39,960 and is within the Budget.

ATTACHMENTS:

- Professional Services Agreement - Local Hazard Mitigation Plan

PROFESSIONAL SERVICES AGREEMENT
De Novo Planning Group
(Local Hazard Mitigation Plan Update Consulting Services)

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter "Agreement") is made and entered into, to be effective this 24th day of August 2021 by and between the CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California, (hereinafter referred to as "City") and DE NOVO PLANNING GROUP, a California corporation (hereinafter referred to as "Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as the "Parties."

RECITALS

A. City has determined that there is a need to retain the professional services of a qualified consultant to prepare a Local Hazard Mitigation Plan and to obtain approval of the City's proposed Local Hazard Mitigation Plan by the Federal Emergency Management Agency ("FEMA") (the "Project").

B. In response to City's Request for Proposals, dated June 29, 2021, Consultant has submitted to City a proposal, dated July 29, 2021, to provide professional consulting services to prepare the City's Local Hazard Mitigation Plan and to obtain approval of the Plan by the Federal Emergency Management Agency pursuant to the terms and conditions of this Agreement.

C. Consultant represents and maintains that it is uniquely qualified by virtue of its experience, training, education, reputation, and expertise to provide these professional services to City for the Project and has agreed to provide such services as provided herein. City does not have the personnel or specialized technical expertise able to perform the work or services contracted for herein.

D. City desires to retain Consultant to provide such professional services for the Project.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. SERVICES OF CONSULTANT

1.1 Scope of Services and Standard of Performance. In compliance with all terms and conditions of this Agreement, Consultant agrees to provide and perform the local hazard mitigation plan consulting services for the Project as set forth in the Proposal/Scope of Work,

dated July 29, 2021, which is attached hereto as Exhibit “A” and is incorporated herein by reference (hereinafter referred to as the “Scope of Services,” the “Services” or “Work”). As a material inducement to the City entering into this Agreement, Consultant acknowledges and understands that the Services and Work contracted for under this Agreement require specialized skills and abilities and that, consistent with this understanding, Consultant’s Services and Work shall be performed in a skillful and competent manner and shall be held to a standard of quality and workmanship prevalent in the industry for such Services and Work and with the standards recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and warrants that it is skilled in the professional discipline necessary to perform the Services and Work and that it holds the necessary skills and abilities to satisfy the standard of work as set forth in this Agreement. Consultant represents and warrants that it and all of its employees, subconsultants and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and experience to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the City.

1.2 Contract Documents. The Agreement between the Parties shall consist of the following: (1) this Agreement; and, (2) the Consultant’s signed, original Proposal/Scope of Work dated July 29, 2021 (“Consultant’s Proposal”) and submitted to City, which shall both be referred to collectively hereinafter as the “Contract Documents.” The Consultant’s Proposal is attached hereto as Exhibits “A” and is hereby incorporated by reference and made a part of this Agreement. All provisions of this Agreement and the Consultant’s Proposal shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1st) the terms and conditions of this Agreement; and, (2nd) the provisions of the Consultant’s Proposal (Exhibit “A”).

1.3 Compliance with Law. Consultant shall comply at all times during the term of this Agreement with all applicable federal, state, and local laws, statutes, and ordinances and all lawful orders, rules, and regulations promulgated thereunder, including without limitation all applicable fair labor standards and Cal/OSHA requirements. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of the Work and Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with performing the Work and Services. If Consultant performs any Work or Services in violation of such laws, rules, and regulations, Consultant shall be solely responsible for all penalties and costs arising therefrom. Consultant shall defend, indemnify, and hold City, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

1.4 Licenses, Permits, Fees, and Assessments. Prior to performing any Services or Work hereunder Consultant shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for

Consultant to perform the Work and Services under this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the City, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

1.5 Familiarity with Work. By executing this Agreement, Consultant represents and warrants that it (a) has thoroughly investigated and considered the Scope of Work or Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where such Services or Work is to be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant represents and maintains that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any Services hereunder. Should the Consultant discover any latent or unknown conditions that will materially affect the performance of the Services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the City.

1.6 Care of Work. Consultant shall adopt reasonable methods during the term of the Agreement to furnish continuous protection to the Work and the equipment, materials, papers, documents, plans, studies, and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Work by the City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties. Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

1.8 Additional Services. City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Consultant's Proposal/Scope of Services (Exhibit "A") or make changes by altering, adding to, or deducting from such Work. No such extra work may be undertaken unless a written order is first given by the City to the Consultant, incorporating therein any adjustment in (i) the Maximum Contract Amount, as defined below, and/or (ii) the time to perform this Agreement, which adjustments are subject to the written approval of the Consultant. It is expressly understood by Consultant that the provisions of this section shall not apply to the Work and Services specifically set forth in the Scope of Services or reasonably contemplated therein, regardless of whether the time or materials required to complete any Work or Service identified in the Scope of Services exceeds any time or material amounts or estimates provided therein.

1.9 Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other contractors, consultants, or vendors for services similar to the services that

are the subject of this Agreement. Consultant further acknowledges that City may have its own employees perform services similar to the services that are the subject of this Agreement.

2. **COMPENSATION**

2.1 Maximum Contract Amount. For the Services and Work rendered pursuant to this Agreement, Consultant shall be compensated by City for the services performed, including authorized reimbursements, on a time and materials basis in accordance with the professional hourly rates and charges as set forth in the Schedule of Compensation/Fees, which is attached hereto collectively as Exhibit "A" and is incorporated herein by reference, but not exceeding the maximum contract amount of Forty Thousand Dollars (\$40,000) (hereinafter referred to as the "Maximum Contract Amount"). The method of compensation shall be as set forth in Exhibit "A". Compensation for necessary expenditures for reproduction costs, telephone expenses, and transportation expenses must be approved in advance by the Contract Officer designated pursuant to Section 4.2 and will only be approved if such expenses are also specified in the Schedule of Compensation/Fees. The maximum amount of City's payment obligation under this Agreement is the amount specified in this section.

The Maximum Contract Amount shall include the attendance of Consultant at all Project meetings reasonably deemed necessary by the City. Consultant shall not be entitled to any increase in the Maximum Contract Amount for attending these meetings. Consultant hereby acknowledges that it accepts the risk that the services identified in the Scope of Services may be more costly and/or time-consuming than Consultant anticipates, that Consultant shall not be entitled to additional compensation therefore, and that the provisions of Section 1.8 shall not be applicable to the services identified in the Scope of Services. If the City's maximum payment obligation is reached before the Consultant's Services under this Agreement are completed, Consultant shall nevertheless complete the Work without liability on the City's part for further payment beyond the Maximum Contract Amount.

2.2. Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation/Fees (Exhibit "A"), in any month in which Consultant wishes to receive payment, no later than the tenth (10th) working day of such month, Consultant shall submit to the City, in a form approved by the City's Finance Director, an invoice for services rendered prior to the date of the invoice. Such requests shall be based upon the amount and value of the services performed by Consultant and accompanied by such reporting data including an itemized breakdown of all costs incurred and tasks performed during the period covered by the invoice, as may be required by the City. City shall use reasonable efforts to make payments to Consultant within forty-five (45) days after receipt of the invoice or a soon thereafter as is reasonably practical.

2.3 *Intentionally omitted.*

2.4 Changes in Scope. In the event any change or changes in the Scope of Services is requested by the City, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional professional fees. An amendment may be entered into: (a) to provide for revisions or

modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product, or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Consultant's profession.

2.5 Appropriations. This Agreement is subject to and contingent upon funds being appropriated therefore by the Laguna Hills City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the City.

3. SCHEDULE OF PERFORMANCE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement. The time for completion of the services to be performed by Consultant is an essential condition of this Agreement. Consultant shall prosecute regularly and diligently the Work of this Agreement according to the agreed upon Schedule of Performance.

3.2 Schedule of Performance. Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed, or on each task order, if applicable, and shall perform all Services within the time period(s) established in the Schedule of Performance, which is attached hereto as Exhibit "A" and is incorporated herein by reference. When requested by Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer; however, the City shall not be obligated to grant such an extension.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant (financial inability excepted), including, but not limited to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, pandemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the City, if Consultant, within ten (10) days of the commencement of such delay, notifies the City Manager in writing of the causes of the delay. The City Manager shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the City Manager such delay is justified. The City Manager's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this section.

3.4 Term. Unless earlier terminated as provided elsewhere in this Agreement, this Agreement shall commence upon the effective date of this Agreement and shall continue in full force and effect for a period of twenty-four (24) months, commencing on August 24, 2021 and ending on August 23, 2023, unless extended by mutual written agreement of the Parties.

3.5 Task Orders. Consultant hereby agrees and acknowledges that any and all Services or Work performed pursuant to this Agreement shall be based upon the prior issuance of a written project task order by the City. Furthermore, Consultant hereby agrees and acknowledges that execution of this Agreement by the City does not in any way guarantee that a task order will be issued to Consultant. Moreover, execution of this Agreement by the City shall not entitle Consultant to any form of payment or compensation from the City without City first having issued a project task order.

4. COORDINATION OF WORK

4.1 Representative of Consultant. The following principal of Consultant is hereby designated as being the principal and representative of Consultant authorized to act in its behalf with respect to the Services to be performed under this Agreement and to make all decisions in connection therewith: Starla Barker, AICP, Principal Planner. It is expressly understood that the experience, knowledge, education, capability, expertise, and reputation of the foregoing principal is a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Work or Services performed hereunder. The foregoing principal may not be changed by Consultant without prior written approval of the Contract Officer.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the City Manager of City, and is subject to change by the City Manager. It shall be the Consultant's responsibility to ensure that the Contract Officer is kept fully informed of the progress of the performance of the Services, and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.3 Prohibition Against Subcontracting or Assignments. The experience, knowledge, capability, expertise, and reputation of Consultant, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written consent of City. Consultant shall not contract with any other entity to perform the Services required without prior written consent of City. If Consultant is permitted to subcontract any part of this Agreement by City, Consultant shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City. All persons engaged in the Work will be considered employees of Consultant. City will deal directly with and will make all payments to Consultant. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written consent of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership

and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant from any liability hereunder without the express written consent of City.

4.4 Independent Contractor.

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Consultant a City employee. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act as City officers or employees. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as set forth in this Agreement. Consultant, its officers, employees or agents, shall not maintain a permanent office or fixed business location at City's offices. City shall have no voice in the selection, discharge, supervision, or control of Consultant's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Consultant shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of Consultant in its business or otherwise a joint venturer or a member of any joint enterprise with Consultant.

B. Consultant shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

C. No City benefits shall be available to Consultant, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Consultant as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for the performance of any Work or Services under this Agreement. City shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the City has financial obligations, other than pursuant to Section 2 and Subsection 1.8 herein, of any nature relating to salary, taxes, or benefits of Consultant's officers, employees, representatives, agents, or subconsultants or subcontractors, Consultant shall defend, indemnify, and hold harmless City from and against all such financial obligations.

4.5 PERS Eligibility & Indemnification.

A. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing any Work or Services under this Agreement claims or is determined by a

court of competent jurisdiction or the California Public Employee Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the City.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

5. **INSURANCE**

5.1 Compliance with Insurance Requirements. Consultant shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to City, all insurance required under this section. Consultant shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to City that it has secured all insurance required under this section. If Consultant's existing insurance policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

5.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Consultant shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. **Commercial General Liability Insurance.** Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. **Automobile Liability Insurance.** Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

C. Workers' Compensation Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Consultant agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall obtain and maintain in full force and effect throughout the term of this Agreement, a policy of Professional Liability or Errors and Omissions Insurance appropriate to Consultant's profession with limits of at least two million dollars (\$2,000,000.00). Covered professional services shall specifically include all Work or Services to be performed under the Agreement and delete any exclusions that may potentially affect the Work or Services to be performed under this Agreement.

1. The policy shall be endorsed to provide the following: Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

2. If the policy of insurance is written on a "claims-made" basis, the City may require that the policy be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Work or Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing the Work or Services under the terms of this Agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended "tail" coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the City.

3. In the event the policy of insurance is written on an "occurrence" basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Work or Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall immediately be obtained to ensure coverage during the entire course of performing the Work or Services under the terms of this Agreement.

5.3 Acceptability of Insurers. Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-:VII or better (if an admitted carrier), or a

current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Lines Insurers (LASLI), by the latest edition of A.M. Best's Key Rating Guide, except that the City will accept workers' compensation insurance from the State Compensation Fund. In the event the City determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City. Consultant shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

5.4 Insurance Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

1. Additional Insured: The City, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and

2. Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Consultant, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

3. Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the City. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant's failure to pay the insurance premium, the notice provided to City shall be by ten (10) days prior written notice.

B. For all policies of Commercial General Liability Insurance, Consultant shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

5.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the City in advance and shall protect the City, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

5.6 Primary and Non-Contributing Insurance. All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

5.7 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the City, its officials, officers, employees, agents and volunteers, or shall specifically allow Consultant or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Consultant hereby agrees to waive its own right of recovery against the City, its officials, officers, employees, agents and volunteers, and Consultant hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

5.8 Evidence of Coverage. Concurrently with the execution of the Agreement, Consultant shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Consultant shall promptly furnish, at City's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents City requires to verify coverage.

5.9 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

5.10 Enforcement of Agreement (Non-Estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the City to inform Consultant of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the City nor does it waive any rights hereunder.

5.11 Insurance for Subconsultants. Consultant shall either: (1) include all subconsultants or subcontractors engaged in any Work or Services for Consultant relating to this Agreement as additional named insureds under the Consultant's insurance policies, or (2)

Consultant shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the City, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Consultant's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers, as additional insureds. Consultant shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has provided evidence satisfactory to City that the subconsultant or subcontractor has secured all insurance required under this section.

5.12 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Consultant pursuant to this Agreement:

A. Consultant shall provide immediate written notice to City if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is Consultant's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Consultant agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.

F. Consultant agrees to provide immediate written notice to City of any claim, demand or loss against Consultant arising out of the Work or Services performed under

this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

6. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend (at Consultant's sole cost and expense with legal counsel reasonably acceptable to City), indemnify and hold the City, its elected and appointed officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officers, directors, employees, subcontractors, consultants or agents, in connection with Consultant's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Consultant are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Consultant's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless, and indemnify the City, its elected and appointed officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims arise out of, pertain to, or are related to the City's sole negligence, active negligence, or willful misconduct.

7. REPORTS AND RECORDS

7.1 Accounting Records. Consultant shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Consultant shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and to enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

7.2 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of the Work and Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Work or Services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of such fact, circumstance, technique, or event and the estimated increased or decreased cost related thereto

and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

7.3 Ownership of Documents. All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subconsultants, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be promptly delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials hereunder. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. Consultant shall ensure that all of its subconsultants and subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

7.4 Release of Documents. All drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization.

7.5 Audit and Inspection of Records. After receipt of reasonable notice and during the regular business hours of City, Consultant shall provide City, or other agents of City, such access to Consultant's books, records, payroll documents, and facilities as City deems necessary to examine, copy, audit, and inspect all accounting books, records, work data, documents, and activities directly related to Consultant's performance under this Agreement. Consultant shall maintain such books, records, data, and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during the term of this Agreement and for a period of three (3) years from the date of final payment by City hereunder.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law and Venue. This Agreement shall be construed and interpreted both as to validity and as to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such County, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil

Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

8.3 Termination. City may terminate this Agreement for any reason, with or without cause, upon giving Consultant thirty (30) days written notice. Upon such notice, City shall pay Consultant for Services performed through the date of termination. Upon receipt of such notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. Thereafter, Consultant shall have no further claims against the City under this Agreement. Upon termination of the Agreement pursuant to this section, Consultant shall submit to the City an invoice for work and services performed prior to the date of termination. In addition, Consultant reserves the right to terminate this Agreement at any time upon sixty (60) days written notice to the City, except that where termination is due to material default by the City, the period of notice may be such shorter time as the Consultant may determine.

8.4 Default of Consultant.

A. Consultant's failure to comply with any provision of this Agreement shall constitute a default.

B. If the City Manager, or City Manager's designee, determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Consultant in writing of such default. Consultant shall have ten (10) days, or such longer period as City may designate, to cure the default by rendering satisfactory performance. In the event Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which City may be entitled at law, in equity, or under this Agreement. Consultant shall be liable for any and all reasonable costs incurred by City as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any City right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit City's right to terminate this Agreement without cause pursuant to Section 8.3.

C. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.4(B), take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated. The withholding or failure to withhold payments to Consultant shall not limit Consultant's liability for completion of the Services as provided herein.

8.5 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement

of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

8.6 Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

8.7 Legal Action. In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

8.8 Attorneys' Fees. In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

9. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

9.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor-in-interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of any state statute or regulation. Consultant represents and warrants that it has not paid or given and will not pay or give any third party any money or other consideration in exchange for obtaining this Agreement.

9.3 Covenant Against Discrimination. In connection with its performance under this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, disability, medical condition, religion, color, sex, sexual

orientation, age, marital status, ancestry, or national origin. Consultant shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10. MISCELLANEOUS PROVISIONS

10.1 Patent and Copyright Infringement.

A. To the fullest extent permitted by law, and in lieu of any other warranty by City or Consultant against patent or copyright infringement, statutory or otherwise, it is agreed that Consultant shall defend at its expense any claim or suit against City on account of any allegation that any item furnished under this Agreement, or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters patent or copyright and Consultant shall pay all costs and damages finally awarded in any such suit or claim, provided that Consultant is promptly notified in writing of the suit or claim and given authority, information and assistance at Consultant's expense for the defense of same, and provided such suit or claim arises out of, pertains to, or is related to the alleged negligence, recklessness or willful misconduct of Consultant. However, Consultant will not indemnify City if the suit or claim results from: (1) City's alteration of a deliverable, such that City's alteration of such deliverable created the infringement upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by Consultant when it is such use in combination which infringes upon an existing U.S. letters patent or copyright.

B. Consultant shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof, Consultant shall not be obligated to indemnify City under any settlement made without Consultant's consent or in the event City fails to cooperate in the defense of any suit or claim, provided, however, that such defense shall be at Consultant's expense. If the use or sale of such item is enjoined as a result of the suit or claim, Consultant, at no expense to City, shall obtain for City the right to use and sell the item, or shall substitute an equivalent item acceptable to City and extend this patent and copyright indemnity thereto.

10.2 Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Notices or other communications shall be addressed as follows:

To City:

City of Laguna Hills
 Attention: City Manager
 24035 El Toro Road
 Laguna Hills, California 92653
 Telephone: (949) 707-2600
 Facsimile: (949) 707-2633

To Consultant:

De Novo Planning Group
 Attention: Starla Barker, AICP, Principal Planner
 180 East Main Street, Suite 108
 Tustin, California 92780
 (714) 453-7711

10.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

10.4 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

10.5 Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

10.6 Third Party Beneficiary. Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

10.7 Recitals. The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

10.8. Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

10.9 Labor Code Requirements.

A. Prevailing Wages. Consultant is aware of the requirements of California labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Work or Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Work or Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

B. DIR Registration. If the Work or Services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

10.10 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

“CITY”
CITY OF LAGUNA HILLS,
 a California municipal corporation

 ERICA PEZOLD,
 Mayor

ATTEST:

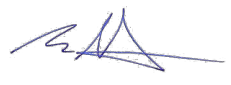
(SEAL)

 MELISSA AU-YEUNG,
 Deputy City Manager/City Clerk

APPROVED AS TO FORM:

 GREGORY E. SIMONIAN,
 City Attorney

“CONSULTANT”
DE NOVO PLANNING GROUP, a
 California corporation

By: 

 BEN RITCHIE, President

By: 

 BETH THOMPSON, Secretary

EXHIBIT “A”**CONSULTANT’S PROPOSAL/ SCOPE OF WORK****DATED: JULY 29, 2021**

LOCAL HAZARD MITIGATION PLAN CONSULTING SERVICES PROPOSAL**SCOPE OF SERVICES FOR PROJECT****INCLUDING,****SCHEDULE OF PERFORMANCE****AND****SCHEDULE OF COMPENSATION/ PROFESSIONAL FEES**

CITY OF LAGUNA HILLS LOCAL HAZARD MITIGATION PLAN

PROPOSAL FOR THE CITY OF LAGUNA HILLS

**SUBMITTED ON:**

July 29, 2021

SUBMITTED TO:

Kenneth H. Rosenfield, P.E.
Interim City Manager/
Public Services Director
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

SUBMITTED BY:

De Novo Planning Group
Amanda Tropiano, Principal
180 E Main Street, Suite 108
Tustin, CA 92780
(714) 453-7711
atropiano@denovoplanning.com



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A. COVER LETTER

July 29, 2021

Attn: Kenneth H. Rosenfield, P.E.
Interim City Manager/Public Services Director
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

De Novo Planning Group is pleased to provide our proposal for the City of Laguna Hills Local Hazard Mitigation Plan (LHMP) for consideration. Laguna Hills is an attractive place to live and work with a high standard of living and beautiful regional location. Preparing an LHMP is an important and strategic opportunity to help ensure that the City can protect its residents and businesses from natural and manmade hazards.

OUR TEAM

De Novo Planning Group will serve as the prime consultant for this contract with the City. Your project manager and primary contact for this project is Ms. Starla Barker, AICP. Ms. Barker is a dedicated and experienced community, hazard mitigation, and environmental planner with over 19 years of expertise serving clients in California. She leads Hazard Mitigation Plan projects as well as comprehensive planning and environmental analyses pursuant to CEQA. Ms. Barker previously managed the City of Rancho Santa Margarita's LHMP, Orange County Regional Water and Wastewater Multi-Jurisdictional Hazard Mitigation Plan Update, and the Multi-Jurisdictional Hazard Mitigation Plan for the City of Culver City and Culver City Unified School District without any deficiencies identified by FEMA. Ms. Barker is currently serving as a senior technical advisor/hazard mitigation planning specialist in preparation of the Irvine Ranch Water District Hazard Mitigation Plan and Elsinore Valley Municipal Water District Hazard Mitigation Plan. Her depth of knowledge and experience will be applied to Laguna Hills' LHMP. We strongly encourage the City to contact our references to inquire about the quality of our work, our commitment to the highest levels of customer service, our responsiveness, and the success of our process.

WHY DE NOVO

The De Novo team brings to the City of Laguna Hills the following unique benefits:

Understanding of the Interrelatedness of Hazards.

Our extensive experience preparing CEQA compliance documents, Safety Elements, and other General Plan updates has given us a comprehensive understanding of the interrelatedness of hazards. We are adept at addressing natural and manmade hazards and conducting vulnerability assessments as part of the planning process, as well as establishing policies and mitigation measures to reduce the impacts and vulnerabilities associated with those hazards.

Diversified Professional Expertise.

One of the key things that sets our firm apart from our competitors is the unparalleled experience and diverse skill sets of our Principals. Our team members are experts in a wide range of planning disciplines, including environmental compliance, long-range planning (preparation of comprehensive general plans, specific plans, zoning codes, housing elements, and various ordinances), and development processing.

Unparalleled Local Experience, Energy, and Enthusiasm

De Novo Planning Group has extensive experience working with communities throughout Orange County. Our on-going work with cities facing similar opportunities and challenges, in addition to our staff's expertise in preparing and implementing LHMPs, provides us a unique opportunity to provide efficiencies to both the timeline and budget. By working in partnership with the City, engaging the community, and identifying best practices, the De Novo team is ready to assist Laguna Hills with preparing an LHMP that is responsive to the unique needs of the City.

Creative Problem Solving

Planners are creative problem-solvers, and we consider ourselves particularly well-suited to this part of the job. De Novo's management team and technical staff value research and best practices, but recognize that we work on projects with localized issues and priorities. We believe that you know your city best and local agencies, stakeholders, and community members are best-suited to plan for their own needs. We will work with you to identify and address local issues and concerns in creative ways that maximize local input to the extent feasible while also achieving State and federal objectives and requirements.

Benefits of a Boutique Planning Firm

All of De Novo's principal-level staff have served as senior project managers with larger consulting firms, and through this experience we have gained intimate knowledge of some of the operational inefficiencies of large firms. We achieve cost savings through use of a streamlined team composed of De Novo Principals and staff. Because we remain relatively small, we are able to offer our clients significantly lower rates, while still providing Principal-level attention to each project.

OUR STATEMENT OF COMMITMENT

The offer contained in this proposal is valid for a minimum of 120 days or for the stated contract period, whichever is longer. If you have any questions regarding this submittal, please do not hesitate to contact me at (714) 453-7711 or at atropiano@denovoplanning.com. Ms. Tropicano is an officer with the firm, and is authorized to negotiate on the firm's behalf. We look forward to working with you on the City's LHMP.

Sincerely,



Amanda Tropicano

Principal



Starla Barker, AICP

Principal Planner

B. COMPANY DATA

1. OFFICIAL NAME AND ADDRESS.

De Novo Planning Group
180 East Main St. #108
Tustin, CA 92780

2. NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PROPOSER'S PRIMARY POINT OF CONTACT.

Starla Barker, AICP
180 East Main St. #108
Tustin, CA 92780
(949) 396-8193

3. INDICATE WHAT TYPE OF ENTITY (CORPORATION, COMPANY, JOINT VENTURE, ETC). PLEASE ENCLOSE A COPY OF THE JOINT VENTURE AGREEMENT IF ENTITY IS A JOINT VENTURE.

California S-Corporation

4. FEDERAL EMPLOYER I.D. NUMBER.

26-2962235

5. THE ADDRESS, TELEPHONE NUMBERS AND FAX NUMBERS OF EACH OF YOUR FIRM'S LOCATIONS.

Southern California	Northern California
180 East Main St. #108	1020 Suncast Ln. #106
Tustin, CA 92780	El Dorado Hills, CA 95762
T: (714) 453-7711	T: (916) 949-3231
No fax	No fax

6. A DETAILED STATEMENT INDICATING WHETHER PROPOSER IS TOTALLY OR PARTIALLY OWNED BY ANOTHER BUSINESS ORGANIZATION OR INDIVIDUAL.

De Novo Planning Group is not totally or partially owned by another business organization or individual.

7. NUMBER OF YEARS PROPOSER HAS BEEN IN BUSINESS UNDER THE PRESENT BUSINESS NAME.

13

8. NUMBER OF YEARS OF EXPERIENCE THE PROPOSER HAS HAD IN PROVIDING REQUIRED, EQUIVALENT, OR RELATED SERVICES.

De Novo Planning Group is a land use and environmental planning firm with full-service offices in northern and southern California. The firm's principal-level staff have successfully completed over 350 projects consisting of comprehensive general plans, specific plans, housing elements, zoning code updates, sign plans, CEQA and NEPA analyses, climate action plans, air quality/GHG studies, biological assessments,

wetland delineations, and due diligence projects. Founded in 2008 by its three Principals—Ben Ritchie, Steve McMurtry, and Beth Thompson—De Novo Planning Group was created to provide principal-level land use and environmental planning services to public and private clients throughout California. For the past 13 years, the firm has successfully operated in the Sacramento, Greater Bay Area, Central Valley, Tahoe Basin, and northern California regions, and in 2017, opened an office in Orange County—led by Principal Planner Amanda Tropiano—to serve southern California clients.

The project manager for the Laguna Hills LHMP will be Starla Barker, AICP. Ms. Barker has been a Principal Planner with De Novo for 1.5 years and is a dedicated and experienced community, hazard mitigation, and environmental planner with over 19 years of expertise serving clients in California. She leads Hazard Mitigation Plan projects as well as comprehensive planning and environmental analyses pursuant to CEQA. Ms. Barker previously managed the City of Rancho Santa Margarita's LHMP, Orange County Regional Water and Wastewater Multi-Jurisdictional Hazard Mitigation Plan Update, and the Multi-Jurisdictional Hazard Mitigation Plan for the City of Culver City and Culver City Unified School District without any deficiencies identified by FEMA. Ms. Barker is currently serving as a senior technical advisor/hazard mitigation planning specialist in preparation of the Irvine Ranch Water District Hazard Mitigation Plan and Elsinore Valley Municipal Water District Hazard Mitigation Plan. Her depth of knowledge and experience will be applied to Laguna Hills' LHMP.

9. ALL COMPARABLE CONTRACTS ENTERED INTO DURING THE LAST FIVE (5) YEARS, COMPLETED OR NOT.

Year started and completed: 2018-2020

Type of Contract: Fixed Fee

Contracting Agency/Client: City of Rancho Santa Margarita

Project Manager: Starla Barker, AICP (while with another consulting firm)

Developer of Project: N/A

Project Description: Ms. Barker managed the local hazard mitigation plan (LHMP) for Rancho Santa Margarita. The process included facilitation of planning team meetings with city personnel and stakeholder agencies, as well as coordination with the project management team to ensure that hazards were adequately characterized and mitigation actions were developed to reduce the effects of these hazards. The LHMP includes an inventory of critical facilities, hazard profiles and prioritization of hazards, a risk assessment, and mitigation actions to reduce potential vulnerabilities in the future. The work program also included a comprehensive community outreach strategy that involved a community survey and focus meetings with a variety of community members. The community survey gauged the level of knowledge the community has about disaster issues. In addition, community members were provided the opportunity to review the LHMP and provide input on the plan prior to issuance to the California Office of Emergency Services and Federal Emergency Management Agency. The LHMP received approval from FEMA and in 2020, this project was awarded an American Planning Association State of California Award of Excellence for Comprehensive Planning (Small Jurisdiction) and an American Council of Engineering Companies Commendation Award.

Year started and completed: 2018-2019

Type of Contract: T&M

Contracting Agency/Client: City of Laguna Woods

Project Manager: Starla Barker, AICP (while with another consulting firm)

Developer of Project: N/A

Project Description: Through an On-Call Services agreement, Ms. Barker assisted the City with the update to its Local Hazard Mitigation Plan. The initial phase involved significantly updating the hazard profiles to reflect the hazards affecting the City, as confirmed through various planning team and stakeholder meetings, as well as Partner Agency, City Council, and Community workshops. The second phase involved preparation of a vulnerability assessment to ascertain the critical facilities and population within areas identified as susceptible to natural hazards and identification of mitigation measures.

Year started and completed: 2017-2020

Type of Contract: Fixed Fee

Contracting Agency/Client: Municipal Water District of Orange County

Project Manager: Starla Barker, AICP (while with another consulting firm)

Developer of Project: N/A

Project Description: Ms. Barker prepared the update to the multi-jurisdictional hazard mitigation plan (MJHMP) for the Municipal Water District of Orange County and 18 of its member agencies, which include cities and water/wastewater agencies. The goal of the MJHMP is to help reduce future loss resulting from natural and human induced disasters and to provide increased resiliency to water and wastewater systems serving a majority of Orange County. The update process included facilitation of five planning team meetings, comprised of representatives from each of the 19 agencies and coordination with the project management team to ensure the update adequately characterized the hazards having the potential to impact Orange County and those specific to the communities. The update included significant revisions to the Plan to create annexes for each jurisdiction to ensure jurisdiction-specific hazards, vulnerabilities, capabilities, and mitigation actions are identified. Community outreach efforts included a community survey and dissemination of information via each agencies' website, social media, and notification systems.

Year started and completed: 2015-2017

Type of Contract: Fixed Fee

Contracting Agency/Client: Culver City and Culver City Unified School District

Project Manager: Starla Barker, AICP (while with another consulting firm)

Developer of Project: N/A

Project Description: Ms. Barker managed the multi-jurisdictional hazard mitigation plan (MJHMP) for the City and the Culver City Unified School District (CCUSD). The goal of the MJHMP is to help reduce future loss of life and property resulting from disasters and to provide increased resiliency, allowing the City and CCUSD to return to "normal" sooner, with fewer impacts to people, facilities, and infrastructure. The process included facilitation of steering committee meetings with City and CCUSD personnel and coordination with the project management team to ensure that natural hazards having the potential to impact the community are adequately characterized and mitigation

actions developed to reduce the effects of the hazards. The MJHMP includes an inventory of City and CCUSD critical facilities, hazard profiles, prioritization of hazards, a risk assessment, and mitigation actions to reduce potential vulnerabilities in the future. The work program included a comprehensive community outreach strategy that involved attendance at the annual Fiesta La Ballona to let the community know about the MJHMP, including the availability of a community survey and upcoming workshop. A community survey gaged the community's knowledge of natural disaster issues and mitigation actions that would be supported. A community workshop/learning event provided an overview of the MJHMP, why it was needed, and what was required. Community members were able to offer input on the hazards identified by the steering committee and potential mitigation actions.

Year started and completed: 2016-2018

Type of Contract: Fixed Fee

Contracting Agency/Client: City of Lawndale

Project Manager: Starla Barker, AICP (while with another consulting firm)

Developer of Project: N/A

Project Description: Ms. Barker managed the update to the General Plan Safety Element and Emergency Operations Plan (EOP) and developed a Local Hazard Mitigation Plan (LHMP) and Informational Brochure for the City of Lawndale. These safety plans were updated/created through the Disaster Recovery Initiative (DRI) Grant awarded from the State of California Community Development Block (CDBG) Program. The first for Lawndale, the LHMP identifies the hazards with the most potential to impact the city and defines specific mitigation actions to reduce the risk to people and property. The LHMP includes identification and profiling of the City's natural hazards, a vulnerability assessment, mitigation strategies, and plan implementation and maintenance. Due to the seismic safety risks associated with soft-story and unreinforced masonry (URM) buildings, a survey was conducted to identify and map these types of buildings that occur within the city. The Safety Element addresses both natural and human-made disasters and establishes goals and policies to address these hazards and the overall safety of the community, further supporting implementation of the mitigation actions identified in the LHMP. CEQA compliance documentation for the Safety Element update was also prepared. The EOP update addresses current deficiencies and opportunities for plan improvement. The planning process included community outreach and culminated in the creation and roll-out of a public awareness brochure.

10. ANY FAILURES OR REFUSALS TO COMPLETE A CONTRACT AND EXPLANATION.

De Novo Planning Group does not have any failures or refusals to complete a contract.

11. INDIVIDUALS/FIRMS WHO OWN AN INTEREST OF 10% OR GREATER IN THE PROPOSING FIRM.

De Novo Planning Group is totally owned by Principals Ben Ritchie, Steve McMurtry, Beth Thompson, and Amanda Tropiano. Mr. Ritchie, Mr. McMurtry, and Ms. Thomson each have more than a 10% interest.

12. FINANCIAL INTERESTS IN OTHER LINES OF BUSINESS.

De Novo Planning Group does not have any financial interests in other lines of business.

C. RESUMES AND QUALIFICATIONS OF PERSONNEL

Starla Barker, AICP

PRINCIPAL PLANNER



Starla Barker, AICP, is a principal planner with De Novo Planning Group and is primarily responsible for the management and preparation of Hazard Mitigation Plans, environmental documents (Initial Studies, Negative Declaration, Environmental Impact Reports, and Environmental Assessments), and General Plans. With over 19 years of professional planning experience, Starla has successfully managed a wide range of projects with particular emphasis in hazard mitigation planning and urban infill, transit-oriented development, downtown, redevelopment, and General Plan projects. Utilizing her vast background and understanding of the interrelatedness of comprehensive planning, hazard mitigation, and environmental compliance, Starla develops and integrates context-sensitive mitigation strategies that contribute to and improve the resiliency and safety of communities throughout California. Starla is also regularly involved in land use and policy planning, including the development and implementation of community outreach programs, typically leading community engagement and facilitation activities for her projects.

EDUCATION

Masters, Urban and Regional Planning, California State Polytechnic University, Pomona

BA, Business Economics, University of California, Riverside

ORGANIZATIONS

American Planning Association

LICENSES/CERTIFICATIONS

American institute of Certified Planners, 2009, No. 024079

RELEVANT PROJECT EXPERIENCE

Rancho Santa Margarita Local Hazard Mitigation Plan,

City of Rancho Santa Margarita*
Received the 2020 Award of Excellence from the American Planning Association, Orange Section and 2020 Award of Merit from the American Planning Association, California Chapter

Irvine Ranch Water District Local Hazard Mitigation Plan,
Irvine Ranch Water District

General Plan Update and EIR,
City of Rancho Santa Margarita*

Housing Element and Safety Element Update
City of Rancho Santa Margarita

Orange County Regional Water and Wastewater Multi-Jurisdictional Hazard Mitigation Plan
Municipal Water District of Orange County*

Culver City and Culver City Unified School District Multi-Jurisdictional Hazard Mitigation Plan,
City of Culver City and Culver City Unified School District*

Laguna Wood Hazard Mitigation Plan
City of Laguna Woods*

General Plan Safety Element, Local Hazard Mitigation Plan, and Emergency Operations Plan,
City of Lawndale*

General Plan Safety Element, Local Hazard Mitigation Plan, and Master Plan of Drainage,
City of McFarland*

General Plan Sustainability Element and Development Code Assistance,
City of Placentia*

General Plan Update and EIR,
City of Buena Park*

General Plan Update, Climate Action Plan, and EIR
City of Fullerton*

General Plan Update and EIR,
City of Murrieta*

General Plan Update and EIR,
City of Lancaster*

General Plan Safety Element Update,
City of Camarillo*

County of San Bernardino Community Plans Continuum,
County of San Bernardino*

General Plan Update and EIR,
City of Stanton*

General Plan Update and EIR,
City of Cerritos*

General Plan Update, Climate Action Plan, and Cable Airport Land Use Compatibility Plan EIR,
City of Upland*

* Project was completed by Ms. Barker while she was employed at another planning firm

Kelly Hickler, AICP

SENIOR PLANNER



Kelly Hickler is a senior planner with De Novo Planning Group. With 10 years of professional planning experience, Kelly possesses a comprehensive understanding of the connections between land use, zoning, housing, transportation, and economic development policies and their impacts on community health and equity. She has worked on a wide variety of planning projects for public and private sector clients such as rezonings, annexations, site plans, plats, variances, environmental studies, comprehensive plans, open space plans, strategic plans, master development plans and agreements, regulatory plans, zoning codes, design guidelines, and grants. Kelly has also served as a Planning Commissioner, so she is able to bring a decision-maker perspective to the table. Kelly's passion is community engagement, and she has completed specialized training through the International Association of Public Participation (IAP2) and facilitation training through the Institute of Cultural Affairs (ICA). She is experienced in meeting facilitation, consensus building, and conflict resolution and enjoys working with different stakeholder groups to identify mutually beneficial outcomes.

EDUCATION

MA, Urban and Regional Planning
Cal Poly Pomona

BA, Social Ecology
University of California, Irvine

ORGANIZATIONS

American Planning Association

International Association for Public Participation (IAP2)

RELEVANT PROJECT EXPERIENCE

City of San Marcos Safety Element Update
San Marcos, CA

City of Rancho Santa Margarita Safety Element Update
Rancho Santa Margarita, CA

City of Temecula Safety Element Update
Temecula, CA

City of Gardena Environmental Justice Element
Gardena, CA

City of Hawthorne Environmental Justice Element
Hawthorne, CA

Long Beach Airport Expansion EIR,
Long Beach, CA*

Tustin Legacy Master Plan,
Tustin, CA*

Los Angeles Regional Interoperable Communications System EA,
Los Angeles County, CA*

Justice Assistance Grant Communication Sites MND and EA,
Los Angeles County, CA*

Doheny Hotel Public Outreach and EIR,
Dana Point, CA*

Cameron Ranch EIR,
Riverside County, CA*

Stoneview Nature Center IS/MND and Public Outreach,
Culver City, CA*

Whiteman Airport Master Plan Update,
Los Angeles County, CA*

Founders Park Site Plan, IS, and Public Outreach,
Anaheim, CA*

Miraloma Park Site Plan, IS, and Public Outreach,
Anaheim, CA*

Parks & Recreation Strategic Plan,
Anaheim, CA*

Trails & Recreation Plan,
Centennial, CO*

Comprehensive Plan Update,
Centennial, CO*

Land Development Code Update,
Centennial, CO*

Retail Area Revitalization and Implementation Study,
Centennial, CO*

Streets at SouthGlenn Master Development Plan and Public Outreach,
Centennial, CO*

Jones District Master Development Plan and Public Outreach,
Centennial, CO*

* Project was completed by Ms. Hickler while she was employed at another planning firm

De Novo Planning Group

A Land Use Planning, Design, and Environmental Firm

Erik Anderson

ASSISTANT PLANNER



Erik is an Assistant Planner with De Novo. He earned his M.A. in City and Regional Planning from Cal Poly San Luis Obispo. His previous experience includes service with a non-profit environmental organization, and work in the legal field. During his academic career, he received multiple honors including the 2019 California Planning Foundation, Central Coast Section Scholarship and the 2019 and 2020 Errett Fisher Foundation Scholarship. Erik is passionate about serving communities and creating innovative work through land use planning and design. Erik works on a variety of projects for De Novo, including General Plan updates and CEQA documentation.

EDUCATION

MA, City and Regional Planning,
California Polytechnic State University,
San Luis Obispo

BA, Political Science,
University of California, Los Angeles

ORGANIZATIONS

American Planning Association
Congress for the New Urbanism

AWARDS

2019 California Planning Foundation,
Central Coast Section Scholarship
2019 & 2020 Errett Fisher Foundation
Scholarship

RELEVANT PROJECT EXPERIENCE

**Rancho Santa Margarita Housing
and Safety Element Update,**
City of Rancho Santa Margarita

General Plan Update,
City of San Jacinto

**Housing and Safety Element
Update,**
City of Temecula

General Plan Update,
City of La Verne

General Plan Update,
City of Lawndale

Focus General Plan Update,
City of Glendale

**Housing Element Update (6th
Cycle),**
City of Westminster

**Housing Element Update (6th
Cycle),**
City of Lake Forest

**Housing Element Update (6th
Cycle),**
City of Rancho Santa Margarita

General Plan Update,
City of Indian Wells

General Plan Update,
City of McFarland*

Oceano Community Plan Update,
County of San Luis Obispo*

Downtown Specific Plan,
City of Dinuba*

McFarland Zoning Code Update,
City of McFarland*

Santa Maria Public Outreach,
City of Santa Maria*

**Pilot Travel Center EIR (Moreno
Valley),**
Pilot Company

* Project was completed by Mr. Anderson while enrolled as an Graduate Student in City and Regional Planning at the California Polytechnic State University, San Luis Obispo

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Megan Thorne, LEED AP BD+C

GIS & Design



Megan Thorne is a senior planner and designer with De Novo Planning Group. With over 10 years of professional planning experience, Megan has worked on a wide variety of planning projects for public and private sector clients, including numerous general plans, specific plans, corridor plans, site plans, design guidelines, strategic plans, sustainability programs, visioning projects, transit-oriented development plans, zoning documents, outreach programs, and 3D visualizations. Megan possesses the ability to think creatively and envision change while keeping projects grounded with achievable benchmarks and implementable policy goals. She excels at communicating complex information and policy ideas in a compelling and simple manner. As a designer, Megan has differentiated herself with her hand-drawing abilities as well as her technical skills. Her technical expertise includes GIS, 3D modeling, graphic design, and web design. She continues to pioneer ways new technology can improve old processes from community outreach approaches to the web-publication of planning documents.

EDUCATION

MCP, City Planning, Urban Design Concentration

University of Pennsylvania,
Philadelphia

BS, Urban, Rural, and Environmental Planning,

Brigham Young University, Provo

Research,

Cambridge University (UK), Pembroke College

ORGANIZATIONS

Urban Land Institute

American Planning Association

U.S. Green Building Council

LEED AP BD+C,
Credential Id # 10433552-AP-BD+C

RELEVANT PROJECT EXPERIENCE

General Plan Update and EIR,
City of San Jacinto

General Plan Update and EIR,
City of La Verne

General Plan Update and EIR,
City of Lake Forest

General Plan Update and EIR,
City of Westminster*

General Plan Update and EIR
City of San Marcos

General Plan Update and EIR,
City of Redondo Beach*

City of Bellflower Sign Code Update
City of Bellflower

Irvine Neighborhood Plan
City of Irvine

California High Speed Rail: Palmdale to Burbank Segment
City of Palmdale, City of Burbank*

West Carson Transit-Oriented Development Specific Plan
City of West Carson*

Downtown Bellflower Transit-Oriented Development Specific Plan
City of Bellflower*

SCAG 2016 RTP/SCS: Content Authoring and Web Solution
Southern CA Association of Governments*

Morena Corridor Specific Plan
City of San Diego*

De Anza Revitalization Plan
City of San Diego*

Long Beach Southeast Area (SEASP) Specific Plan
City of Long Beach*

Stanton Plaza Specific Plan Amendment and EIR Addendum
City of Stanton*

Airport Gateway Specific Plan
Inland Valley Development Agency*

Crafton Hills College Village Overlay Zone
City of Yucaipa*

Livermore Downtown Visioning & Site Planning
City of Livermore*

The Highlands, Tesoro Del Valle Master Plan
Newport Pacific Land*

Tesoro Viejo Master Plan
Madera County*

Harmony Specific Plan
Lewis Companies, City of Highland*

SAVI Ranch Land Use and Mobility Vision Plan
City of Yorba Linda*

LA County Parks Needs Assessment
Los Angeles County*

Measure A Parks Implementation
Los Angeles County*

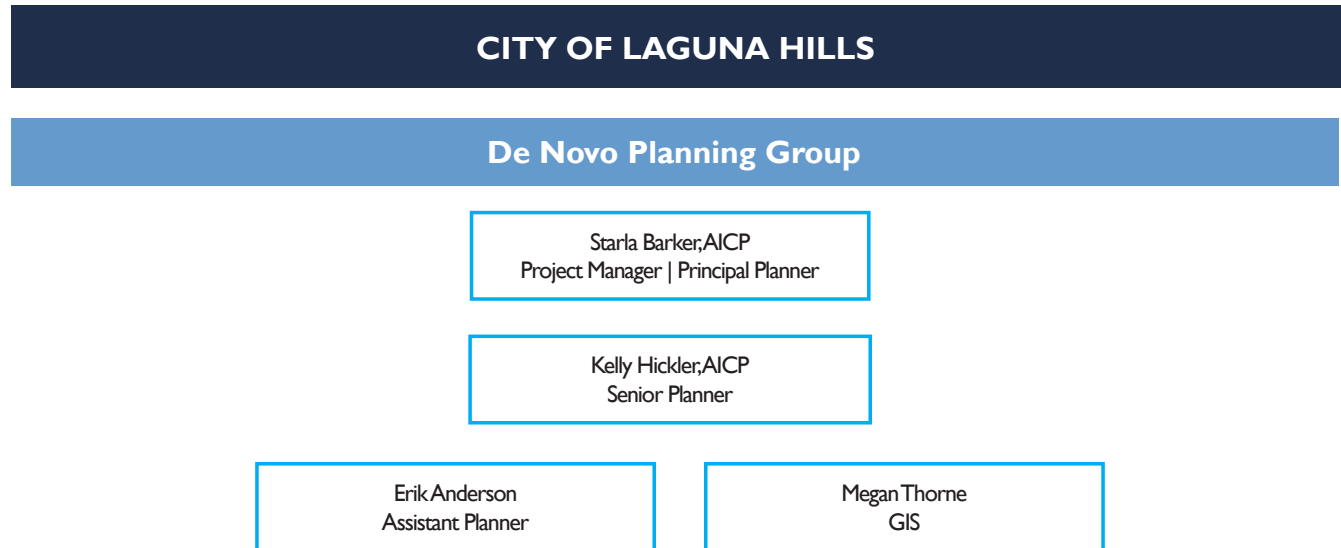
* Project was completed by Ms. Thorne while she was employed at another planning firm

De Novo Planning Group

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D. ORGANIZATIONAL CHART

De Novo will serve as the project lead and the team will be organized as shown in the organization chart below. De Novo and our team members bring to the table key personnel with deep experience not only in Local Hazard Mitigation Plans, but also in the fields of city planning, environmental planning and environmental justice, climate planning, and GIS. If there are any proposed changes to key personnel during the term of the agreement that are outside of the our control or if the City requests such change, we will present a transition plan to the City.



E. REFERENCES

De Novo has been in operation for 13 years and has full-service offices in northern and southern California. The firm's principal-level staff have successfully completed over 350 projects consisting of local hazard mitigation plans, comprehensive general plans, specific plans, housing elements, environmental impact reports, negative declarations, initial studies, NEPA analyses, climate action plans, biological assessments, wetland delineations, and development projects throughout California. Below are references from three organizations in California for which similar projects have been completed by De Novo staff in the last five years.

Organization: City of Rancho Santa Margarita

Contact Name: Wendy Starks

Phone Number: (949) 635-1807

Description:

Ms. Barker prepared the local hazard mitigation plan (LHMP) for Rancho Santa Margarita (while employed by another consulting firm). The process included facilitation of planning team meetings with city personnel and stakeholder agencies, as well as coordination with the project management team to ensure that hazards that could impact the community were adequately characterized and that mitigation actions were developed to reduce the effects of these hazards. The LHMP included an inventory of critical facilities, hazard profiles and prioritization of hazards, a risk assessment, and mitigation actions to reduce potential vulnerabilities in the future. The work program also included a comprehensive community outreach strategy that involved a community survey and focus meetings with a variety of community members. The community survey gauged the level of knowledge the community has about disaster issues. In addition, community members had the opportunity to provide input on the LHMP and provide input on the plan prior to issuance to the California Office of Emergency Services and Federal Emergency Management Agency. In 2020, this project was awarded an American Planning Association State of California Award of Excellence for Comprehensive Planning (Small Jurisdiction) and an American Council of Engineering Companies Commendation Award.

Organization: City of Culver City

Contact Name: Joe Susca

Phone Number: (310) 253-5636

Description:

Ms. Barker prepared the multi-jurisdictional hazard mitigation plan (MJHMP) for the City and the Culver City Unified School District (CCUSD) (while employed by another consulting firm). The goal of the MJHMP is to help reduce future loss of life and property resulting from disasters and to provide increased resiliency, allowing the City and CCUSD to return to "normal" sooner, with fewer impacts to people, facilities, and infrastructure.

The process included facilitation of steering committee meetings with City and CCUSD personnel and coordination with the project management team to ensure that natural hazards having the potential to impact the community are adequately characterized and mitigation actions developed to reduce the effects of the hazards. The MJHMP includes an inventory of City and CCUSD critical facilities, hazard profiles, prioritization of hazards, a risk assessment, and mitigation actions to reduce potential vulnerabilities in the future.

The work program included a comprehensive community outreach strategy that involved attendance at the annual Fiesta La Ballona to let the community know about the MJHMP, including the availability of a community survey and upcoming workshop. A community survey gauged the community's knowledge of natural disaster issues and

mitigation actions that would be supported. A community workshop/learning event provided an overview of the MJHMP, why it was needed, and what was required. Community members were able to offer input on the hazards identified by the steering committee and potential mitigation actions.

Organization: Municipal Water District of Orange County

Contact Name: Karl Seckel

Phone Number: (714) 963-3058

Description:

Ms. Baker prepared the update to the Multi-Jurisdictional Hazard Mitigation Plan (MJHMP) for the Municipal Water District of Orange County and 18 of its member agencies, which include cities and water/wastewater agencies (while employed by another consulting firm). The goal of the MJHMP is to help reduce future loss resulting from natural and man-made disasters and to provide increased resiliency to water and wastewater systems serving a majority of Orange County. The update process has included facilitation of five planning team meetings, comprised of representatives from each of the 19 agencies and coordination with the project management team to ensure the update adequately characterizes the hazards having the potential to impact Orange County and those specific to the communities. The update has included significant revisions to the Plan to create annexes for each jurisdiction to ensure jurisdiction-specific hazards, vulnerabilities, capabilities, and mitigation actions are identified. Community outreach efforts have included a community survey and dissemination of information via each agencies' website, social media, and notification systems.

F. OVERVIEW AND APPROACH

UNDERSTANDING

De Novo Planning Group understands that the City of Laguna Hills is interested in preparing a Local Hazard Mitigation Plan (LHMP) that will be adopted by the Federal Emergency Management Agency (FEMA) and has received a \$30,000 grant from the California Governor's Office of Emergency Services to prepare the LHMP. The City is also providing \$10,000 of matching funds, for a total project budget of \$40,000. The City seeks a qualified consultant to prepare the LHMP and see the process in its entirety through public participation, approval by CALOES and adoption by FEMA. The LHMP will identify risks and vulnerabilities from natural disasters and develop long term strategies for protecting people and property from future hazardous events. FEMA approval of a City's LHMP establishes eligibility for participation in federal mitigation grant programs. Mitigation grant programs fund projects that lessen the impact of disasters.

The LHMP shall be updated for compliance with the following laws and requirements:

- » The Disaster Mitigation Act of 2000 and Title 44 Code of Federal Regulations (CFR) §201.6, as outlined in FEMA's Local Mitigation Planning Handbook, published March 1, 2013.
- » FEMA's Local Mitigation Plan Review Guide, published on October 1, 2011.
- » Analysis of potential impacts and mitigation measures related to climate change for compliance with Senate Bill (SB) 379.

APPROACH

The following scope of work has been developed based on the City's RFP, identified budget, our current understanding of Laguna Hills' needs, and our experience in preparing FEMA-approved hazard mitigation plans. We look forward to working with the City to further customize the work program as necessary.

Task A: Gather and analyze necessary data.

A key component of the LHMP will be early engagement of county, state, and federal agencies that have oversight of the update process. By engaging these entities early in the process, the De Novo team will ensure that the most up-to-date and relevant data and information are being used in hopes of reducing revisions and comments during final review of the LHMP.

Prior to the kick-off meeting, De Novo Planning Group will work with the City to identify and compile available data and resource documents pertinent to the LHMP. This is anticipated to include the City's General Plan and capital improvement projects, existing departmental budgets, the State Hazard Mitigation Plan, Municipal Water District of Orange County Urban Water Management Plan, County of Orange & Orange County Fire Authority Multi-Jurisdictional Plan, Orange County Regional Water and Wastewater Multi-Hazard Mitigation Plan, recent hazard mitigation plans of neighboring communities, and other relevant plans and information. Any recent disaster declarations and occurrences will also be identified. Using this initial background review, we will prepare a data needs list to review with staff at the kick-off meeting. Early discussion of these data sources will support plan development and subsequent tasks.

Deliverables:

- » Data needs list.

Task B: Attend a kick-off meeting with staff and regularly scheduled working group meetings throughout the duration of the project.

Kick-off Meeting

De Novo Planning Group will conduct a kick-off meeting with City staff to review the proposed scope of work, anticipated project schedule, communications protocol, and deliverables; discuss staff expectations; have an initial discussion of data needs and the community outreach approach; and identify participants for the working group, discussed below.

Working Group Meetings

To effectively conduct a planning process that meets FEMA requirements, the City will need to create a Local Hazard Mitigation Planning Committee (HMPC). The HMPC will be an ongoing working group that is a major contributor to the process and a provider of information used to create the LHMP. The HMPC will guide the development of the Laguna Hills LHMP and ensure that the goals, objectives, and mitigation actions identified in the plan are consistent with the City's overall goals, as well as its resources. We will work with City staff to identify recommended stakeholders for the City to invite to participate in the process. Potential stakeholders to invite for participation will be confirmed during the kick-off meeting, but may include:

- » Emergency operations staff and/or other representatives from local public agencies, the County, and school districts
- » Representatives from local critical facilities, such as hospitals and utility companies
- » Appropriate state and federal representatives, such as staff from California Office of Emergency Services (Cal OES) and FEMA
- » Representatives from community groups and nonprofit organizations
- » Representatives from a cross section of the community, including residents, neighborhood leaders, and business owners

Based on our experience, we have found that four HMPC meetings are effective at discussing the information necessary to comply with FEMA requirements. De Novo will facilitate up to four meetings including preparation of agendas, summary notes, and action items. These meetings are anticipated to require two hours of participation time and are expected to cover the following topics:

- » **Meeting 1:** Introduction, roles and responsibilities, discussion of plan goals/objectives, community outreach approach, identification of hazards of concern, prioritization of hazards of concern and identification of data/information.
- » **Meeting 2:** Review of hazards profiles and hazards mapping, and inventory of community assets.
- » **Meeting 3:** Review of risk assessment and loss estimations, and discussion of capabilities assessment.
- » **Meeting 4:** Identification and discussion of mitigation actions and action prioritization and plan maintenance.

We will provide all necessary materials needed to conduct the HMPC meetings, and City staff will be responsible for securing all meeting locations and coordinating with the HMPC, including formally inviting stakeholders.

Deliverables:

- » Kick-off meeting with City staff including agenda, summary notes, and action items.
- » Four HMPC meetings including agendas, summary notes, and action items.

Task C: Assist City with planning and executing community outreach both on-line, and in person focus groups.

Community engagement is a major and required component of the LHMP planning process. De Novo Planning Group will work with City staff to develop an outreach strategy that is responsive to the participation needs of the community. The outreach approach is anticipated to include on-line participation and in person focus group meetings, further detailed below.

On-line Participation

On-line participation will be a key strategy in development of the LHMP, providing a cost-effective means for reaching stakeholders and interested members of the public throughout the planning process. This task will consist of two components: 1) an on-line survey and 2) website and social media content.

1. On-line Survey

Working with the City, we will develop an online survey, compile survey results, and provide a detailed summary of input received. The survey will include multiple-choice questions, ranking/rating scales, and open-ended questions, all specifically designed to inform the LHMP planning process. We will coordinate with the City to make the survey link available on the website. The City will be responsible for distributing and promoting the survey through its website, email lists, and/or social media.

2. Website and Social Media Content

We will assist the City in developing content about the LHMP that can be used on the City's website and social media accounts. The content will provide information about the planning process, draft documents, upcoming public hearings, and opportunities to provide input and ask questions. The City will be responsible for uploading the content to the website and sharing updates through social media.

In Person Focus Group Meetings

To supplement the work being done with the HMPC in Task B above, De Novo proposes two focused outreach meetings with the community. Rather than large-scale community meetings or open houses that can be resource intensive and have a low turnout, these focused outreach meetings can occur with targeted audiences and/or in conjunction with already scheduled community events. We will work with City staff to identify targeted audiences and community events that would be appropriate. We will also work with City staff to develop materials for the focused outreach meetings. We anticipate that each meeting would require two hours of participation time. If City staff facilitates additional meetings, it is assumed they will make available any printed materials, and provide feedback received from the community to De Novo for incorporation into the LHMP.

Deliverables:

- » One online survey and summary of results
- » Website/social media content
- » Materials for focused outreach meetings
- » De Novo attendance at two focused outreach meetings

Task D: Perform a detailed citywide Risk Assessment to include hazard identification and profiles, vulnerability assessment, and capabilities assessment.

The analysis of risks is a comprehensive review of the potential impacts of hazards on assets in the City of Laguna Hills including people, the built environment, natural environment, and the economy. Results from the risk assessment will form the foundation for the subsequent identification of appropriate mitigation actions for reducing losses. We will conduct the risk assessment in a step-by-step manner, starting with development of hazard profiles, and

concluding with an analysis of vulnerabilities and capabilities.

Hazard Identification and Profiles

Based on the HMPC's identification and ranking of hazards, we will prepare hazard profiles, which will include a discussion of the hazards of concern and identify the location and extent of past occurrences, the probability of future occurrences, and climate change considerations. An important consideration in the hazard profiles discussion is the impact associated with climate change. Preparation of the hazard profiles and risk assessment will include GIS mapping of relevant hazards (those that can be mapped) and analysis to determine areas of potential susceptibility within the City. This task will also identify critical facilities based on an approved list (by APNs) provided/updated by the City, which will also be used as part of the GIS analysis, to identify facilities most susceptible to hazards within the City.

Vulnerability Assessment

Hazard profiling exposes the unique characteristics of individual hazards and begins the process of determining "who" and "what" is susceptible to a specific hazard within the City. Upon completion of the hazard profiles, we will prepare a vulnerability assessment, using the approved critical facilities list and hazard profiles prepared as part of previous task. The vulnerability assessment will consist of an analysis overlaying these two data sets and identifying the facilities that are vulnerable to the profiled hazards.

The vulnerability assessment will include the following, based on data availability:

- » The types and numbers of critical facilities and infrastructure located within Laguna Hills and within the identified hazard areas.
- » An inventory of all repetitive flood loss structures, as defined by FEMA, if applicable.
- » Estimates of potential dollar losses from identified hazards, based upon content and structure replacement value provided by the City.
- » Description of facilities and infrastructure anticipated for future development and their locations, if applicable.

The result of this analysis will be presented in tables identifying facilities/infrastructure and relevant hazards most likely to affect these facilities. Updated maps will correspond to this latest information. Upon completion, both the hazard profiles and vulnerability assessment will be presented to the HMPC for review and comment.

Capabilities Assessment

A capabilities assessment is a comprehensive review of all the various policies, plans, programs, and procedures that assist in hazard mitigation activities. Using a Capabilities Assessment Worksheet, we will work with the HMPC to identify Laguna Hills' hazard mitigation capabilities. Recommendations will be identified by the HMPC and further supplemented by City staff.

Deliverables:

- » Draft hazard profiles (electronic)
- » Draft hazards and asset maps (electronic)
- » Draft vulnerability assessment (electronic)
- » Draft capabilities assessment (electronic)

Task E: Develop Mitigation Strategy.

Drawing on the hazard identification, analysis, and assessment of vulnerability and capabilities in the community, the De Novo team will prepare a LHMP for the City of Laguna Hills to mitigate exposure to potential hazards. The team will engage the HMPC and City staff in development and review of goals, mitigation actions, and the draft LHMP.

A comprehensive mitigation strategy analyzes a wide range of actions from multiple forms of mitigation techniques, including structural projects (buyouts, elevations, retrofits, etc.), nonstructural projects (policies, land use regulations, floodplain management ordinances, etc.), natural systems protection projects (sediment/erosion control, stream corridor restoration, wetland restoration/preservation, conservation easements, etc.), and educational/awareness programs (real estate disclosures, websites with hazard information/maps, mailings to those in hazard-prone areas, etc.).

Develop/Confirm Mitigation Goals

Working with the HMPC, goals will be reviewed and updated, and/or new mitigation goals will be developed to ensure the goals adequately communicate desired end states and provide a foundation for meaningful hazard mitigation actions.

Develop/Confirm Mitigation Strategies and Actions

Existing mitigation actions (if any) will be reviewed with the HMPC to identify the status of these activities. From there, we will identify existing relevant and new actions that will contribute toward the mitigation goals identified by the HMPC.

Mitigation Action Prioritization and Matrix

De Novo will revise the mitigation actions based upon discussions and feedback from the HMPC. We will develop a process to prioritize identified mitigation actions, such as consideration of the following:

- » Social acceptance of the mitigation action.
- » Technical feasibility of the mitigation action.
- » Administrative staffing, funding, and maintenance required for the mitigation action.
- » Political acceptability of the mitigation action.
- » Legal authority to implement the mitigation action or other legal concerns.
- » Economic benefit of the mitigation action (including cost effectiveness).
- » Environmental impact of the mitigation action.

Mitigation strategy prioritization and implementation will be discussed with the HMPC. De Novo will work with the HMPC to identify the following information as part of the mitigation actions table:

- » Responsible Department(s) – The agency/department which will be responsible for the action identified.
- » Potential Funding Source – Sources of future funding that can be used to implement the action.
- » Priority – General priority of the action (high, medium, low), based on team input.
- » Relative Cost – The relative cost to implement the action, based on cost categories determined by the HMPC.

Plan Maintenance

The plan maintenance process will be discussed with the HMPC, including how the City will monitor, evaluate, implement, and update the LHMP. De Novo will prepare a chapter that identifies LHMP maintenance and implementation steps to ensure the LHMP is implemented and maintained over a five-year plan period. This chapter will describe the methods and schedule for monitoring, evaluation of, and updating of the LHMP. The chapter will also describe how the mitigation plan elements will be incorporated into other planning mechanisms, as well as how the public will continue to remain involved throughout the future planning process.

Deliverables:

- » Capabilities assessment worksheet and results (electronic)
- » Prioritized mitigation actions list (electronic)
- » Mitigation actions implementation worksheets (electronic)

Task F: Prepare Public Review Draft.

Prior to preparing a public review draft, we will compile the information into an administrative draft version of the LHMP to be shared internally with City staff and the HMPC. Our approach of working closely with the HMPC has shown to expedite the review process, since HMPC members have already seen each part of the LHMP by the time the administrative draft document is complete, and a majority of their comments have been addressed.

We will incorporate one consolidated set of City staff and HMPC comments/revisions on the administrative draft version of the LHMP and prepare the public review draft LHMP. The draft document will be made available to the public for any comment and feedback to be incorporated into the LHMP prior to submitting to Cal OES and FEMA for review. We anticipate a 30-day public review period with the LHMP made available on the City's website and up to two (2) hardcopies available at locations within the City.

Deliverables:

- » Administrative Draft LHMP (electronic)
- » Two (2) hardcopy Public Review Draft LHMP and one (1) electronic pdf and Word file
- » Presentation preparation and attendance at one (1) City Traffic Commission meeting
- » Presentation preparation and attendance at one (1) City Parks and Recreation meeting

Task G: Prepare LHMP submittal for CalOES/FEMA review.

We will compile all comments received on the public review draft LHMP for inclusion as an appendix item and revise the LHMP, as necessary. The LHMP will then be submitted to Cal OES for initial review; the De Novo team will address any comments/concerns from Cal OES before it is submitted to FEMA for formal review. We will also prepare the FEMA Hazard Mitigation Plan Review Tool that will accompany the Cal OES and FEMA submission.

Deliverables:

- » Submittal of Draft LHMP to Cal OES and FEMA
- » FEMA Hazard Mitigation Plan Review Tool

Task H: Obtain FEMA approval and LHMP adoption by FEMA.

If comments are provided by Cal OES and/or FEMA, requiring plan revisions, the De Novo team will revise the LHMP prior to adoption by Laguna Hills. In the past, De Novo team members have successfully completed plans that did not require revisions or required only minor revisions by FEMA prior to adoption, which is our goal for Laguna Hills' LHMP. If revisions are necessary, we will work with FEMA to address them to ensure an "approvable pending adoption" (APA) determination.

Deliverables:

- » FEMA required revisions to LHMP, as necessary

Task I: Obtain City Council Adoption.

Once the LHMP has received an APA determination, the De Novo team will present the final LHMP to City Council for adoption. For FEMA to approve the LHMP, the City must formally adopt the LHMP within one calendar year of receipt of FEMA APA designation. After adoption, we will submit proof of adoption to FEMA for final adoption, via the City's resolution. One (1) final copy of the adopted LHMP will be transmitted to the City.

Deliverables:

- » Presentation preparation and attendance at one (1) City Council meeting
- » One (1) hardcopy Final LHMP (color Plan with non-color appendices on CD) and one (1) electronic pdf and Word files

Task J: Prepare all monthly status reports required by CALOES.

De Novo has experience with several grant funded projects. Monthly status reports will be included with invoices identifying the tasks accomplished, deliverables submitted, anticipated tasks/progress for the next month, and any pending issues. Any modifications/updates to the project schedule based on progress meetings and activities will also be provided. Monthly invoices will include total contract amount; all costs (by task) incurred for the period (actual and percentage); all costs (by task) incurred to date (actual and percentage); and estimated completion percentage for each task.

Deliverables:

- » Monthly Status Reports required by Cal OES

Task K: Project Closeout.

In this task, we will finalize all project activities and formally close the project. We will confirm all requirements have been met and that all deliverables have been delivered and accepted. We will send an email to City staff verifying project closeout.

Deliverables:

- » Email verifying project closeout.

CITY STAFF RESPONSIBILITIES

The scope of work proposed anticipates the following assistance from City staff:

- » Reservation of rooms/facilities for all project meetings and outreach activities on City properties/venues.
- » Organization of the HMPC (the De Novo team will assist in identification of potential members).
- » Review of documents and deliverables submitted as part of the process.
- » Distribution of materials for HMPC and public review.
- » Distribution of materials for Traffic Commission, Parks and Recreation Commission, and City Council review.

PROJECT CONTROLS

De Novo's project management approach is designed to facilitate clear communication among all key parties and to resolve any issues of concern in a timely manner. Our management structure, which includes a dedicated Project Manager (Ms. Starla Barker, AICP), will facilitate the integration of the various activities into one seamless process. While each task has its own set of deliverables and review cycles, the interdependency of all tasks must be recognized to develop a critical path that achieves an adoptable plan within the desired time frame. The Project Manager's role will be to coordinate the project directly with the City's Project Manager; facilitate HMPC meetings; present the project to the Traffic

Commission, Parks and Recreation Commission, and City Council; oversee the community outreach process; and be fully aware of day-to-day project events. The Project Manager will oversee the project team to ensure successful completion of each task, provide quality control/quality assurance, and ensure that the City's goals and expectations are being met. De Novo has a unique approach to ensure that each client's needs are met, and the City's project schedule would be a top-priority for our team. Our approach is designed to allow for regular interaction between City staff and the De Novo team, which allows for frequent information sharing among those involved in the project. During peak periods of activity, De Novo will regularly update the City via their preferred method of communication. This approach will assist in data exchange without loss of time or resources and will give City staff advance input on issues or questions that may arise. De Novo's scheduling systems allocate resources to meet all client due dates, regardless of their timing or the number of deadlines within a given period. Responsibility for planning and controlling a contract schedule lies with the Project Manager, who will use all of the following systems:

- » Weekly workload management meetings;
- » Long-range staffing projections;
- » Resource scheduling (Word processing, graphics, editing, production); and
- » Critical path method and time line scheduling for tasks and milestones.

QUALITY ASSURANCE/QUALITY CONTROL (QA/QC)

Coordinating closely with our clients, De Novo's management team consistently ensures that our deliverables address regulatory requirements and are completed in a timely and professional manner. Our internal QA/QC process includes the review of all documents by a Principal Planner and Technical Editor. This review begins with the verification of the technical adequacy of the analysis, confirms that the document addresses the format and content requirements of the client, technical information is accurate, and that all components of the project are correct. To best ensure the product's quality, senior staff not directly involved with the project then completes a subsequent review of the document.

In addition to internal checks, we will provide City staff with a review and comment on all deliverables prior to any release. This will help ensure there is no disconnect between our work and the needs of the City.

G. INTEGRATION PLAN

De Novo's approach to assisting the City of Laguna Hills – and to all professional consulting services we provide throughout California – is to work in close cooperation with the City as a seamless extension of your own staff. Our team brings extensive experience, but we of course are cognizant of our role and the need to prepare an LHMP that is in line with the overall goals and policies of the community.

The De Novo team's unique experiences and seasoned staff provide a spectrum of perspectives, from plan development to plan review – which ultimately benefits our clients with sound consulting. De Novo's hazard mitigation planning efforts produce streamlined plans that are compliant with FEMA requirements and guidance, as well as serve as a framework for successful integration with other City planning efforts that lead to implementation.

Honoring the obligation to meet Cal OES and FEMA Hazard Mitigation Plan requirements and guidelines, the De Novo team understands the continued maintenance and resource burdens required to develop an LHMP. The De Novo team includes members who are experienced in reviewing, analyzing, and extracting pre-existing data/information, as well as introducing new streamlined and integrated planning processes to match current resources to reduce staff burdens now and in the future.

De Novo believes that effective leadership and project management is instrumental for project success, as it provides a framework to guide all participants toward common goals, enhances cost effectiveness, and reduces the risk of project budget overruns. Throughout the course of developing the LHMP, our team, led by Project Manager, Starla Barker, AICP, will proactively work with the City of Laguna Hills Project Manager to ensure that tasks are completed on time and on budget with the maximized use of resources.

Ms. Barker specializes in the management and preparation of Hazard Mitigation Plans, CEQA/NEPA environmental compliance documents (Initial Studies, Negative Declarations, Environmental Impact Reports, and Environmental Assessments), as well as General Plans, Specific Plans, and Community Plans. Utilizing her vast background and understanding of the interrelatedness of comprehensive planning, hazard mitigation, and environmental compliance, Ms. Barker develops and integrates context sensitive mitigation strategies that contribute to and improve the resiliency and safety of communities throughout California.

H. COMPENSATION/PAYMENT SCHEDULE

TASK/ACTIVITY	Project Manager (Barker)		Senior Planner (Hickler)		Assistant Planner (Anderson)		GIS (Thorne)		De Novo Subtotal		Direct Costs	TOTALS
									TOTALS		Printing	
	Hours	\$125	Hours	\$115	Hours	\$85	Hours	\$75	Hours	Fee		
a) Gather and analyze necessary data.	2	\$250	6	\$690	8	\$680			16	\$1,620		\$1,620
b) Attend a kick-off meeting with staff and regularly scheduled working group meetings throughout the duration of the project.	18	\$2,250	10	\$1,150	10	\$850			38	\$4,250		\$4,250
c) Assist City with planning and executing community outreach both on-line, and in person focus groups.	10	\$1,250	10	\$1,150	22	\$1,870			42	\$4,270	\$200	\$4,470
d) Perform a detailed citywide Risk Assessment to include hazard identification and profiles, vulnerability assessment, and capabilities assessment.	12	\$1,500	16	\$1,840	52	\$4,420	20	\$1,500	100	\$9,260		\$9,260
e) Develop Mitigation Strategy.	12	\$1,500	12	\$1,380	40	\$3,400			64	\$6,280		\$6,280
f) Prepare Public Review Draft.	8	\$1,000	10	\$1,150	30	\$2,550			48	\$4,700	\$200	\$4,900
Present to the City Traffic Commission.	4	\$500		\$0	4	\$340			8	\$840		\$840
Present to the City Parks and Recreation Commission.	4	\$500		\$0	4	\$340			8	\$840		\$840
g) Prepare LHMP submittal for CalOES/FEMA review.	4	\$500	2	\$230	8	\$680			14	\$1,410		\$1,410
h) Obtain FEMA approval and LHMP adoption by FEMA.	4	\$500	6	\$690	10	\$850			20	\$2,040		\$2,040
i) Obtain City Council Adoption.	4	\$500		\$0	6	\$510			10	\$1,010	\$100	\$1,110
j) Prepare all monthly status reports required by CALOES.	4	\$500	4	\$460	8	\$680			16	\$1,640		\$1,640
k) Project Closeout	4	\$500	4	\$460	4	\$340			12	\$1,300		\$1,300
Subtotals	90	\$ 11,250	80	\$ 9,200	206	\$ 17,510	20	\$ 1,500	396	\$ 39,460	\$ 500	\$ 39,960
TOTAL FEE (NOT-TO-EXCEED BY TASK AND TOTAL BUDGET)												\$39,960

De Novo Planning Group reserves the right to reallocate budget between various team members and between tasks, provided the overall project budget does not change.

Direct Costs are billed at no markup.

SCHEDULE

	2021				2022								
TASK/ACTIVITY	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
Issuance of Notice to Proceed													
A: Gather and Analyze Data													
B: Kickoff Meeting and Working Group Meetings	Kick-off Meeting	HMPC Meeting #1	HMPC Meeting #2	HMPC Meeting #3	HMPC Meeting #4								
C: Community Outreach and Focus Groups		Survey	Focus Groups										
D: Citywide Risk Assessment													
E: Mitigation Strategy													
F: Prepare Public Review Draft													
City Traffic Commission Meeting													
City Parks and Recreation Meeting													
G: Prepare LHMP Submittal to Cal OES													
H: Obtain FEMA Approval Pending Adoption													
I: City Council Adoption													
J: Monthly Status Reports													
K: Project Closeout													

Note: Completion of the project will require approval by CalOES/FEMA. At this time there is no clear understanding or guarantee on the timeline of their review. Our proposed schedule anticipates delivery of the Final LHMP based on a conservative assumption of approximately four months for CalOES/FEMA plan review. However, this period can be shorter/longer depending on the plan review backlog at CalOES/FEMA Region IX at the time of LHMP submittal.

I. CERTIFICATE OF INSURANCE

APPENDIX 2

CONSULTANT'S ACKNOWLEDGEMENT OF COMPLIANCE WITH INSURANCE REQUIREMENTS FOR AGREEMENT FOR CONSULTANT SERVICES

Consultant agrees, acknowledges and is fully aware of the insurance requirements as specified in **Section 5. Insurance Requirements** of the sample Agreement for Professional Services (Appendix 5) and accepts all conditions and requirements as contained therein.

Consultant: Amanda Tropiano
Name (Please Print or Type)

 Principal
By: Consultant's Signature & Title

Date: 7/22/21

J. CERTIFICATION OF PROPOSAL

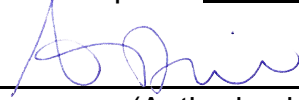
APPENDIX 3

CERTIFICATION OF PROPOSAL TO THE CITY OF LAGUNA HILLS

The undersigned hereby submits its proposal and agrees to be bound by the terms and conditions of this Request for Proposal (RFP) for development of a Hazard Mitigation Program. By signing the Certification of Proposal (Appendix 3) and submitting a proposal to the City in response to this Request for Proposals, the Proposer hereby represents and certifies that:

- 1) Proposer declares and warrants that no elected or appointed official, officer or employee of the City has been or shall be compensated, directly or indirectly, in connection with this proposal or any work connected with this proposal. Should any agreement be approved in connection with this Request for Proposal, Proposer declares and warrants that no elected or appointed official, officer or employee of the City, during the term of his/her service with the City shall have any direct interest in that agreement, or obtain any present, anticipated or future material benefit arising therefrom.
- 2) By submitting the response to this request, Proposer agrees, if selected to furnish services to the City in accordance with this RFP.
- 3) Proposer has carefully reviewed its proposal and understands and agrees that the City is not responsible for any errors or omissions on the part of the Proposer and that the Proposer is responsible for them.
- 4) It is understood and agreed that the City reserves the right to accept or reject any or all proposals and to waive any informality or irregularity in any proposal received by the City.
- 5) The proposal response includes all of the proposal response requirements listed in the Request for Proposal, dated June 29, 2021.
- 6) The proposal shall be valid for 120 days from July 29, 2021.

Name of Proposer: De Novo Planning Group

By: 
(Authorized Signature)

Type Name: Amanda Tropiano

Title: Principal

Date: 7/22/21

APPENDIX 1: NON-COLLUSION AFFIDAVIT

APPENDIX 1

NON-COLLUSION AFFIDAVIT

The undersigned declares, states and certifies that:

1. This Proposal is not made in the interest of, or on behalf of any undisclosed person, partnership, company, association, organization or corporation.
2. This Proposal is genuine and not collusive or sham.
3. I have not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and I have not directly or indirectly colluded, conspired, connived, or agreed with any other Proposer or anyone else to put in sham proposal or to refrain from submitting to this RFP.
4. I have not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price or to fix any overhead, profit or cost element of the proposal price or to secure any advantage against the City of Laguna Hills or of anyone interested in the proposed contract.
5. All statements contained in the Proposal and related documents are true.
6. I have not directly or indirectly submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay any fee to any person, corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
7. I have not entered into any arrangement or agreement with any City of Laguna Hills public officer in connection with this proposal.
8. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct.

Executed this 22 day of July, 2021, at Tustin California.



Signature of Authorized Representative

Amanda Tropiano

Name of Authorized Representative

Principal

Title of Authorized Representative

De Novo Planning Group



A Land Use Planning, Design, and Environmental Firm



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services

ISSUE: Agreement with Southern California Edison Company (SCE) for Conversion of Existing Street Lighting Fixtures to Light Emitting Diode (LED) Fixtures

RECOMMENDATION: That the City Council approve the "Schedule LS-1 Option E Energy Efficiency-Light Emitting Diode (LED) Fixture Replacement Rate Agreement" with SCE and authorize the Interim City Manager to execute the Agreement.

SUMMARY:

The Public Utilities Commission (PUC) has approved a rate structure (tariff) for customers of Southern California Edison (SCE) to convert the utility owned streetlight fixtures to energy efficient LED fixtures. Per the attached "Schedule LS-1 Option E Energy Efficiency-Light Emitting Diode (LED) Fixture Replacement Rate Agreement" (LED Agreement), the City can direct SCE to schedule the replacement of the approximate 800 streetlights in the City SCE service territory with the new LED fixtures and save approximately 17% of our annual energy consumption costs paid to SCE. The tariff structure incorporates paying SCE for the cost of this streetlight conversion over a 20-year period. SCE estimates that, per their current workload, the streetlight conversion would occur in late 2022. It is recommended the City Council authorize the Interim City Manager to execute the LED Agreement.

BACKGROUND:

The City has been actively engaged in energy conservation projects for many years. This work effort has tracked along with advancements in technology and the improvement in

Agreement with SCE for LED Streetlight Conversion

August 24, 2021

Page 2

cost efficiency of the materials for this work. For instance, approximately ten years ago, the City implemented the initial replacement of all red bulb traffic signal indications to LED based indications when the costs for these materials became reasonable. Red colored LEDs were the first to be widely developed and available for commercial uses. This was followed by, a few years later, the replacement of all green bulb traffic signal indications to LED based indications when that product became cost effective. About five years ago, the City replaced all indicators (including yellow bulbs and pedestrian signals heads) at traffic signals with LED based indications. About three years ago, the City replaced all traffic signal safety lights (streetlights at traffic signal locations) with LED based safety lights along with the replacement of all park walkway and area lights to LED based lights. At the same time, all lights within the Civic Center and the Community Center were replaced with LED based lights. Most recently, approximately one year ago, the HVAC replacements at the Community Center were completed with the latest energy efficient HVAC equipment.

An additional opportunity exists to reduce energy consumption and City costs through the Public Utilities Commission approved rate structure (tariff) for customers of SCE to convert the utility owned streetlight fixtures to energy efficient LED fixtures. Per the attached "Schedule LS-1 Option E Energy Efficiency-Light Emitting Diode (LED) Fixture Replacement Rate Agreement" (LED Agreement), the City can direct SCE to schedule the replacement of the approximate 800 "High-pressure Sodium" streetlights in our service territory with the new LED fixtures. The tariff structure incorporates paying SCE for the cost of this streetlight conversion. SCE estimates the following cost savings for the City, on an annual basis, during the 20-year term of the LED Agreement.

Lamp Wattage	Lamp Count	Estimated High Pressure Sodium Vapor (HPSV) Annual Costs	Estimated Light Emitting Diode (LED) Annual Costs	Estimated Annual Savings
50 Watt	1	\$146	\$139	\$7
70 Watt	373	\$60,829	\$54,428	\$6,401
100 Watt	329	\$61,115	\$49,626	\$11,489
150 Watt	37	\$8,933	\$6,731	\$2,202
200 Watt	60	\$16,848	\$11,758	\$5,090
Total	800	\$147,871	\$122,682	\$25,189

Upon completion of the LED Agreement, the City's annual savings will increase as described in the Fiscal Impact section below. SCE estimates that, per their current

Agreement with SCE for LED Streetlight Conversion

August 24, 2021

Page 3

workload, the streetlight conversion would occur in late 2022.

LED streetlights come in a variety of “light temperatures” which equates to how the eye perceives the light output. LED lights tend to be very white with a blueish tint. The public, however, is used to having streetlights cast a slight yellow tint, often described as a warm color light. SCE offers two light temperature outputs defined in the units Kelvin for the new LED streetlights. As shown on the attached Color Temperature Specification, a graphic of light output colors, SCE provides lights in the 3000 to 4000 Kelvin band. Many cities have opted to have installed 3000 Kelvin LED lights on residential streets, equating to a warmer light output, and 4000 Kelvin LED lights on arterial streets, equating to a whiter and more color correct light output. It is recommended the City Council approve the 3000 Kelvin LED lights for our residential streets and 4000 Kelvin LED lights for our arterial highways.

Staff has also inquired with San Diego Gas & Electric Company about a similar program for streetlight conversions to LED based streetlights. SDGE reports they do not yet have such a program and will likely soon apply to the PUC for such approval. At that time, the City will evaluate that program and advise the City Council.

FISCAL IMPACT:

SCE estimates the subject LED streetlight conversion will allow the City to benefit with an annual energy savings of \$25,189, a savings of approximately 17% over current annual energy costs paid to SCE. After the 20 year amortization schedule of costs is completed, the annual energy savings is expected to grow to \$40,081 in current dollars.

ATTACHMENTS:

- Southern California Edison LS-1 Option E Color Temperature Specification
- Proposed Schedule LS-1 Option E LED Fixture Replacement Rate Agreement with SCE

Southern California Edison

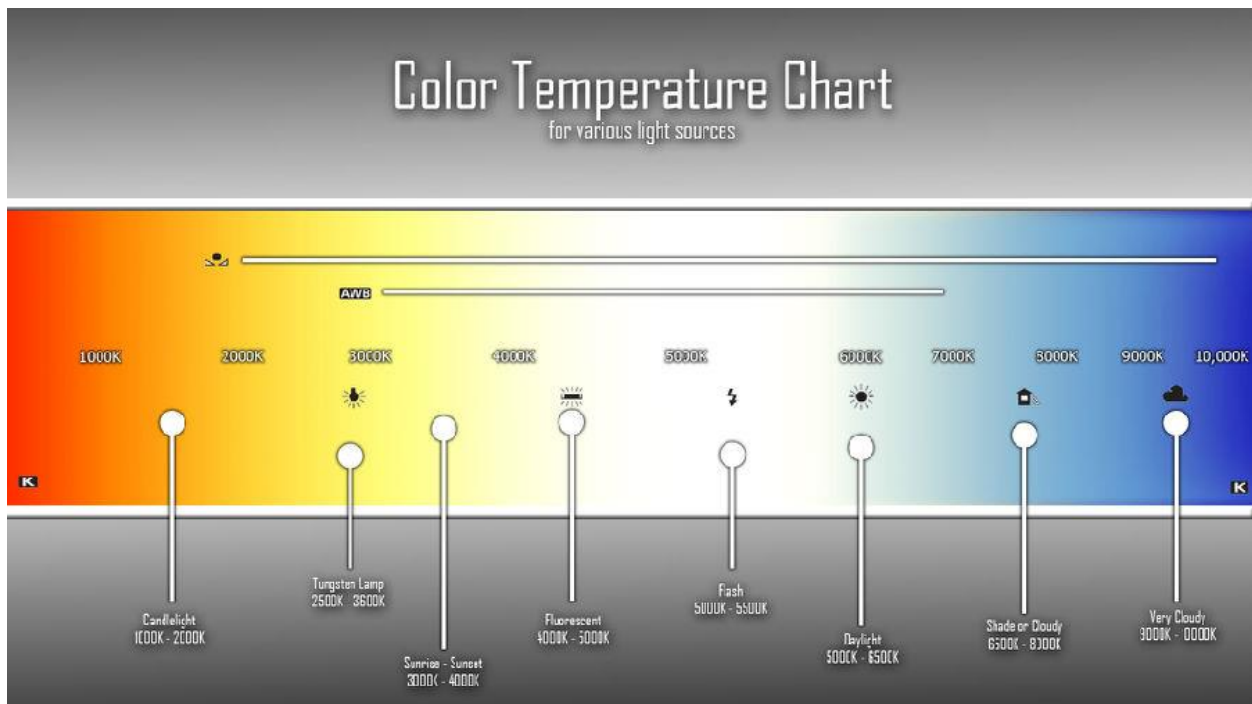
LS-1 Option E

Color Temperature Specification

At present, Southern California Edison is using current generation General Electric (GE) Evolve LED street light fixtures for LED replacements under the LS-1 Option E program. GE LED fixtures allow for a choice between color temperatures of either 4000 Kelvin degrees (4000k) or 3000 Kelvin degrees (3000k) at the customer's discretion. Please check the box below and sign to signify your preference for either 3000k or 4000k color temperature lights. Thank you.

3000k color temperature lights are considered "warm white" and will have more yellow and amber tones that are consistent with today's existing High Pressure Sodium street lights.

4000k color temperature lights are between warm and cool on the spectrum and will provide a "whiter" appearing light without crossing into the bluer spectrum.



Please check your choice of 3000k or 4000k

_____ 3000K

_____ 4000k

Local Government or Customer: _____

Printed Name of Authorized Signer: _____

Signature: _____ Date: _____

Southern California Edison
Rosemead, California (U 338-E)

Original
Cancelling

Cal. PUC Sheet No. 57074-E
Cal. PUC Sheet No.

Sheet 1

SCHEDULE LS-1 OPTION E,
ENERGY EFFICIENCY-LIGHT EMITTING DIODE (LED) FIXTURE REPLACEMENT
RATE AGREEMENT

Form 14-965

(To be inserted by utility)

Advice 3241-E
Decision 14-10-046

Issued by

R.O. Nichols
Senior Vice President

(To be inserted by Cal. PUC)

Date Filed Jun 30, 2015
Effective Jun 1, 2016
Resolution _____

**SOUTHERN CALIFORNIA EDISON COMPANY
SCHEDULE LS-1 OPTION E, ENERGY EFFICIENCY-LIGHT EMITTING DIODE (LED)
FIXTURE REPLACEMENT RATE AGREEMENT**

This Schedule LS-1 Option E, Energy Efficiency-Light Emitting Diode (LED) Fixture Replacement Rate Agreement (Agreement), effective this _____ day of _____, 2021 (Effective Date), is entered into between Southern California Edison Company (SCE) and the City of Laguna Hills, an SCE customer taking service on Schedule LS-1 (Applicant), referred to collectively as "Parties," and individually as "Party." This Agreement provides for SCE, at Applicant's request, to replace the existing street lighting fixtures serving Applicant's premises with Light Emitting Diode (LED) street lighting fixtures to achieve energy efficiency benefits for Applicant, as set forth in Special Condition 14, Option E, Energy Efficiency-Light Emitting Diode (LED) Fixture Replacement, of Schedule LS-1.

The Parties agree as follows:

1. LED FIXTURES

SCE shall install, own, operate, and maintain LED Fixtures for Applicant as set forth in Exhibit "A" attached hereto and incorporated herein by this reference. The LED Fixtures provided hereunder shall at all times remain the property of SCE.

2. LED FIXTURE REPLACEMENT COSTS

- 2.1 The replacement costs of the LED Fixtures provided hereunder shall be borne by Applicant.
- 2.2 Applicant shall pay the charge for the LED Fixtures Replacement rate, which includes an Energy Efficiency Premium Charge (EEPC) and a Base LED Charge, under Option E of Schedule LS-1. Applicant elects Option E in lieu of an upfront, one-time payment of the replacement costs.
- 2.3 SCE does not guarantee that any energy or bill savings will accrue to Applicant as a result of the LED Fixture replacements.

3. COMMENCEMENT OF SERVICE

The Parties agree that SCE has the right to charge Applicant, and Applicant has an obligation to pay SCE, for the charges set forth in Schedule LS-1, Option E, commencing on the date SCE begins serving the LED Fixtures installed pursuant to this Agreement.

4. TERM AND TERMINATION

- 4.1 This Agreement shall be effective as of the Effective Date and shall continue for a term of twenty (20) years from the commencement of service as specified in Section 3 above (Term).
- 4.2 Applicant may terminate this Agreement at any time during the Term upon a thirty (30) - day advance written notice, provided that Applicant, prior to or within the 30-day advance notice period, assigns the Agreement to any New Party In (NPI) that owns, rents or leases the premises served by the street lighting fixtures replaced under this Agreement and will take service under Option E of Schedule LS-1 effective as of the date of termination; *otherwise*, Applicant shall pay a one-time termination charge equal to the present value of the balance of the EEPC of Option E over the remaining Term. The present value is determined based on SCE's authorized rate of return on rate base, or discounted rate of 7.90%.

**SOUTHERN CALIFORNIA EDISON COMPANY
SCHEDULE LS-1 OPTION E, ENERGY EFFICIENCY-LIGHT EMITTING DIODE (LED)
FIXTURE REPLACEMENT RATE AGREEMENT**

5. AMENDMENTS; ASSIGNMENTS

- 5.1 Any changes or amendments to this Agreement must be in writing and must be executed by the Applicant and SCE and, if required, be approved by the California Public Utilities Commission (Commission).
- 5.2 Applicant shall not assign this Agreement without the prior written consent of SCE; provided, however, that Applicant may assign the Agreement pursuant to the terms and conditions of Section 4.2 above, and the NPI must assume all rights and obligations under this Agreement for the remaining Term. Any assignment and assumption shall be in a form acceptable to SCE.

6. NOTICE

Any notice either Applicant or SCE may wish to provide the other regarding this Agreement must be in writing. Such notice must be either hand-delivered or sent by U.S. certified or registered mail, postage prepaid, to the person designated to receive notice for the other Party below, or to such other address as either may designate by written notice. Notices delivered by hand shall be deemed effective when delivered. Notices delivered by mail shall be deemed effective when received, as acknowledged by the receipt of the certified or registered mailing.

Applicant:

City of Laguna Hills

(Name)
C/O City Manager

(Title)
24035 El Toro Road

(Address)
Laguna Hills, CA 92653

(City, State, Zip)

SCE:

Business Customer Division

Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770

7. NONWAIVER

The failure of either Party to enforce any of the terms and conditions or to exercise any right or privilege in this Agreement shall not be construed as a waiver of any such term and conditions or rights or privileges, and the same shall continue and remain enforce and effect as if no such failure to enforce or exercise had occurred.

8. SEVERABILITY

In the event that any of the provisions, or portions thereof, of this Agreement are held to be unenforceable or invalid by the Commission, or any court of competent jurisdiction, the validity and enforceability of the remaining provisions or any portion thereof shall not be affected.

9. APPLICABLE LAWS, RULES, AND REGULATIONS

This Agreement shall be subject to, and interpreted under the laws, rules, decisions and regulations of the State of California, without regard to its conflict of laws principles, the Commission, and SCE's Commission-approved tariffs.

**SOUTHERN CALIFORNIA EDISON COMPANY
SCHEDULE LS-1 OPTION E, ENERGY EFFICIENCY-LIGHT EMITTING DIODE (LED)
FIXTURE REPLACEMENT RATE AGREEMENT**

10. CALIFORNIA PUBLIC UTILITIES COMMISSION JURISDICTION

- 10.1 This is a filed form tariff agreement authorized by the Commission for use by SCE. No officer, inspector, solicitor, agent or employee of SCE has any authority to waive, alter, or amend any part of this Agreement except as provided herein or authorized by the Commission. This Agreement is to be used in conjunction with Schedule LS-1 and supplements the terms and conditions of the Applicant's electric service under Schedule LS-1.
- 10.2 This Agreement shall at all times be subject to such changes or modifications by the Commission as said Commission may, from time to time, direct in the exercise of its jurisdiction.
- 10.3 Notwithstanding any other provisions of this Agreement, SCE has the right to unilaterally file with the Commission, pursuant to the Commission's rules and regulations, an application for change in rates, charges, classification, service, or rule or any agreement relating thereto.

11. ENTIRE AGREEMENT

This Agreement, including SCE's Commission-approved tariffs, constitutes the complete agreement and understanding between the Applicant and SCE regarding the LED Fixtures replacement costs. Prior agreements, representations, understandings, whether expressed or implied, and communications, oral or written, between the Applicant and SCE shall not be construed to be a part of this Agreement.

12. AUTHORIZATION SIGNATURE

In witness whereof, the Parties hereto have caused this Agreement to be signed by their duly authorized representatives.

APPLICANT

BY: _____

NAME: Kenneth H. Rosenfield

TITLE: Interim City Manager

DATE SIGNED: August 24, 2021

SOUTHERN CALIFORNIA EDISON COMPANY

BY: _____

NAME: _____

TITLE: _____

DATE SIGNED: _____

SOUTHERN CALIFORNIA EDISON COMPANY
EXHIBIT "A"
SCHEDULE LS-1 OPTION E,
ENERGY EFFICIENCY-LIGHT EMITTING DIODE (LED) FIXTURE REPLACEMENT

APPLICANT

City of Laguna Hills

CUSTOMER ACCOUNT NO.

1005615011

SERVICE ACCOUNT NO.

8001718305, 8002795672

(Additional account numbers/addresses may be attached hereto.)

SERVICE ADDRESS

24035 El Toro Road, Laguna Hills, CA

APPLICANT REQUESTED READY TO SERVE DATE

ASAP

SCE READY TO SERVE DATE _____

DESCRIPTION OF **LED** FIXTURES/SCOPE OF WORK: SPECIFY HOW MANY STREET LIGHTING
 FIXTURE REPLACEMENTS ARE BEING REQUESTED AND AGREED TO UNDER THIS
 AGREEMENT AND OTHER RELEVANT DETAILS.

W.O. No(s): _____



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services

ISSUE: Award of a Public Works Construction Contract for the 2021-2022 Fiscal Year Citywide Pavement Rehabilitation Project, CIP No. 101-L, & Ridge Route Drive Pavement Resurfacing, CIP No. 188, to Petrochem Materials Innovation, LLC, in the Total Amount (Base Bid Plus Alternate Bid No. 1) of \$2,686,489.00

RECOMMENDATION: That the City Council: 1) Find that the Project is categorically exempt from the California Environmental Quality Act (CEQA), as a Class 1 Existing Facilities, pursuant to CEQA Guidelines, Section 15301; 2) Award the Public Works Construction Contract to the lowest responsive, responsible bidder, Petrochem Materials Innovation, LLC, of Carlsbad, California, in the base bid amount of \$2,470,937.00, plus the Alternate Bid No. 1 in the amount of \$215,552.00, for a grand total amount of \$2,686,489.00 and reject all other bids; and 3) Authorize the Mayor to execute the proposed Public Works Construction Contract.

SUMMARY:

On June, 23, 2021, the City Council approved a Two-Year Capital Improvement Program (CIP), which included the Fiscal Year (FY) 2021-2022 Annual Citywide Pavement Rehabilitation Project and the Ridge Route Drive Pavement Rehabilitation Project (collectively the "Project"). The Project includes the Base Bid and one Alternate Bid, Mill Creek Drive Pavement Resurfacing. Pursuant to the Plans and Specifications, the lowest responsive, responsible bidder will be determined by the Sum of the Base Bid only. The scope of work for this Project consists of excavation/grinding, asphalt concrete repairs, cold planning, crack sealing, Type II Central Mix Rubberized Emulsion Aggregate Slurry

Award of CIP No. 101-L and CIP No. 188

August 24, 2021

Page 2

Seal, asphalt concrete overlay and other related work on various streets depicted and listed on the attached Plans and Specifications.

In accordance with City Council authorization, Bids for the subject project were opened on August 12, 2021, at which time four bids were received. The apparent low bidder, Petrochem Materials Innovation, LLC, provided the lowest responsive and responsible total Base Bid in the amount of \$2,470,937.00, provided satisfactory references, is licensed for the contemplated work, and is registered with the State Department of Industrial Relations. The project budget is adequate to fully fund the project, including Alternate Bid No. 1, the asphalt concrete overlay of Mill Creek Drive, for an additional \$215,552.00. Therefore, award of the contract, attached, to Petrochem Materials Innovation, LLC, for the total Base Bid of \$2,470,937.00 plus Alternate Bid No. 1 in the amount of \$215,552.00, for a total Contract amount of \$2,686,489.00 is recommended.

BACKGROUND:

In accordance with previous City Council authorization to seek bids, along with the approval of the Plans and Specifications, four bids for the Citywide Pavement Rehabilitation Project, CIP No. 101-L & Ridge Route Drive Pavement Resurfacing, CIP No. 188, were opened on August 12, 2021, as follows:

Bidder	Base Bid	Alt Bid
Petrochem Materials Innovation, LLC	\$2,470,937.00	\$215,552.00
All American Asphalt	\$2,567,357.00	\$174,650.00
Hardy & Harper, Inc.	\$2,751,009.00	\$160,445.00
RJ Noble Company	\$2,887,451.00	\$222,225.00

Formal bidding procedures have been followed in conformance with the State of California Public Contract Code and the City of Laguna Hills Municipal Code. The Engineer's Estimate for this project was \$2,800,000.00. The apparent low bidder, Petrochem Materials Innovation, LLC, provided the lowest responsive and responsible total Base Bid, provided satisfactory references, is licensed to perform the contemplated work and is registered with the State Department of Industrial Relations. The determination of the lowest bid is solely on the basis of the comparison of the Base Bid.

The work includes excavation/grinding, asphalt concrete repairs, cold planning, crack sealing, Type II Central Mix Rubberized Emulsion Aggregate Slurry Seal, asphalt concrete overlay and other related work on various streets within Zones B, C and F, as shown on the Plans and Specifications, attached. It is anticipated construction work will begin in

Award of CIP No. 101-L and CIP No. 188

August 24, 2021

Page 3

September 2021, for a period of three months. The Bid documents provided for an Alternate Bid No. 1 for the asphalt concrete resurfacing of Mill Creek Drive, pending sufficient funds. Based upon these bid results, the Base Bid and Alternate Bid No. 1 can be awarded.

Award of the Public Works Construction Contract, attached, for the Fiscal Year 2021-2022 Annual Citywide Pavement Rehabilitation Project and the Ridge Route Drive Pavement Rehabilitation Project, CIP No. 101-L and CIP No. 188, respectively, to Petrochem Materials Innovation, LLC, for the total Base Bid of \$2,470,937.00 plus Alternate Bid No. 1 of \$215,552.00, in the grand total amount of \$2,686,489.00 is recommended.

CEQA FINDINGS:

This project is categorically exempt from CEQA pursuant to Section 15301 (c) of Title 14, Chapter 3 of the California Code of Regulations (Class 1, Existing Facilities exemption).

FISCAL IMPACT:

The 2021-2022 Fiscal Year Capital Improvement Program Budget for this project, CIP No. 101-L and CIP 188, is \$2,900,000. The Construction Cost for this Project, consisting of the Base Bid and Alternate Bid No.1, is \$2,686,489.00. In addition, the costs of supportive consulting inspection services are projected to be \$70,000.00 for material testing to be \$10,000.00. The full cost of CIP No. 101-L and CIP No. 188 is then estimated to be approximately \$2,766,489.00, without contingencies, and is within the allocated Budget.

ATTACHMENTS:

- Petrochem Materials and Innovation, LLC, Contract and Bond Forms
- Plans and Specifications CIP No. 101-L and CIP No. 188

CITY OF LAGUNA HILLS
CONTRACT AGREEMENT
 FOR
 CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L
 &
 RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

THIS CONTRACT AGREEMENT (hereinafter "Agreement" or "Contract" or "Contract Agreement") is made and entered into for the above stated Project this 24th day of August, 2021, BY AND BETWEEN THE **CITY OF LAGUNA HILLS**, as CITY, and PETROCHEM MATERIALS INNOVATION, LLC, as CONTRACTOR.

WITNESSETH that CITY and CONTRACTOR have mutually agreed as follows:

ARTICLE I

The contract documents for the aforesaid Project shall consist of the Notice Inviting Sealed Bids, Instructions to Bidders, Proposal Documents, Contract Documents, General Specifications, Standard Specifications, Special Provisions, Plans, and all referenced specifications, details, standard drawings, and all appendices attached hereto, together with this Contract Agreement and all required bonds, insurance coverage, permits, notices, and affidavits; and also including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to ensure its completion in an acceptable manner (hereinafter collectively the "Contract Documents"). All of the provisions of said Contract Documents are attached hereto and are incorporated by reference herein and made a part of this Contract Agreement as though fully set forth herein.

ARTICLE II

For and in consideration of the payments and agreements to be made and performed by CITY, CONTRACTOR agrees to furnish all materials and perform all work required for the above stated project, and to fulfill all other obligations as set forth in the aforesaid Contract Documents.

ARTICLE III

CONTRACTOR agrees to receive and accept the prices set forth in the Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid Contract Documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.

ARTICLE IV

CITY hereby promises and agrees to employ, and does hereby employ, CONTRACTOR to provide the materials, do the work, and fulfill the obligations according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner, and upon the conditions set forth in the Contract Documents.

ARTICLE V

CONTRACTOR acknowledges the provisions of the Labor Code requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of that code, and certifies compliance with such provisions.

ARTICLE VI

CONTRACTOR affirms that the signatures, titles, and seals set forth hereinafter in execution of this Agreement represent all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest herein.

ARTICLE VII

CONTRACTOR hereby represents and warrants that it will comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. Section 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should CONTRACTOR so employ such unauthorized aliens for the performance of any work and/or services under this Agreement, and should any liability or sanctions be imposed against CITY for such use of unauthorized aliens, CONTRACTOR hereby agrees to reimburse CITY for any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, or penalties which arise out of or are related to such employment, together with any and all costs, including attorneys' fees, incurred by CITY.

ARTICLE VIII

To the fullest extent permitted by law, CONTRACTOR shall defend (at CONTRACTOR's sole cost and expense), indemnify, protect, and hold harmless CITY, its elected and appointed officials, officers, employees, agents, and volunteers (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (CONTRACTOR's employees included), or for damage to property, including property owned by CITY, which Claims arise out of, pertain to, or are related to CONTRACTOR's performance under the Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit CONTRACTOR's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless, and indemnify the CITY, its elected and appointed officials, officers, employees, agents, and volunteers, shall not apply to such claims or liabilities arising from the sole or active negligence or willful misconduct of CITY.

ARTICLE IX

CONTRACTOR shall be familiar with, observe, and comply at all times during the term of this Agreement with any work rules for contractors as may be established and promulgated by the City Manager, which work rules shall be additional terms and conditions for providing the work and services to the CITY pursuant to this Agreement, as may be updated and/or amended from time to time at the sole discretion of the City Manager.

[SIGNATURES ON NEXT PAGE]

CONTRACT AGREEMENT

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first written.

CITY:

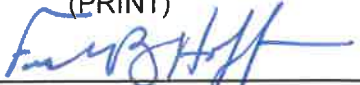
CONTRACTOR:

ERICA PEZOLD, MAYOR
CITY OF LAGUNA HILLS

PETROCHEM MATERIALS INNOVATION, LLC
(CORPORATION (NAME & TYPE))

BY: FRANK B. HOFFMAN
(PRINT)

ATTEST:


(SIGNATURE)

MELISSA AU-YEUNG, CITY CLERK
CITY OF LAGUNA HILLS

CFO
(TITLE)

BY: _____
(PRINT)

GREGORY E. SIMONIAN, CITY ATTORNEY
CITY OF LAGUNA HILLS

(SIGNATURE)

(TITLE)

NOTE: SIGNATURES OF CORPORATE OFFICIALS MUST BE NOTARIZED, ATTACH JURAT.

Attachment: Petrochem Materials and Innovation, LLC, Contract and Bond Forms (2551 : Award of CIP No. 101-L and CIP No. 188)

Bond Amount \$ 2,686,489.00

Bond Number 024253796

Premium: \$26,865.00

(PAGE 1 OF 2)

FAITHFUL PERFORMANCE BOND**KNOW ALL PERSONS BY THESE PRESENTS:**

THAT WHEREAS, on August 24, 2021, the City of Laguna Hills, California ("City") awarded a public works contract (the "Contract"), delineated as Contract No. CIP No. 101-L and CIP No. 188, for the CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188, as specified in the Contract, to, Petrochem Materials Innovation, LLC, a Limited Liability Corporation, hereby designated as the "Principal", which Contract is attached hereto, and which Contract and all documents incorporated therein by reference are expressly incorporated into this bond by reference.

AND WHEREAS, the Principal is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the Principal, and Liberty Mutual Insurance Company (the
(NAME OF SURETY)

"Surety"), an admitted surety insurer in the State of California, are held firmly bound unto the City of Laguna Hills in the sum of Two Million, Six Hundred Eighty Six Thousand, Four Hundred Eighty Nine Dollars and 00/100 DOLLARS (\$2,686,489.00), lawful money of the United States of America, for the payment of which sum, well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

1. If the Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly do and perform all of the covenants and obligations of the Contract, including the provisions for liquidated damages in said Contract, and including any and all amendments, supplements, and alterations made to the Contract as provided therein, on the Principal's part to be done and performed at the times and in the manner specified in the Contract, and shall indemnify and save harmless the City, its officers and agents as specified in the Contract, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect;
2. In the event the Principal fails to fully perform all requirements in accordance with the terms and conditions of the Contract, then the Surety shall enforce performance by the Principal or shall pay the City for the same in an amount not exceeding the amount specified in this bond.

Bond Amount \$ 2,686,489.00

Bond Number 024253796

FAITHFUL PERFORMANCE BOND
(PAGE 2 OF 2)

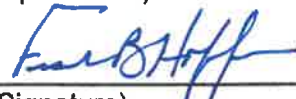
3. In the event suit is brought upon this bond by the City and judgment is recovered, as part of the obligation secured hereby and in addition to the face amount specified in this bond, the Surety shall pay all costs incurred by the City in such suit, including reasonable attorneys' fees to be fixed by the court.

4. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alterations, additions, omissions or other modifications to the terms of the Contract, or in the work to be performed or the material to be furnished under the Contract, or in the specifications or plans, whether or not made pursuant to the terms of the Contract, shall in any manner release either the Principal or Surety or affect the Surety's obligations on this bond, and it does hereby waive notice of any such changes, extensions, alterations, additions, omissions or other modifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on the 16th day of August, 2021.

PRINCIPAL

Petrochem Materials Innovation, LLC
 (Principal Name) (Seal)

By: 
 (Signature)

Frank B. Hoffman CFO
 (Print Name and Title)

By: _____
 (Signature)

 (Print Name and Title)

Principal Address and Telephone:

6168 Innovation Way
 Carlsbad, CA 92009
 (760) 603-0961

Affix Corporate Seals**Attach Notary Acknowledgments for All Signatures****Attach Power-of-Attorney if Executed by Attorney-in-Fact****SURETY**

Liberty Mutual Insurance Company
 (Surety Name) (Seal)

By: _____
 (Signature)

 (Print Name and Title)

By: 
 (Signature)

Tara Bacon, Attorney-in-fact
 (Print Name and Title)

Surety Address and Telephone

790 The City Drive South Suite 200
 Orange, CA 92868
 (657) 274 2398

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego

On August 16, 2021 before me, Minna Huovila, Notary Public
(insert name and title of the officer)

personally appeared Tara Bacon,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San DiegoOn August 17, 2021 before me, Vicki Nguyen, Notary Public
Date Here Insert Name and Title of the Officerpersonally appeared Frank B. Hoffman
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Vicki Nguyen
Signature of Notary Public**OPTIONAL**

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer is Representing: _____



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8204402-024019**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Dale G. Harshaw; Geoffrey Shelton; Janice Martin; John R. Qualin; Lawrence F. McMahon; Minna Huovila; Sarah Myers; Tara Bacon

all of the city of San Diego state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 22nd day of October, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 22nd day of October, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 16th day of August, 2021.



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Bond Amount \$ 2,686,489.00
 Bond Number 024253796

(PAGE 1 OF 2)

PAYMENT (LABOR AND MATERIAL) BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, on August 24, 2021, the City of Laguna Hills, California "City") awarded a public works contract (the "Contract"), delineated as Contract No.CIP NO. 101-L & CIP NO. 188, for the CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188, as specified in the Contract, to, Petrochem Materials Innovation, LLC, a Limited Liability Corporation, hereby designated as the "Principal", which Contract is attached hereto, and which Contract and all documents incorporated therein by reference are expressly incorporated into this bond by reference.

AND WHEREAS, the Principal is required under the terms of the Contract to give this bond in connection with the execution of the Contract.

NOW, THEREFORE, we, the Principal, and Liberty Mutual Insurance Company (the "Surety"), an admitted surety insurer in the State of California, are held firmly bound unto the City of Laguna Hills in the sum of Two Million, Six Hundred Eighty Six Thousand, Four Hundred Eighty Nine Dollars and 00/100 DOLLARS (\$2,686,489.00), lawful money of the United States of America, for the payment of which sum, well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

1. If the Principal, or its subcontractors, or their respective heirs, executors, administrators, successors or assigns, shall fail to pay (a) any of the persons named in Section 9100 of the California Civil Code, (b) any amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Contract, or (c) any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and its subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to such work or labor, then the Surety shall pay for the same, in an aggregate amount not exceeding the sum specified in this bond. In case suit is brought upon this bond, the Surety will pay reasonable attorney's fees to be fixed by the court.

Bond Amount \$ 2,686,489.00
 Bond Number 024253796

PAYMENT (LABOR AND MATERIAL) BOND
 (PAGE 2 OF 2)

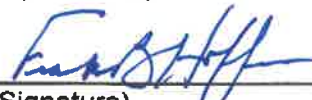
2. This bond shall inure to the benefit of any of the persons named in Section 9100 of the California Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

3. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alterations, additions, omissions or other modifications to the terms of the Contract, or in the work to be performed or the material to be furnished under the Contract, or in the specifications or plans, whether or not made pursuant to the terms of the Contract, shall in any manner release either the Principal or Surety or affect the Surety's obligations on this bond, and it does hereby waive notice of any such changes, extensions, alterations, additions, omissions or other modifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on the 16th day of August, 2021.

PRINCIPAL

Petrochem Materials Innovation, LLC
 (Principal Name) (Seal)

By: 
 (Signature)
Frank B. Hoffman CFO
 (Print Name and Title)

By: _____
 (Signature)

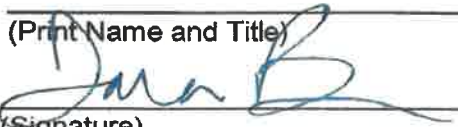
 (Print Name and Title)

SURETY

Liberty Mutual Insurance Company
 (Surety Name) (Seal)

By: _____
 (Signature)

 (Print Name and Title)

By: 
 (Signature)
Tara Bacon, Attorney-in-fact
 (Print Name and Title)

Principal Address and Telephone:

6168 Innovation Way
 Carlsbad, CA 92009
 (760) 603-0961

Surety Address and Telephone

790 The City Drive South Suite 200
 Orange, CA 92868
 (657) 274 2398

Affix Corporate Seals

Attach Notary Acknowledgments for All Signatures

Attach Power-of-Attorney if Executed by Attorney-in-Fact

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of San Diego

On August 16, 2021 before me, Minna Huovila, Notary Public
(insert name and title of the officer)

personally appeared Tara Bacon
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



CALIFORNIA ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San DiegoOn August 17, 2021 before me, Vicki Nguyen, Notary Public
Date Here Insert Name and Title of the Officerpersonally appeared Frank B. Hoffman
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature VN
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached DocumentTitle or Type of Document: Payment (Labor and Material) Bond

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer is Representing: _____

Signer's Name: _____

☐ Corporate Officer – Title(s): _____☐ Partner – ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: _____

Signer is Representing: _____



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8204402-024019**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Dale G. Harshaw, Geoffrey Shelton; Janice Martin; John R. Qualin; Lawrence F. McMahon; Minna Huovila; Sarah Myers; Tara Bacon

all of the city of San Diego state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 22nd day of October, 2020.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 22nd day of October, 2020 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 16th day of August, 2021.



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

COMPENSATION INSURANCE CERTIFICATE

Pursuant to Section 1861 of the State Labor Code, each contractor to whom a public works contract has been awarded shall sign the following certificate and shall submit same to the City prior to performing any work on the contract:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of work of this contract."

PETROCHEM MATERIALS INNOVATION, LLC

Contractor

By Frank B. Hoffman

(PRINT)

Frank B. Hoffman

(SIGNATURE)

C.F.O.

Title

8-16-21

Date

Section 3700 of the Labor Code reads as follows:

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

"(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employee."

COMPENSATION INSURANCE CERTIFICATETO BE SUBMITTED WITH CONTRACT



**CITY OF LAGUNA HILLS
CALIFORNIA**

**PUBLIC WORKS PLANS
AND SPECIFICATIONS FOR**

**CITYWIDE PAVEMENT REHABILITATION
CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING
CIP NO. 188**

BID SET JULY 13, 2021

PREPARED BY

**CITY OF LAGUNA HILLS
24035 EL TORO ROAD
LAGUNA HILLS, CA 92653**

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

CITY OF LAGUNA HILLS
SPECIFICATIONS FOR
CITYWIDE PAVEMENT REHABILITATION
CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING
CIP NO. 188

Prepared Under the Supervision of and approved by:



Kenneth H. Rosenfield, City Engineer
R.C.E. No. 33496
Expiration Date 6/30/22

7/13/21

Date

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

CITY OF LAGUNA HILLS

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**CITY OF LAGUNA HILLS
NOTICE INVITING BIDS FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L &
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188**

NOTICE IS HEREBY GIVEN that sealed bids for the **Citywide Pavement Rehabilitation, CIP No. 101-L & Ridge Route Drive Pavement Resurfacing , CIP No. 188** ("Project") in the City of Laguna Hills will be received by the Office of the City Engineer, located at 24035 El Toro Road, Laguna Hills, CA 92653, on **August 12, 2021, until 11:00 a.m.**, at which time and place the bids will be publicly opened and read aloud. Bids shall be submitted in sealed envelopes marked on the outside, **"SEALED BID FOR CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188 – DO NOT OPEN WITH REGULAR MAIL."**

NOTICE IS HEREBY GIVEN that sealed bids will be received by the City of Laguna Hills, as Agency, for furnishing all materials, equipment, tools, labor, and incidentals as required for the above stated project in strict accordance with the specifications and drawings on file in the City Clerk's Department of the City of Laguna Hills.

DESCRIPTION OF THE WORK: The work to be constructed hereunder is located in numerous locations throughout the City of Laguna Hills. The work generally consists of unclassified excavation/grinding, asphalt concrete pavement repairs, cold planing, crack sealing, asphalt concrete overlay, Type II Central Plant Mixed Rubberized Emulsion-Aggregate Slurry, raising manholes and water valves to grade, striping and related work. The Total Base Bid consists of the sum of two Base Bids and there is one Alternate Bid. Award of Contract shall be based upon the Total Base Bid.

AWARD OF CONTRACT: The City reserves the right after opening bids to reject any or all bids, to waive any informality (non-responsiveness) in a bid, or to make award to the lowest responsive, responsible bidder **on the Bid Schedule**, and reject all other bids, as it may best serve the interest of the City. Within three (3) days of bid opening, contractor shall submit a revised bid bond with numerical dollar values, both in words and with digits of bid amount. Within ten (10) working days after the date of the Notice of Apparent Low Bidder, the successful bidder will be required to submit required Contract Agreement, Bonds (Faithful Performance and Material and Labor) and Insurance.

The City reserves the right, after opening bids, to reject any or all bids or to make award to the lowest responsible bidder and reject all other bids; to waive any informality in the bidding; to accept any bid or portion thereof; and to take all bids under advisement for a period of forty-five (45) days. Bids will be compared on the basis of the Engineer's estimate of the quantities of the several items of work as shown on the Base Bid Sheets. Only such plans, specifications, and items of work as are appropriate shall apply to the work as bid. At the time of contract award, the contractor shall possess a Contractor's License or a combination of Specialty Contractor's Licenses adequate to perform the work herein described.

Each bid must be accompanied by a certified or cashier's check, or by a corporate surety bond from an admitted insurer on the form furnished by the AGENCY, as a guarantee that the bidder will, if an award is made to him in accordance with the terms of his bid, promptly secure workers' compensation insurance and liability insurance, execute a contract in the required form, and furnish satisfactory bonds for the faithful performance of the contract and for the payment of claims of material and laborers thereunder. Said check or bidder's bond shall be in an amount not less than 10 percent of the amount of the bid. The Performance Bond shall be not less than 100 percent of the total amount of the bid price named in the contract. The Payment Bond shall be not less than 100 percent of the total amount of the bid price named in the contract. The AGENCY reserves the right to reject any bond, if in the opinion of the AGENCY Attorney, the Surety's acknowledgment is not in the form included in the contract documents or in another form substantially as prescribed by law.

In accordance with provisions of Section 1773.2 (amended 1977) of the California Labor Code, copies of the prevailing rate of per diem wages as determined by the State Director of Industrial Relations are available on the Internet at the World Wide Web site of the State Department of Industrial Relations at "www.dir.ca.gov" under Statistics and Research. It shall be mandatory upon the contractor to whom the contract is awarded and upon any subcontractor under him to pay not less than said specified rates to all workmen employed by them in the execution of the contract. Pursuant to Labor Code sections 1725.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a Contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project.

The City of Laguna Hills hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business and Women's Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, creed, color, or national origin in consideration for an award.

CONTRACTOR'S LICENSE CLASSIFICATION: The Contractor shall possess a valid State of California issued Class A Contractor's License, or a combination of Class C Contractor's Licenses as necessary to perform the work, at the time of submitting bids, in accordance with provisions of Chapter 9, Division III of the California Business and Professions Code.

WAGE RATE REQUIREMENTS: The wage rates applicable to this Project are the State of California Department of Industrial Relations prevailing rates of per diem wages. In accordance with the provisions of Sections 1773.2 of the California Labor Code, copies of the general prevailing rate of per diem wages as determined by the State Director of Industrial Relations are available at City Hall, which shall be made available to any interested party upon request, or on the Internet at the State Department of Industrial Relations website (www.dir.ca.gov) under Statistics and Research. It shall be mandatory upon the Contractor to whom the contract is awarded and upon any subcontractor to pay not less than said specified rates to all workers employed by them in the execution of the contract. A copy of said rates shall be posted at each job site during the course of construction. The Contractor and all subcontractors shall comply with all provisions of the California Labor Code relating to prevailing wage rates, including Sections 1770–1781.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (Department). The Department shall monitor and enforce compliance with applicable prevailing wage requirements for the contract. The reporting requirements may be found at <https://www.dir.ca.gov/Public-Works/Contractors.html>. The Contractor is responsible to be registered with the Department at the time of bid and for complying with all requirements of the Department of Industrial Relations, including filing electronic payroll reports. In bidding on this project, it shall be the Bidder's sole responsibility to evaluate and include the cost of complying with all labor compliance requirements under this contract and applicable law in its bid.

A contractor or subcontractor will not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

RETAINAGE FROM PAYMENTS: The Contractor may elect to receive 100 percent of payments due under the Contract Documents from time to time, without retention of any portion of the payments by the City, by depositing securities of equivalent value with the City in accordance with the provisions of Section 22300 of the Public

Contract Code. If the Contractor chooses not to exercise its rights under Public Contract Code Section 22300, the full five percent (5%) retention will be deducted from all payments. The final retention will be authorized for payment thirty-five (35) days after the date of recordation of the Notice of Completion, if no stop notices have been filed. The City may withhold from release of the final retention amounts authorized under Public Contracts Code Section 7107 and/or 125% of amounts identified in any Stop Notices received by the City.

OBTAINING OR INSPECTING CONTRACT DOCUMENTS: Contract Documents may be inspected without charge by appointment at the Public Works Department, City Hall, 24035 El Toro Road, Laguna Hills, California 92653. Contract Documents are available in portable document form (PDF) on the City's website: www.lagunahillsca.gov. It is the contractor's responsibility to ensure they are on the City's Plan Holder's List and they obtain any addendums or clarifications that are issued by the City on the City's website prior to submitting a bid. For any questions regarding acquisition of Contract Documents, contact Julie Comella at Jcomella@lagunahillsca.gov.

Dated this 13th day of July, 2021.

City of Laguna Hills, California

BY


MELISSA AU-YEUNG, CITY CLERK
24035 El Toro Road
Laguna Hills, CA 92653

Published: _____

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

CITY OF LAGUNA HILLS

INSTRUCTIONS TO BIDDERS FOR

CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

1. PROPOSAL FORMS

Bids shall be submitted in writing on the Proposal forms provided by the City of Laguna Hills (hereinafter "CITY" or "City"). All blank spaces in the bid forms must be correctly filled in and all information requested therein must be clearly and legibly set forth in the manner and form indicated. All spaces for bid prices and lump sum price for which the bid is made, must be filled in, in both words and figures. All prices and notations must be in ink or typewritten. No erasures will be permitted. Mistakes may be crossed out and corrections typed or written in ink adjacent thereto and must be initialed by the person or persons signing the bid. Bidder acknowledges and agrees that by failing to complete the bid forms in their entirety, as set forth above, the CITY may find the bidder's entire bid non-responsive and may cause the rejection of the bidder's proposal at the discretion of the CITY.

2. PROPOSAL GUARANTEE (BID BOND)

In accordance with Public Contract Code Section 20170, proposals must be accompanied by a proposal guarantee consisting of either cash, a cashier's check, a certified check or bid bond payable to the CITY in the minimum amount of ten percent (10%) of the total amount bid. Any proposal not accompanied by such a guarantee will not be considered. **IF A BIDDER TO WHOM A CONTRACT IS AWARDED FAILS OR REFUSES TO EXECUTE THE CONTRACT DOCUMENTS OR FURNISH THE REQUIRED INSURANCE POLICIES AND BONDS AS SET FORTH IN THOSE DOCUMENTS, THE PROPOSAL GUARANTEE SHALL BE FORFEITED TO THE CITY.** The proposal guarantees of all bidders will be held until the successful bidder has properly executed all Contract Documents.

3. NON-COLLUSION AFFIDAVIT

Bidder shall declare that the only persons or parties interested in the proposal as principals are those named therein; that no officer, agent, or employee of the CITY is personally interested, directly or indirectly, in the proposal; that the proposal is made without connection to any other individual, firm, or corporation making a bid for the same work; and that the proposal is in all respects fair and without collusion or fraud. The Non-Collusion Affidavit shall be executed and submitted with the proposal.

4. PROPOSAL BID SHEET

Bidders shall give unit prices for each and all of the items set forth. No aggregate bids will be considered. The bidder shall set forth for each item of work, in clearly legible figures, a unit item price and a total for the item in the respective spaces provided for this purpose. The quantities listed in the Bid sheets are supplied to give an indication of the general scope of work, but the accuracy of figures is not guaranteed and the bidder shall make his own estimates from the drawings. In case of a variation between the unit price and the totals shown by the bidder, the unit price will be considered to be the bid.

5. DELIVERY OF PROPOSAL

Proposals may be mailed or delivered by messenger. However, it is the bidder's responsibility alone to ensure delivery of the proposal to the hands of the CITY's designated official prior to the bid opening time deadline set forth in the "Notice Inviting Sealed Bids." Late proposals will not be considered and will be returned to the bidder unopened. Proposals shall be enclosed in a sealed envelope plainly marked on the outside, **"SEALED BID FOR CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188 – DO NOT OPEN WITH REGULAR MAIL."**

6. WITHDRAWAL OF PROPOSALS

A proposal may be withdrawn by a written request signed by the bidder. Such requests must be delivered to the CITY's designated official prior to the bid-opening time deadline set forth in the "Notice Inviting Sealed Bids". The withdrawal of a proposal will not prejudice the right of the bidder to submit a new proposal, provided there is time remaining to do so. Proposals may not be withdrawn after the bid opening without forfeiture of the proposal guarantee.

7. NONRESPONSIVE PROPOSALS

Unauthorized conditions, limitations, or provisions attached to a proposal will render it nonresponsive and may cause its rejection. The completed proposal forms shall be without inter-lineation, alterations, or erasures. Alternative proposals will not be considered unless specifically requested. No oral, telegraphic, or telephonic proposal, modification, or withdrawal will be considered.

8. TAXES

No mention shall be made in the proposal of Sales Tax, Use Tax, or any other tax, as all amounts bid will be deemed and held to include any such taxes that may be applicable. Bidder acknowledges and agrees that CITY shall not be responsible for the payment of any increase in Sales Tax, Use Tax, or any other tax that takes effect after award. However, Contractor shall review the Direct Payment Process established under State Revenue and Taxation Code 7051.3 and, if eligible, use the permit so that the local share of its use tax payments is allocated to the City of Laguna Hills. Contractor will provide the City with either a copy of the direct payment permit or a statement certifying ineligibility to qualify for the permit.

9. DISQUALIFICATION OF BIDDERS

In the event that any bidder acting as a prime contractor has an interest in more than one proposal, all such proposals will be rejected, and the bidder will be disqualified. This restriction does not apply to subcontractors or suppliers who may submit quotations to more than one bidder. No contract will be executed unless the bidder is licensed in accordance with the provisions of the Business and Professions Code.

10. INTERPRETATION OF PLANS AND DOCUMENTS

If any person contemplates submission of a bid for the proposed contract and is in doubt as to the true meaning of any part of the plans, specifications or other proposed contract documents, or finds discrepancies in, or omissions from, the drawings or specifications, he or

she may submit to the City Engineer a written request for an interpretation or correction thereof five (5) working days prior to the scheduled bid opening. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the proposed documents shall be made only by addendum duly issued and copy of such addendum will be mailed or delivered to each person receiving a set of such documents. The City Engineer will not be responsible for any other explanation or interpretations of the proposed documents. Bidder shall field review the site of the project and completely familiarize themselves with all of the work necessary to complete the project as depicted on the Plans and described in the Specifications.

11. ADDENDA OR BULLETINS

The effect of all addenda to the Contract Documents shall be considered in the bid, and said addenda shall be made a part of the Contract Documents and shall be returned with them. Before submitting a bid, each bidder shall confirm as to whether or not any addenda have been issued, and failure to cover in this bid any such addenda issued, may render bid non-responsive and may result in its rejection by the CITY.

12. LEGAL RESPONSIBILITIES

All proposals must be submitted, filed, made, and executed in accordance with State and Federal laws relating to bids for contracts of this nature whether the same are expressly referred to herein or not.

Any bidder submitting a proposal shall by such action thereby agree to each and all of the terms, conditions, provisions, and requirements set forth, contemplated, and referred to in the Plans, Specifications, and Contract Documents, and to full compliance therewith.

13. AWARD OF CONTRACT

Following a review of the bids, the CITY shall determine whether to award the contract or to reject all bids. The award of contract, if made, will be to the lowest responsive-responsible bidder as determined solely by the CITY. At the time of contract award, the successful bidder shall hold a Class A Contractor's License, or a combination of Class C Contractor's License(s), as required to perform the work, issued by the State of California. Additionally, the CITY reserves the right to reject any or all proposals, to accept any bid or portion thereof, to waive any irregularity, and to take the bids under advisement for the period of time stated in the "Notice Inviting Sealed Bids", all as may be required to provide for the best interests of the CITY. In no event will an award be made until all necessary investigations are made as to the responsibility and qualifications of the bidder to whom the award is contemplated.

Within three (3) days of bid opening contractor must submit a revised bid bond with numerical dollar values, both in words and with digits of bid amount. Within ten (10) working days after the date of the Notice of Apparent Low Bidder, the successful bidder will be required to submit required executed Contract Agreement, executed Bonds (Faithful Performance and Material and Labor) and Insurance. Submission of these documents shall be at the Low Bidder's sole cost and expense and shall not be made reimbursable by City. Award of Contract, if made, shall be solely the determination of the City Council.

No bidder may withdraw its proposal for a period of forty-five (45) days after the time set for opening thereof. However, the CITY will return all proposal guarantees within ten (10) days

after the award of the contract or rejection of the bids, as the case may be, to the respective bidders whose proposals they accompany.

14. PREVAILING WAGE RATES

The wage rates applicable to this Project are the State of California Department of Industrial Relations prevailing rates of per diem wages. In accordance with the provisions of Sections 1773.2 of the California Labor Code, copies of the general prevailing rate of per diem wages as determined by the State Director of Industrial Relations are available at City Hall, which shall be made available to any interested party upon request, or on the Internet at the State Department of Industrial Relations website (www.dir.ca.gov) under Statistics and Research.

It shall be mandatory upon the Contractor to whom the Contract is awarded and upon any subcontractor to pay not less than said specified rates to all workers employed by them in the execution of the Contract. A copy of said rates shall be posted at each job site during the course of construction. The Contractor and all subcontractors shall comply with all provisions of the California Labor Code relating to prevailing wage rates, including Sections 1770–1781.

This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The Department of Industrial Relations shall monitor and enforce compliance with applicable prevailing wage requirements for this Agreement. The reporting requirements may be found at <https://www.dir.ca.gov/Public-Works/Contractors.html>. The Contractor is responsible for complying with all requirements of the Department of Industrial Relations, including filing electronic payroll reports.

A contractor or subcontractor will not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5. It is not a violation of Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. Contractor and its subcontractors shall maintain active registration with the Department of Industrial Relations for the duration of the Project.

A contractor or subcontractor will not be qualified to bid on, be listed in a bid proposal, subject to Section 6109 of the public Contract Code, or engage in the performance of any contract for public work on a public works project if the contractor or subcontractor is ineligible to perform work pursuant to Section 1777.1 or 1777.7 of the Labor Code.

The CITY will not recognize any claim for additional compensation because of the payment by the Contractor of any wage rate in excess of the prevailing wage rate or the Federal Minimum Wage Rate (whichever is greater) as set forth in the contract. The possibility of wage increases is one of the elements to be considered by the bidder in determining his bid, and will not under any circumstances be considered as the basis of a claim against the CITY on the Contract.

The Contractor and subcontractors shall comply with Section 1777.6 of the Labor Code which stipulates that it shall be unlawful to refuse to accept otherwise qualified employees as registered apprentices on any public works on any basis listed in Government Code Section

12940(a), as those bases are defined in Government Code Sections 12926 and 12926.1, except as provided in Labor Code Section 3077 and Government Code Section 12940.

15. WORKERS' COMPENSATION CERTIFICATE

Section 3700 of the Labor Code requires that every employer shall secure the payment compensation by either being insured against liability to pay compensation with one or more insurers or by securing a certificate of consent to self-insure from the State Director of Industrial Relations.

In accordance with this section and with Section 1861 of the Labor Code, the Contractor shall sign a Compensation Insurance Certificate which is included with the Contract Agreement, and submit same to CITY along with the other required Contract Documents, prior to performing any work. Reimbursement for this requirement shall be considered as included in the various items of work.

16. CLAYTON ACT AND CARTWRIGHT ACT

In accordance with Section 7103.5 of the Public Contract Code, in entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to CITY all rights, and interest in and all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

17. SUBLETTING AND SUBCONTRACTING.

Pursuant to the Subletting and Subcontracting Fair Practices Act (commencing with Section 4100 of the Public Contract Code), bidders are required to list in their proposal the name business address, California contractor license number, and public works contractor registration number issued pursuant to Section 1725.5 of the Labor Code of each subcontractor who will perform work or labor or render services in or about the construction of the work or improvement or a subcontractor who specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the Plans and Specifications in excess of 1/2 of 1% of this prime Contractor's total bid or \$10,000, whichever is greater. If a subcontractor's California contractor license number or public works contractor registration number are submitted incorrectly in the bid, it will not be grounds for filing a bid protest or grounds for considering the bid nonresponsive if the corrected subcontractor's California contractor license number is submitted to CITY within 24 hours after the bid opening

If the bidder fails to list a subcontractor for a portion of work or if the bidder lists more than one subcontractor of the same portion of work in excess of 1/2 of 1% of the total bid or \$10,000, whichever is greater, the bidder agrees that it is fully qualified to perform that portion of work itself, and that the bidder shall perform that portion of work itself. If after award of the contract, the bidder actually subcontracts that portion of work, except as provided in Public Contract Code Section 4107 or 4109, the bidder shall be subject to the penalties listed in Section 4111 of the Public Contract Code. It is the CITY's intent for the Subletting and Subcontracting Fair Practices Act to apply to all phases of the work.

18. SUBSTITUTION OF SECURITIES

In conformance with Public Contract Code Section 22300, which is incorporated herein by this reference, the Contractor may substitute securities for any monies withheld by the CITY to ensure performance under the Contract or, in the alternative, may request payment of retention earned directly to an escrow agent.

At the request and expense of the Contractor, the Contractor has the option to deposit securities, which have been approved by the CITY, with a State or Federally chartered bank as the escrow agent or require the City to deposit 5% of each progress payment with the escrow agent. Said securities will be used as a substitute for retention earnings required to be withheld by the CITY, pursuant to the construction contract. Said securities shall have no obligation to any other construction contract for substitution of securities in lieu of retention. When the Contractor deposits the CITY approved securities with the escrow agent, the escrow agent shall notify the CITY within 10 calendar days of the deposit. Said securities shall be evaluated quarterly by the escrow agent to verify the current market value. If the current market value of said securities falls below the required amount, the escrow agent shall notify the Contractor and require additional securities and/or cash to be submitted for CITY approval, and be held in the escrow account to meet the Contractor's obligations. The escrow agent shall hold said securities until such time as the escrow agent receives written notification from the CITY that the Contractor has satisfactorily completed his Contract obligations.

The type of securities deposited and the method of release shall be approved by the City Attorney's office.

If the Contractor chooses not to exercise its rights under Public Contract Code Section 22300, the full five percent (5%) retention will be deducted from all payments. The final retention will be authorized for payment thirty-five (35) days after the date of recordation of the Notice of Completion, if no stop notices have been filed. The CITY may withhold from release of the final retention amounts authorized under Public Contracts Code Section 7107 and/or 125% of amounts identified in any Stop Notices received by the CITY.

19. BID DOCUMENT/PROPOSAL EDITS

No Proposer shall modify, edit, interlineate or change any portion of the Bid Proposal pages without the Agency's written issuance of a formal Addenda. Any Proposer that modifies, edits, interlineates or changes the Bid Proposal sheets with unauthorized changes shall be deemed to be a non-responsive Bidder.

BIDDER'S NAME _____

CITY OF LAGUNA HILLS

**PROPOSAL FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188**

TO CITY OF LAGUNA HILLS, as CITY:

In accordance with CITY's "Notice Inviting Sealed Bids", the undersigned BIDDER hereby proposes to furnish all materials, equipment, tools, labor, and incidentals required for the above stated project as set forth in the Plans, Specifications, and Contract Documents therefore, and to perform all work in the manner and time prescribed therein.

BIDDER declares that this proposal is based upon careful examination of the work site, Plans, Standard Specifications, Notice Inviting Sealed Bids, Instructions to Bidders, Proposal Documents, General Specifications, Special Provisions and Contract Documents. If this proposal is accepted for award, BIDDER agrees to enter into a contract with CITY at the unit and/or lump sum prices set forth in the following Proposal Bid Sheet. BIDDER understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to CITY of the Bid Security accompanying this proposal.

BIDDER understands that a bid is required for the entire work, that the estimated quantities set forth in the Proposal Bid Sheet are solely for the purpose of comparing bids, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed. It is agreed that the unit and/or lump sum prices bid include all appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, unit prices shall govern over extended amounts.

BIDDER agrees and acknowledges that it is aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that the BIDDER will comply with such provisions of that code before the commencement of any work under this Contract, if awarded.

BIDDER certifies that in all previous contracts or subcontracts, all reports which may have been due under the requirements of any CITY, State, or Federal equal employment opportunity orders have been satisfactorily filed, and that no such reports are currently outstanding.

BIDDER declares that the only persons or parties interested in this proposal as principals are those named herein; that no officer, agent, or employee of the CITY is personally interested, directly or indirectly, in this proposal; that this proposal is made without connection to any other individual, firm, or corporation making a bid for the same work; and that this proposal is in all respects fair and without collusion or fraud.

BIDDER certifies that affirmative action has been taken to seek out and consider disadvantaged business enterprises for those portions of the work to be subcontracted, and that such affirmative actions have been carefully documented, that said documentation is open to inspection, and that

said affirmative action will remain in effect for the life of any contract awarded hereunder. Furthermore, BIDDER certifies that affirmative action will be taken to meet all equal employment opportunity requirements of the contract documents.

BIDDER'S NAME: _____

DATE _____, 2021.

BIDDER'S ADDRESS: _____

BY _____
(Print Name)

(Signature)

PHONE: () _____

TITLE _____

Subscribed and sworn to before me
this _____ day of _____, 2021

BY _____
(Print Name)

(Signature of Notary Public)

(Signature)

(Attach Jurat)

TITLE _____

(SEAL)

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

BIDDER'S INFORMATION

BIDDER certifies that the following information is true and correct:

Bidder's Name _____

Business Address _____

Email: _____ Telephone: (____) _____

State Contractor's License No. and Class _____

Original Date Issued _____ Expiration Date _____

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest in this proposal:

The dates of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal are as follows:

All current and prior DBA's, alias, and/or fictitious business names for any principal having an interest in this proposal are as follows:

Subscribed and sworn to before me
this _____ day of _____, 2021.

By _____
(Print Name)

(Signature of Notary Public)

(Signature)

Title _____

(SEAL)

Date _____, 2021

BIDDER'S NAME: _____

LIST OF SUBCONTRACTORS (4100 PUBLIC CONTRACT CODE)

BIDDER proposes to subcontract certain portions of the work, and to procure materials and equipment from suppliers and vendors in excess of ½ of 1% of the total bid amount or ten thousand dollars (\$10,000), whichever is greater as follows (add additional pages as necessary) (Bidder must include all requested information):

Subcontractor Name _____
 Address _____
 License No. and Class _____
 DIR Registration No. _____
 Phone No. _____ Email: _____
 Percent of Total Contract _____
 Specific Scope of Work _____

Subcontractor Name _____
 Address _____
 License No. and Class _____
 DIR Registration No. _____
 Phone No. _____ Email: _____
 Percent of Total Contract _____
 Specific Scope of Work _____

Subcontractor Name _____
 Address _____
 License No. and Class _____
 DIR Registration No. _____
 Phone No. _____ Email: _____
 Percent of Total Contract _____
 Specific Scope of Work _____

Subcontractor Name _____
 Address _____
 License No. and Class _____
 DIR Registration No. _____
 Phone No. _____ Email: _____
 Percent of Total Contract _____
 Specific Scope of Work _____

BIDDER'S NAME: _____

REFERENCES

The following are the names, addresses, and phone numbers for three (3) public agencies for which BIDDER has performed similar work within the past two years:

Agency Name _____
 Address _____
 Phone No. _____ Contact: _____
 Description of Work _____

Agency Name _____
 Address _____
 Phone No. _____ Contact: _____
 Description of Work _____

Agency Name _____
 Address _____
 Phone No. _____ Contact: _____
 Description of Work _____

DESIGNATION OF SURETIES

The following are the names, addresses, and phone numbers for all brokers and sureties from whom BIDDER intends to procure insurance and bonds:

Name _____
 Address _____
 Phone No. _____

Name _____
 Address _____
 Phone No. _____

Name _____
 Address _____
 Phone No. _____

Name _____
 Address _____
 Phone No. _____

CONTRACTOR'S LICENSING STATEMENT

BIDDER certifies that the following is true and correct. The undersigned is licensed in accordance with the laws of the State of California providing for the registration of Contractors.

Contractor's License Number _____

DIR Registration No. _____

Name of Individual Contractor (Print or type):

Signature of Owner(s) _____

Business Address _____

OR

Name of Company _____

Business Address _____

Officers:

Name _____ Title _____

Name _____ Title _____

Name _____ Title _____

OR

Name of Corporation _____

Business Address _____

Corporation organized under the laws of the State of _____

Name of President of Corp./ Company

Name of Secretary of Corp./ Company

Subscribed and sworn to before me
this _____ day of _____, 2021

By: _____
(Signature)

(Signature of Notary Public)

By: _____
(Print Name and Title)

(SEAL)

(SEAL)

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

Bond Amount \$ _____
 Bond Number _____

BID BOND (Page 1 of 2)

BIDDER'S BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, _____ (the "Principal") has submitted a bid
(NAME OF BIDDER)
 (the "Bid") to the City of Laguna Hills, California (the "City") for construction of the CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L, AND RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188 (the "Work"), as specifically set forth in documents entitled CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L AND RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188, dated July 13, 2021, (the "Specifications").

AND WHEREAS, the Principal is required to provide bidder's security in an amount equal to at least ten percent (10%) of the amount of the Bid and has chosen to satisfy this obligation by providing this bond.

NOW, THEREFORE, we, the Principal, and _____ (the
(NAME OF SURETY)
 "Surety"), an admitted surety insurer in the State of California, are held firmly bound unto the City of Laguna Hills in the sum of _____ and ____/100 DOLLARS (\$_____), lawful money of the United States of America, for the payment of which sum, well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents, this amount being ten percent (10%) of the total amount of the Bid.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

1. If (a) the City accepts the Bid and awards the Principal a contract for the Work, and (b) within the time and manner required under the Specifications or by law, after the prescribed forms are presented to the Principal for signature, the Principal executes a written contract for construction of the Work in accordance with the Bid and delivers the required faithful performance and payment bonds and insurance policies, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.
2. The Surety, for value received, hereby stipulates and agrees that the obligation of said Surety and its bond shall be in no way impaired or affected by any extension of the

Bond Amount \$ _____
 Bond Number _____

BID BOND (Page 2 of 2)

time within which the City may accept such Bid; and said Surety does hereby waive notice of any such extension.

3. In the event suit is brought upon this bond by the City and judgment is recovered, as part of the obligation secured hereby and in addition to the face amount specified in this bond, the Surety shall pay all costs incurred by the City in such suit, including reasonable attorneys' fees to be fixed by the court.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on the ____ day of _____, 2021.

PRINCIPAL

SURETY

 (Principal Name) (Seal)

 (Surety Name) (Seal)

By: _____
 (Signature)

By: _____
 (Signature)

 (Print Name and Title)

 (Print Name and Title)

By: _____
 (Signature)

By: _____
 (Signature)

 (Print Name and Title)

 (Print Name and Title)

Principal Address and Telephone:

Surety Address and Telephone

Affix Corporate Seals

Attach Notary Acknowledgments for All Signatures

Attach Power-of-Attorney if Executed by Attorney-in-Fact

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

BIDDERS NAME: _____

NON-COLLUSION AFFIDAVIT TO BE EXECUTED
BY BIDDER AND SUBMITTED WITH BID FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L

&

RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

STATE OF CALIFORNIA)
) SS
COUNTY OF)

In conformance with Public Contract Code Section 7106, the party making the foregoing bid declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____ [date], at _____ [city], _____ [state]."

Signed _____

Title

Subscribed and sworn to before me
this _____ day of _____, 2021.

Signature of Notary Public

(SEAL)

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

BIDDER'S NAME: _____

CITY OF LAGUNA HILLS
PROPOSAL BID SHEETS FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L &
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

BIDDER SHALL COMPLETE ALL BID PAGES
INCLUDING BASE BID 1, BASE BID 2, AND ALTERNATE BID 1

NO BIDDER SHALL MODIFY, LINE-THROUGH OR INTERLINEATE ANYTHING ON THESE BID PAGES.
ANY SUCH UNAUTHORIZED CHANGES BY A BIDDER SHALL DISQUALIFY THE BIDDER FROM
CONSIDERATION OF THEIR BID PROPOSAL AS A NON-RESPONSIVE BIDDER

BASE BID 1: CITYWIDE PAVEMENT REHABILITATION, CIP 101-L

ITEM NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	Clearing and Grubbing	LS	1		
2	Water Quality Management	LS	1		
3	2" Grind/AC Inlay R&R	SF	165,000		
4	Type II Central Plant Mixed Rubberized-Emulsion Aggregate Slurry (CMREAS) , including crack sealing	TON	2,739		
5	Striping, including raised pavement markers, lane lines, legends and cross-walks	LS	1		
TOTAL BASE BID 1 IN FIGURES					\$

BASE BID 2: RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

ITEM NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	Clearing and Grubbing	LS	1		
2	Water Quality Management	LS	1		
3	1" AC Cold Plane	SF	212,000		
4	1.5" AC Overlay including crack sealing	TON	1960		
5	Adjust Gas Valve to Grade	EA	6		
6	Adjust Water Valve to Grade	EA	11		
7	Adjust Manhole to Grade	EA	6		
8	Traffic Loops	EA	4		
9	Striping	LS	1		
TOTAL BASE BID 2 IN FIGURES					\$

TOTAL BASE BID 1 PLUS BASE BID 2 IN FIGURES: \$ _____

TOTAL BASE BID 1 PLUS BASE BID 2 IN WORDS: _____

_____ **DOLLARS**

AND _____ **CENTS**

Continue to next page

BIDDER'S NAME: _____

CITY OF LAGUNA HILLS
PROPOSAL BID SHEETS FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L &
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

ALTERNATE BID 1 – MILL CREEK DRIVE

THIS ALTERNATE BID, IF AWARDED, WILL REPLACE THE RUBBERIZED TYPE II SLURRY SEAL (REAS), INCLUSIVE OF CRACK SEALING, OF MILL CREEK DRIVE WITH AN ASPHALT CONCRETE OVERLAY, INCLUSIVE OF CRACK SEALING. ALL PAVEMENT REPAIRS, IF ANY, AND STRIPING SHALL REMAIN IN BASE BID 1.

ITEM NO.	ITEM	UNIT	QUANTITY	UNIT PRICE	AMOUNT
1	Clearing and Grubbing	LS	1		
2	Water Quality Management	LS	1		
3	6' wide cold planing/edge grind along gutters and 15' wide transverse cold planing at four join locations	SF	44,000		
4	1.5" AC overlay inclusive of crack sealing	TON	1,360		
5	Raise manhole to grade	EA	9		
6	Raise valve can to grade	EA	28		
7	Traffic loops	EA	4		
TOTAL ALTERNATE BID 1 IN FIGURES					\$

TOTAL ALTERNATE BID 1 IN WORDS: _____

_____ DOLLARS

AND _____ CENTS

Continue to next page

BIDDER'S NAME: _____

CITY OF LAGUNA HILLS
PROPOSAL BID SHEETS FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

NOTE: The estimated quantities listed in the Proposal Bid Sheet(s) are supplied to give an indication of the general scope of the work, but the accuracy of these figures is not guaranteed and the bidder shall make his own estimates from the drawings, plans or tables identifying the work. In case of a variation between the unit price and the totals shown by the bidder, the unit price will be considered to be the bid. Except where a lump sum is requested, in the case of a variation between the unit price and the total(s) shown by the bidder, the unit price will be used to calculate the total for the item based on the number of units involved in the item. The Agency reserves the right to change quantities. Upon completion of the construction, if the actual quantities show either an increase or decrease from the quantities given in the Proposal Bid Sheet(s), the Contract Unit Price will prevail. Increases or decreases in quantities shall not be subject to Section 7-3.5.2 or 7-3.5.3 of the Standard Specifications. Full compensation to be paid will be the contract price for the actual work completed, and no additional compensation will be allowed therefor. Payment will not be made for materials wasted or disposed of in a manner not called for under the Contract, this includes rejected material not unloaded from vehicles.

Bidder further acknowledges:

Pursuant to Labor Code sections 1775.5 and 1771.1, all contractors and subcontractors that wish to bid on, be listed in a bid proposal, or enter into a contract to perform public work must be registered with the Department of Industrial Relations. No bid will be accepted nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a Contract, the Bidder and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project.

Bidder shall include the requirements of Labor Code sections 1725.5 and 1771.1 in its contract with subcontractors and ensure that all subcontractors are registered at the time of bid opening and maintain registration status for the duration of the project.

BIDDER shall supply City with a copy of their W-9 form at pre-construction meeting.

THE BASIS FOR THE DETERMINATION OF THE LOWEST BID SHALL BE ON THE SUMMATION OF BASE BID 1 PLUS BASE BID 2. THE CITY RESERVES THE RIGHT TO AWARD ALTERNATE BIDS AT ITS SOLE DISCRETION.

Continue to next page

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

CITY OF LAGUNA HILLS
PROPOSAL BID SHEETS
FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

PROPOSAL

IN WITNESS WHEREOF, BIDDER executes and submits this proposal with the names, titles, hands, and seals of all forenamed principals this _____ day of _____, 2021.

BIDDER _____

Subscribed and sworn to before me this _____ day of _____, 2021.

SIGNATURE NOTARY PUBLIC _____ (Attach Jurat)

By _____
 (PRINT)

 (SIGNATURE)
 (SEAL)
 Title _____

CITY acknowledges that this proposal was received and opened at the time and in the place specified, and that it was accompanied by the required guarantee in the minimum amount of ten percent (10%) of the total bid.

By _____

Title _____

Continue to next page

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

BIDDERS NAME: _____

BIDDER'S CERTIFICATION FOR**ACKNOWLEDGEMENT OF COMPLIANCE WITH INSURANCE
REQUIREMENTS FOR PUBLIC WORKS CONSTRUCTION
CITY OF LAGUNA HILLS**

BIDDER agrees, acknowledges and is fully aware of the insurance requirements as specified in the INSTRUCTIONS TO BIDDERS FOR CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188 AND IN THE SPECIAL PROVISIONS FOR CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188 and accepts all conditions and requirements contained therein.

Bidder

By

Date

******* SUBMIT THIS EXECUTED FORM WITH THE BID**

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

CITY OF LAGUNA HILLS

CONTRACT AGREEMENT FOR

CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

THIS CONTRACT AGREEMENT (hereinafter "Agreement" or "Contract" or "Contract Agreement") is made and entered into for the above stated Project this _____ day of _____, 2021, BY AND BETWEEN THE **CITY OF LAGUNA HILLS**, as CITY, and _____, as CONTRACTOR.

WITNESSETH that CITY and CONTRACTOR have mutually agreed as follows:

ARTICLE I

The contract documents for the aforesaid Project shall consist of the Notice Inviting Sealed Bids, Instructions to Bidders, Proposal Documents, Contract Documents, General Specifications, Standard Specifications, Special Provisions, Plans, and all referenced specifications, details, standard drawings, and all appendices attached hereto, together with this Contract Agreement and all required bonds, insurance coverage, permits, notices, and affidavits; and also including any and all addenda or supplemental agreements clarifying, amending, or extending the work contemplated as may be required to ensure its completion in an acceptable manner (hereinafter collectively the "Contract Documents"). All of the provisions of said Contract Documents are attached hereto and are incorporated by reference herein and made a part of this Contract Agreement as though fully set forth herein.

ARTICLE II

For and in consideration of the payments and agreements to be made and performed by CITY, CONTRACTOR agrees to furnish all materials and perform all work required for the above stated project, and to fulfill all other obligations as set forth in the aforesaid Contract Documents.

ARTICLE III

CONTRACTOR agrees to receive and accept the prices set forth in the Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid Contract Documents; and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.

ARTICLE IV

CITY hereby promises and agrees to employ, and does hereby employ, CONTRACTOR to provide the materials, do the work, and fulfill the obligations according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner, and upon the conditions set forth in the Contract Documents.

ARTICLE V

CONTRACTOR acknowledges the provisions of the Labor Code requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance in accordance with the provisions of that code, and certifies compliance with such provisions.

ARTICLE VI

CONTRACTOR affirms that the signatures, titles, and seals set forth hereinafter in execution of this Agreement represent all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest herein.

ARTICLE VII

CONTRACTOR hereby represents and warrants that it will comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. Section 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should CONTRACTOR so employ such unauthorized aliens for the performance of any work and/or services under this Agreement, and should any liability or sanctions be imposed against CITY for such use of unauthorized aliens, CONTRACTOR hereby agrees to reimburse CITY for any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, or penalties which arise out of or are related to such employment, together with any and all costs, including attorneys' fees, incurred by CITY.

ARTICLE VIII

To the fullest extent permitted by law, CONTRACTOR shall defend (at CONTRACTOR's sole cost and expense), indemnify, protect, and hold harmless CITY, its elected and appointed officials, officers, employees, agents, and volunteers (collectively the "Indemnified Parties"), from and against any and all liabilities, actions, suits, claims, demands, losses, costs, judgments, arbitration awards, settlements, damages, demands, orders, penalties, and expenses including legal costs and attorney fees (collectively "Claims"), including but not limited to Claims arising from injuries to or death of persons (CONTRACTOR's employees included), or for damage to property, including property owned by CITY, which Claims arise out of, pertain to, or are related to CONTRACTOR's performance under the Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit CONTRACTOR's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless, and indemnify the CITY, its elected and appointed officials, officers, employees, agents, and volunteers, shall not apply to such claims or liabilities arising from the sole or active negligence or willful misconduct of CITY.

ARTICLE IX

CONTRACTOR shall be familiar with, observe, and comply at all times during the term of this Agreement with any work rules for contractors as may be established and promulgated by the City Manager, which work rules shall be additional terms and conditions for providing the work and services to the CITY pursuant to this Agreement, as may be updated and/or amended from time to time at the sole discretion of the City Manager.

[SIGNATURES ON NEXT PAGE]

CONTRACT AGREEMENT

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed the day and year first written.

CITY:

CONTRACTOR:

ERICA PEZOLD, MAYOR
CITY OF LAGUNA HILLS

(CORPORATION (NAME & TYPE))

BY: _____
(PRINT)

ATTEST:

(SIGNATURE)

MELISSA AU-YEUNG, CITY CLERK
CITY OF LAGUNA HILLS

(TITLE)

BY: _____
(PRINT)

GREGORY E. SIMONIAN, CITY ATTORNEY
CITY OF LAGUNA HILLS

(SIGNATURE)

(TITLE)

NOTE: SIGNATURES OF CORPORATE OFFICIALS MUST BE NOTARIZED, ATTACH JURAT.

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

(PAGE 1 OF 2)

FAITHFUL PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS, on _____, the City of Laguna Hills, California
(DATE OF AWARD)
 ("City") awarded a public works contract (the "Contract"), delineated as Contract No. _____, for the CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L & RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188, as specified in the Contract, to, _____, a _____,
(NAME OF CONTRACTOR) (CONTRACTOR ENTITY TYPE i.e.; INC., LLC., ETC.)
 hereby designated as the "Principal", which Contract is attached hereto, and which Contract and all documents incorporated therein by reference are expressly incorporated into this bond by reference.

AND WHEREAS, the Principal is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the Principal, and _____ (the
(NAME OF SURETY)
 "Surety"), an admitted surety insurer in the State of California, are held firmly bound unto the City of Laguna Hills in the sum of _____ and ____/100 DOLLARS (\$_____), lawful money of the United States of America, for the payment of which sum, well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

1. If the Principal, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly do and perform all of the covenants and obligations of the Contract, including the provisions for liquidated damages in said Contract, and including any and all amendments, supplements, and alterations made to the Contract as provided therein, on the Principal's part to be done and performed at the times and in the manner specified in the Contract, and shall indemnify and save harmless the City, its officers and agents as specified in the Contract, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect;
2. In the event the Principal fails to fully perform all requirements in accordance with the terms and conditions of the Contract, then the Surety shall enforce performance by the Principal or shall pay the City for the same in an amount not exceeding the amount specified in this bond.

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

FAITHFUL PERFORMANCE BOND
 (PAGE 2 OF 2)

3. In the event suit is brought upon this bond by the City and judgment is recovered, as part of the obligation secured hereby and in addition to the face amount specified in this bond, the Surety shall pay all costs incurred by the City in such suit, including reasonable attorneys' fees to be fixed by the court.

4. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alterations, additions, omissions or other modifications to the terms of the Contract, or in the work to be performed or the material to be furnished under the Contract, or in the specifications or plans, whether or not made pursuant to the terms of the Contract, shall in any manner release either the Principal or Surety or affect the Surety's obligations on this bond, and it does hereby waive notice of any such changes, extensions, alterations, additions, omissions or other modifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on the ____ day of _____, 2021.

PRINCIPAL

SURETY

 (Principal Name) (Seal)

 (Surety Name) (Seal)

By: _____
 (Signature)

By: _____
 (Signature)

 (Print Name and Title)

 (Print Name and Title)

By: _____
 (Signature)

By: _____
 (Signature)

 (Print Name and Title)

 (Print Name and Title)

Principal Address and Telephone:

Surety Address and Telephone

Affix Corporate Seals
Attach Notary Acknowledgments for All Signatures
Attach Power-of-Attorney if Executed by Attorney-in-Fact

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

PAYMENT (LABOR AND MATERIAL) BOND

THAT WHEREAS, on _____, the City of Laguna Hills, California
(DATE OF AWARD)

AND WHEREAS, the Principal is required under the terms of the Contract to give this bond in connection with the execution of the Contract.

NOW, THEREFORE, we, the Principal, and _____
(the "Surety"), an admitted surety insurer in the State of California, are held firmly bound unto
the City of Laguna Hills in the sum of _____ and
_____/100 DOLLARS (\$_____), lawful money of the United States of America, for
the payment of which sum, well and truly be made, we bind ourselves, our heirs, executors,
administrators, successors, and assigns, jointly and severally, firmly by these presents.

1. If the Principal, or its subcontractors, or their respective heirs, executors, administrators, successors or assigns, shall fail to pay (a) any of the persons named in Section 9100 of the California Civil Code, (b) any amounts due under the California Unemployment Insurance Code with respect to work or labor performed under the Contract, or (c) any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and its subcontractors pursuant to Section 13020 of the California Unemployment Insurance Code with respect to such work or labor, then the Surety shall pay for the same, in an aggregate amount not exceeding the sum specified in this bond. In case suit is brought upon this bond, the Surety will pay reasonable attorney's fees to be fixed by the court.

PAYMENT (LABOR AND MATERIAL) BOND
(PAGE 2 OF 2)

2. This bond shall inure to the benefit of any of the persons named in Section 9100 of the California Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

3. The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alterations, additions, omissions or other modifications to the terms of the Contract, or in the work to be performed or the material to be furnished under the Contract, or in the specifications or plans, whether or not made pursuant to the terms of the Contract, shall in any manner release either the Principal or Surety or affect the Surety's obligations on this bond, and it does hereby waive notice of any such changes, extensions, alterations, additions, omissions or other modifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named on the ____ day of _____, 2021.

PRINCIPAL

SURETY

(Principal Name) (Seal)

(Surety Name) (Seal)

By: _____
(Signature)

By: _____
(Signature)

(Print Name and Title)

(Print Name and Title)

By: _____
(Signature)

By: _____
(Signature)

(Print Name and Title)

(Print Name and Title)

Principal Address and Telephone:

Surety Address and Telephone

Affix Corporate Seals
Attach Notary Acknowledgments for All Signatures
Attach Power-of-Attorney if Executed by Attorney-in-Fact

COMPENSATION INSURANCE CERTIFICATE

Pursuant to Section 1861 of the State Labor Code, each contractor to whom a public works contract has been awarded shall sign the following certificate and shall submit same to the City prior to performing any work on the contract:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of work of this contract."

Contractor

By _____
(PRINT)

(SIGNATURE)

Title

Date

Section 3700 of the Labor Code reads as follows:

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

"(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employee."

COMPENSATION INSURANCE CERTIFICATE

TO BE SUBMITTED WITH CONTRACT

Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

CITY OF LAGUNA HILLS
GENERAL SPECIFICATIONS
FOR
CITYWIDE PAVEMENT REHABILITATION, CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

SCOPE OF WORK

The work to be performed and completed by Contractor consists of furnishing all materials, equipment, tools, labor, and all other incidental work in this specification document. The work generally consists of unclassified excavation/grinding, asphalt concrete pavement repairs, cold planing, crack sealing, Type II Central Plant Mixed Rubberized Emulsion-Aggregate Slurry, asphalt concrete overlay, raising manholes and water valves to grade, striping and related work. The above described work is included in Base Bid 1 and Base Bid 2. One Alternate Bid shall also be considered.

LOCATION OF WORK

The general location and limits of the work is citywide in Zones B, C and F as shown on the location maps in the appendices.

TIME OF COMPLETION

The Contractor shall complete all work in every detail within eighty (80) working days after the date of the Notice to Proceed.

TRAFFIC REQUIREMENTS

The Contractor shall provide delineation in accordance with the latest updated version of the Work Area Traffic Control Handbook (WATCH) and/or California Department of Transportation Traffic Manual, as most applicable. Contractor shall provide a Traffic Control Plan to the satisfaction of the City Engineer. No street closures shall be made in this project without the prior approval of the City Engineer. The section of the streets to be closed each day shall be selected with the approval of the City Engineer such that residents along the affected local streets will be able to park within a reasonable walking distance of their homes. The following requirements shall also apply: 1) 72 hours written notice to residents/businesses prior to establishing No Parking Zones and for any scheduled slurry seal or AC overlay work, and 2) no lane closure on arterial highways except between the hours of 9 a.m. to 4 p.m. Any work on Arterial Highways shall require the posting of two changeable message signs per work area, as directed by the City Engineer. Traffic Control shall be paid under the lump sum price bid for Clearing and Grubbing and no additional compensation will be allowed therefore.

UTILITY REQUIREMENTS

The Contractor is advised of the existence of the utility notification service provided by UNDERGROUND SERVICE ALERT (USA). USA member utilities will provide the Contractor with the precise locations of their substructures in the construction area when the Contractor gives at

least 48 hours notice to the Underground Service Alert by calling 1(800) 422-4133. Contractor shall provide the City with proof of contact with USA upon request.

The Contractor shall notify the following agencies at least 48 hours in advance of excavating around any of their structures. The utility companies listed below can be contacted as indicated.

NAME	ADDRESS	CITY, STATE, ZIP	ATTENTION	PHONE NO.
AT&T	3939 E. Coronado St.	Anaheim, CA 92807	Robert Fleisher	714/618-9129
OCTA	550 S. Main Street	Orange, CA 92613-1584	Kyle Poff	714/560-5816
Southern California Edison	14155 Bake Parkway	Irvine, CA 92718	Chris Schafer	949/458-4413
El Toro Water District	24251 Los Alisos Blvd.	Lake Forest, CA 92630	Brian Miller	949/837-7050 Ext. 224
Gas Company	1919 South State College	Anaheim, CA 92806	Andrew Alday	714/385-3377
CR&R	P.O. Box 1100	San Juan Capistrano, CA 92693-1100	Mike Campuzano	949/254-1779
Cox Communication	27121 Towne Centre Drive	Foothill Ranch, CA 92610	Reynaldo Castro	949/563-8889

The California Public Utilities Commission mandates that, in the interest of public safety, main line gas valves be maintained in a manner to be readily accessible and in good operating condition. The Contractor shall notify the Southern California Gas Company (714) 634-3185 at least 2 working days prior to the start of construction.

The Contractor shall exercise extreme care to protect all existing utilities in place whether shown on the plans or not, and shall assume full responsibility for all damage resulting from his operations. The Contractor shall coordinate with each utility company as to the requirements and methods for protection of their facilities during the construction period, and shall be responsible for preparation and processing of any required plans or permits. The Contractor shall assume full responsibility to maintain uninterrupted service for all utilities.

By submitting a bid, the Contractor acknowledges the above referenced utility work to be done in conjunction with this Project. The Contractor shall schedule his work and conduct his operations so as to permit access and time for the required utility work to be accomplished during the progress of the work.

The Contractor shall coordinate with each utility company as to the extent of required work and the time required to do so. The Contractor shall include this time in his schedule. Payment for the above, if any, shall be deemed as included in the items of work as shown on the proposal bid sheet and no additional compensation will be allowed.

FLOW AND ACCEPTANCE OF WATER

It is anticipated that storm, surface or other waters will be encountered at various times and locations during the work herein contemplated. The Contractor, by submitting a bid, acknowledges that he has investigated the risk arising from such waters and has prepared his bid accordingly, and Contractor, by submitting a bid, assumes all of said risk. The Contractor shall prepare a Stormwater Pollution Prevention Plan, shall use Best Management Practices and comply with all NPDES and State Construction Permit requirements pertaining to water quality to minimize adverse water quality impacts from the project before initiating construction. The payment for this work of plan preparation and field implementation, as required, and compliance with permits is deemed included in the lump sum price paid for Water Quality Management and no additional compensation shall be allowed therefore.

REMOVAL OF WATER

The Contractor shall provide and maintain at all times during construction ample means and devices to promptly remove and properly dispose of all water entering the excavations or other parts of the work. No concrete footing or floor shall be laid in water nor shall water be allowed to rise over them until the concrete or mortar has set at least two (2) hours. Water shall not be allowed to rise unequally against any walls for a period of twenty-eight (28) days. Dewatering for the structures and pipelines shall commence when ground water is first encountered, and shall be continuous until such time as water can be allowed to rise in accordance with the above statement. Dewatering shall be accomplished by well points or some other method which will insure a dry hold and preservation of final lines and grade of the bottoms of excavation, all subject to the approval of the City Engineer.

Dewatering methods and disposal of water from dewatering operations shall be the sole responsibility of the Contractor and shall conform to the requirements of the State Regional Water Quality Control Board, the requirements of the National Pollution Discharge Elimination System (NPDES), and the Federal Clean Water Act. Full compensation for dewatering shall be considered as included in the contract prices paid for the the lump sum price paid for Water Quality Management, and no additional compensation will be allowed therefore.

The contractor shall conform all operations to be in compliance with NDPDES and shall utilize Best Management Practices for control of all pollutants.

WASTE DISPOSAL

Contractor shall only utilize waste containers from the City Franchisee, CR&R, (P.O. Box 1100, San Juan Capistrano, CA 92693-1100, 949/728-0446 Ext. 1232) for all recyclables and waste debris. Contractor shall record the quantity (tons) of recyclable or green waste materials diverted from landfills and report this data to the City at the end of the project.

STANDARD SPECIFICATIONS

The Standard Specifications of the City are contained in the 2021 edition of the STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, also known as the "Greenbook", including all supplements, as written and promulgated by the Joint Cooperative Committee of the Southern California Chapter of the American Public Works Association and the Southern California District of the Associated General Contractors of California, which is incorporated herein by this reference. Copies of these Standard Specifications are available from the publisher:

BNi Building News
Division of BNi Publications, Inc.
990 Park Center Drive, Suite E
Vista, California 92801
(760) 734-1113

The Standard Specifications set forth above will control the general provisions for this Contract except as amended by the Plans, General Specifications, Special Provisions, or other Contract Documents.

The section numbers of the following Special Provisions coincide with those of the said Standard Specifications. Only those sections requiring amendment, elaboration, addition, or that are specifying options are stated in the Special Provisions.

In case of conflict between the Standard Specifications and the General Specifications or Special Provisions, the General Specifications and Special Provisions shall take precedence over and be used in lieu of such conflicting portions of the Standard Specifications.

References in the Special Provisions to "CALTRANS Standard Specifications" shall mean the latest edition of the Standard Specifications of the State of California, Department of Transportation. Copies of these specifications and standard drawings may be obtained from:

California Department of Transportation
Publications Distribution Unit
1900 Royal Oaks Drive
Sacramento, California 95815-3800
Telephone (916) 263-0822
Fax (916) 263-0470

References in the Special Provisions to Standard Plans shall mean those specific standard plans as selected by the City Engineer from the Standard Plans of the City of Laguna Hills, and where applicable, the APWA Standard Plans for Public Works Construction, 2021 Edition, the Standard Plans of the County of Orange 2013 Edition, and State Department of Transportation, May 2010 Edition.

Where the Plans or Specifications describe portions of the work in general terms, but not in complete detail, it is understood that the item is to be furnished and installed complete and in place and that only the best general practice is to prevail and that only materials and workmanship

of the first quality are to be used. Unless otherwise specified, the Contractor shall furnish all labor, materials, tools, equipment and incidentals, and do all the work involved in executing the contract.

WAGE RATES AND LABOR CODE REQUIREMENTS

The City has determined that the work on this Project requires work of labor categories which are subject to the State of California Department of Industrial Relations prevailing rates of per diem wages.

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Contractor agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the parties that, in connection with the work provided pursuant to the Agreement, Contractor shall bear all risks of payment or non-payment of prevailing wages under California law, and Contractor hereby agrees to defend, indemnify, and hold the City, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of the Agreement.

Contractor understands and agrees to comply with the following California Labor Code compliance conditions [Labor Code Sections 1720 et seq., 1813, 1860, 1861, 3700]:

a) The Agreement is subject to the provisions of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works and the awarding public agency ("City") and Contractor agree to be bound by all the provisions thereof as though set forth in full herein.

b) Contractor shall be registered with the Department of Industrial Relations ("DIR") in accordance with California Labor Code Section 1725.5 and has provided proof of registration to City prior to the effective date of this Agreement.

c) Contractor agrees to comply with the provisions of California Labor Code Sections 1771, 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The applicable prevailing wage determination(s) may be obtained at (<http://www.dir.ca.gov/OPRUDPreWageDetermination.htm>), are on file with City, and are available to any interested party upon request. A copy of said rates shall be posted at each job site during the term of this Agreement.

d) Pursuant to California Labor Code Section 1771.4, Contractor's services are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall post job site notices as prescribed by DIR regulations and furnish the records specified in California Labor Code Section 1776 directly to the Labor Commissioner in the manner prescribed by California Labor Code Section 1771.4(a)(3) and (c)(2).

e) Eight (8) hours of labor shall constitute a legal day's work for all workmen employed in the execution of this Agreement, and the Contractor and any subcontractor shall comply with and be governed by the laws of the State of California having to do with working hours set forth in Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code. Contractor shall comply with the

provisions of California Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the California Labor Code. (See, e.g., Cal. Labor Code §1815.)

f) Pursuant to California Labor Code Section 1771.1, Contractor and any subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the California Public Contract Code, or engage in the performance of any contract for public work on a public works project unless registered with the DIR and qualified to perform public work pursuant to California Labor Code Section 1725.2. It is not a violation of California Labor Code Section 1771.1 for an unregistered contractor to submit a bid that is authorized by California Business and Professions Code Section 7029.1 or by California Public Contract Code Section 10164 or 20103.5, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. Contractor shall not perform any work under this Agreement with any subcontractor who is ineligible to perform work on the public works project pursuant to Section 1777.1 or 1777.7 of the California Labor Code.

Apprentices

Section 1777.5 requires the Contractor or Subcontractor employing tradesmen in any apprenticeable occupation to apply to an applicable apprenticeship committee that can supply apprentices to the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen to be used in the performance of the Contract.

The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeable trade and if other Contractors on the public works site are making such contributions.

Information relative to apprenticeship standards, contributions, wage schedules and other requirements may be obtained from the State Director of Industrial Relations or from the Division of Apprenticeship Standards.

RESOLUTION OF CONSTRUCTION CLAIMS

California Public Contract Code (PCC) section 9204 as adopted by Assembly Bill 626 prescribes a process to present, confer, and mediate all construction claims relating to the City's public works project.

"Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or another public improvement of any kind.

"Claim" means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested for (A) a time extension, including, without limitation for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project (B) payment of money or damages arising from work done by or on behalf of the Contractor

pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled, or the amount the payment of which is disputed by the local agency. (PCC 9204(c)(1))

For any claim subject to this article, PCC section 9204 requires the following:

- a) The claim shall be submitted by the Contractor in writing, sent by registered mail or certified mail with return receipt requested and must include the documents necessary to substantiate the claim. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims. However, upon receipt of a claim, the City, and the Contractor may, by mutual agreement, extend the time period provided by statute.
- b) For claims of all amounts, the City shall respond within 45 days of receipt of the claim, and provide the claimant a written statement identifying which portion of the claim is disputed and which portion of the claim is undisputed. If the City requires approval from the City Council, and the City Council does not meet within the 45-day period to respond, the City shall have up to three days to issue its response following the City Council meeting.
- c) For all portions of a claim determined to be undisputed, the City must process payment to the claimant within 60 days of issuing the City's written determination.
- d) If the claimant disputes the City's response, or if the City fails to respond within the time limits provided, the claimant may demand an informal conference to meet and confer for settlement of the issues in dispute. The demand must be sent in writing by registered or certified mail, return receipt requested. Upon receipt of a demand, the City must schedule a meet and confer conference within 30 days for settlement of the disputed claim.
- e) Within 10 business days following the conclusion of the meet and confer conference, if any portion of the claim remains in dispute, the City shall provide the claimant an addition written statement identifying the portion of the claim that is undisputed and the portion that remains in dispute.
- f) For all portions of a claim determined to be undisputed, the City must process payment to the claimant within 60 days of issuing the City's written determination.
- g) Any remaining undisputed portion of the claim, as identified by the Contractor in writing, shall be submitted to nonbinding mediation in which the parties share the cost evenly. The City and the claimant shall mutually agree on a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree, each party shall select a mediator and those mediators shall jointly select a qualified, neutral third party to mediate the remaining undisputed claim. Each party shall bear the respective costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside of PCC section 9204.

Unless otherwise agreed to by the City and the Contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under PCC Section 20104.4 to mediate after litigation has been commenced.

PCC Section 9204 does not preclude the City from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program if mediation under this section does not resolve the parties' dispute.

Should the City fail to respond to a claim, or fail to issue written statements as required, the Contractor's claim is deemed denied. A claim denied by reason of the City's failure to respond shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

Amounts not paid in a timely manner as required by PCC 9204 shall bear interest at seven percent per annum.

NOTICE OF THIRD-PARTY CLAIMS

In accordance with PCC Section 9201, the City will provide timely notification to Contractor of the receipt of any third-party claim relating to the Agreement. The Contractor agrees to reimburse the City for its reasonable costs incurred in providing such notice.

CLAYTON ACT AND CARTWRIGHT ACT

In accordance with Section 7103.5 of the Public Contract Code, in entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, and interest in and all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

CITY OF LAGUNA HILLS

SPECIAL PROVISIONS

CITYWIDE PAVEMENT REHABILITATION PROJECT, CIP NO. 101-L
&
RIDGE ROUTE DRIVE PAVEMENT RESURFACING, CIP NO. 188

PART 1 - GENERAL PROVISIONS**SECTION 1 – GENERAL.****1-2 TERMS AND DEFINITIONS.** [Add the following]:

Agency/City	- City of Laguna Hills
Board	- City Council
County	- County of Orange
Engineer	- City Engineer
Federal	- United States of America

1-7 AWARD AND EXECUTION OF CONTRACT.**1-7.1 General.** [Replace with the following]:

Within ten (10) working days after the date of the Notice of Apparent Low Bidder, the successful bidder will be required to submit required executed Contract Agreement, executed Bonds (Faithful Performance and Material and Labor) and Insurance. Submission of these documents shall be at the Low Bidder's sole cost and expense and shall not be made reimbursable by City. Award of Contract, if made, shall be solely the determination of the City Council. All of the following documents shall be submitted:

Contract Document
Faithful Performance Bond
Payment Bond
Public Liability and Property Damage Insurance Endorsements
Automobile Insurance Endorsements
IRS Form W-9 Request for Taxpayer Identification Number and Certification
Worker's Compensation Insurance Certificate

Failure to comply with the above will result in annulment of the award and forfeiture of the Proposal Guarantee at the sole discretion of Agency.

The Contract Agreement shall not be considered binding upon the Agency until executed by the authorized Agency officials. A corporation to which an award is made may be required, before the Contract Agreement is executed by the Agency,

to furnish evidence of its corporate existence, of its right to enter into contracts in the State of California, and that the officers signing the contract and bonds for the corporation have the authority to do so.

1-7.2 Contract Bonds. [Add the following]:

Both the Faithful Performance Bond and the Payment Bond shall each be for not less than one hundred percent (100%) of the total contract amount and shall be from admitted insurers. The Payment Bond shall remain in force until thirty-five (35) days after the date of recordation of the Notice of Completion. The Faithful Performance Bond shall remain in full force and effect until six months after recordation of the Notice of Completion to insure satisfactory installation and operation of the facilities and improvements.

Prior to approval a Payment Bond, the City shall verify that the surety is an admitted surety in the State of California. If requested by City, the contractor shall provide other information specified in Code of Civil Procedure Section 995.660 to enable City to verify the sufficiency of the bond.

Should any bond become insufficient the Contractor shall correct the insufficiency within ten (10) calendar days after receiving notice from the Agency. The Contractor shall provide the Agency evidence of said correction within ten (10) calendar days of said correction. Should any surety at any time be unsatisfactory to the Agency, written notice will be given to the Contractor to that effect. No further payments shall be deemed due or will be made under the Contract until the Contractor submits an acceptable bond from a surety accepted by the Agency. Changes in the work or extensions of time made pursuant to the Contract shall in no way release the Contractor or Surety from its obligations. Notice of such changes or extensions shall be waived by the surety.

SECTION 2 – SCOPE OF THE WORK

2-1 WORK TO BE DONE. [Add the following]:

The Contractor shall maintain a control set of plans and specifications on the project site at all times. All final locations determined in the field, and any deviations from the Plans and Specifications, shall be marked in red on this control set to show the as-constructed conditions. Upon completion of all work, the Contractor shall return the control set to the Engineer. Final payment will not be made until this requirement has been met.

The bidder shall examine carefully the entire site of the work (as access permits), including but not restricted to the conditions and encumbrances related thereto, the plans and specifications, and the proposal and contract forms therefore. The submission of a bid shall be conclusive evidence that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality,

and scope of the work to be performed, the quantities of material to be furnished, and as to the requirements of the proposal, plans, specifications, and other contract documents.

2-2 PERMITS. [Replace with the following]:

Prior to the start of any work, the Contractor shall take out the applicable Agency permits and make arrangements for agency inspections. Requests for inspections shall be made to the **City of Laguna Hills**, as lead Agency, 24 hours in advance of need. The contractor and all subcontractors shall each obtain any and all other permits, licenses, inspections, certificates, or authorizations required by any governing body or public utility. Payment for this work shall be included in the bid items of work and no additional compensation will be allowed. The **City of Laguna Hills** will waive its encroachment permit fees.

Further, Contractor shall ensure that its employees, agents, and contractors and subcontractors shall conduct themselves in compliance with such laws and licensure requirements including, without limitation, compliance with laws applicable to non-discrimination, sexual harassment, and ethical behavior throughout the duration of the Contract. Contractor shall not retain or employ an unlicensed subcontractor to perform work pursuant to this Contract. Contractor shall notify the City immediately and in writing of its employees', agents', contractors' or subcontractors' inability to obtain or maintain, irrespective of the pendency of any appeal, any such licenses permits, approvals, certificates, waivers, and exemptions. Such inability shall be cause for termination of this Contract.

2-3 RIGHT-OF-WAY. [Add the following]:

The Agency will acquire all rights of way, easements and rights of entry as required for this project. The Contractor shall verify that the acquisition(s) is completed prior to beginning any work outside of the public right-of-way. In the event the required easements have not yet been acquired by the City the Contractor shall conduct his operation so as to confine his work to the limits of the existing right-of-way.

2-4 COOPERATION AND COLLATERAL WORK. [Add the following]:

The Contractor is advised as to the possibility of other construction projects within the proposed construction zone by the **City of Laguna Hills**, other governing agencies or private enterprises. In the event of such projects, the Contractor shall coordinate with the applicable parties as to the extent of any time required to complete their work and shall schedule his work and conduct his operations so as to permit access and time as required for the concurrent work. The Contractor shall immediately notify the Engineer in the event of a delay in scheduling caused solely by this concurrent work. Payment for the above, if any, shall be deemed as included in various items of work, including any delay impacts, as shown on the proposal bid sheet and no additional compensation will be allowed.

2-5 THE CONTRACTOR'S EQUIPMENT AND FACILITIES.

2-5.1 General. [Add the following]:

A noise level limit of 86 dba at a distance of fifty feet (50') shall apply to all construction equipment on or related to the job whether owned by the Contractor or not. The use of excessively loud warning shall be avoided except in those cases required for the protection of personnel.

2-7 CHANGES INITIATED BY AGENCY.

2-7.1 General. [Replace with the following]:

The Agency may change the Plans, Specifications, character of the work, or any quantity of work. The change shall be by written Supplemental Agreement between the Contractor and Agency on Agency's Contract Change Order form.

Change Orders shall be in writing and state the dollar value of the change or establish the method of payment, any adjustment in the Contract time of completion, and when negotiated prices are involved, shall provide for the Contractor's signature indicating acceptance. Contractor shall not proceed with work without Agency's written approval.

2-10 DISPUTED WORK. [Replace with the following]:

If the Contractor considers any work demanded of him to be outside the requirements of the contract, or if he considers any instruction, ruling, or decision of the inspector or Engineer to be unfair, he shall, within ten (10) working days after any such demand is made, or instruction, ruling, or decision is given, file a written protest with the Engineer, stating clearly and in detail his objections and reasons therefore. Except for such protests and objections as are made of records, in the manner and within the time above stated, the Contractor shall be deemed to have waived and does hereby waive all claims for extra work, damages and extensions of time on account demands, instructions, rulings and decisions of the Engineer. Upon receipt of any such protest from the Contractor, the Engineer shall review the demands, instruction, ruling or decision objected to and shall promptly advise the Contractor, in writing, of his final decision, which shall be binding on all parties, unless, within then (10) days thereafter, the Contractor shall file with the City Council a formal protest against said decision of the Engineer. The City Council shall consider and render a final decision on any such protest within thirty (30) days of receipt of same.

2-10.1 Disputed Work – Unilateral Change Order. [Add new section]:

If at any time the Agency and the Contractor are unable to reach an agreement on the cost of disputed work, the Agency may direct the Contractor to proceed with the work. The Agency shall have the option, at its own discretion, to pay for said disputed work through a unilateral change order executed by the Agency after conducting its own analysis of the reasonable costs thereof. Although not to be construed as proceeding under Extra Work provisions in Section 7-4, the Contractor shall keep and furnish records of disputed work in accordance with Section 7-4.

2-11 NOTICE OF SURETIES. [Add new section as follows]:

The Contractor shall notify his sureties and the carriers of the insurance furnished and maintained by him of any changes affecting the general scope of work or change in the contract price, or time, or a combination thereof, and the amount of the applicable bonds and the coverage of the insurance shall be adjusted accordingly. The Contractor shall furnish proof of such adjustments to the Agency.

SECTION 3 – CONTROL OF THE WORK.

3-10 SURVEYING.

3-10.1 General [Replace with the following]:

The Contractor shall retain the services of a State of California licensed surveyor to document existing centerline ties before any construction work is performed and to replace/reset them upon completion of any AC overlay or repair work. Said replacement/resetting of centerline ties shall be documented by new Corner Records and submitted for approval to the County Surveyor. Only upon the satisfaction of this requirement and submission of County Surveyor approvals of the new Corner Records to the City will this project be deemed complete. The Contractor's surveyor shall also provide the initial construction staking for the construction to include one set of rough grade stakes, one set of finish grade stakes, and as otherwise required by the Inspector.

The Contractor shall be responsible for the finished work's conforming to the lines, grades and benchmarks given by the Engineer. The contractor shall establish supplementary benchmarks, elevations, lines, and grades and any other necessary controls which are not established by the Engineer and which are necessary to complete the work. The cost of surveying and/or construction staking and for replacement of stakes lost for any reason will be the responsibility of the Contractor. Compensation for above work by the Contractor shall be included within the various items of work and no additional compensation will be allowed.

3-12 WORK SITE MAINTENANCE.

3-12.1 General. [Add the following paragraph]:

The Contractor shall keep adjacent properties clean and free of rubbish and debris on a daily basis as necessary and as directed by the Engineer. At the end of each work day, the site shall be fully cleaned.

The Contractor shall solely contract with CR&R for all refuse services. The Contractor shall place all recyclables into a recycled materials container or shipped to a CR&R approved recycling plant. All green waste shall be sent to a CR&R approved compost facility. Contractor shall maintain records of recycled material volumes and weights for submission to Agency prior to final payment. Contractor shall, on a daily basis, collect and dispose of litter throughout the entire project limits. Payment for this work shall be included in various items of work and no additional compensation shall be allowed.

3-12.4.2 Storage in Public Streets. [Replace the first paragraph]:

Contractor is prohibited from storing equipment or materials within a public way, right-of-way, or street. The Contractor may, at his own expense, maintain and operate a work and storage area outside of the public right-of-way. In such case, the Contractor shall submit to Agency written authorization from the owners of the subject property prior to occupation. Occupation of site without written authorization shall be grounds for immediate suspension of work without compensation. Location of site to be approved by Agency. Condition and operation of yard shall conform to these specifications. The Contractor shall assume full responsibility for all damage to the site resulting from his operations and shall repair and/or replace same, at his own expense, to the satisfaction of the owner of the subject property. The Contractor shall vacate site and return it to pre-project condition within five (5) working days following application for Notice of Completion. The Contractor shall obtain a written release from the property owner accepting the condition of the vacated site and releasing the Contractor from any further clean-up or restoration work and shall submit a copy of such release to Agency. The Notice of Completion will not be issued until said release is submitted.

SECTION 4 - CONTROL OF MATERIALS

4-3 INSPECTION.

4-3.1 General. [Add the following]:

The Agency will pay for inspection and materials testing. The Contractor shall pay for retests and re-inspections due to failure to pass tests or meet specifications.

4-3.3 Inspection of Items Not Locally Produced. [Add the following last sentence]:

Notwithstanding the above, all nursery materials shall be locally acquired (within 50 miles of Agency) and shall be tagged and made available for Agency inspection within 60 days of issuance of the Notice to Proceed.

SECTION 5 – LEGAL RELATIONS AND RESPONSIBILITIES

5-1 LAWS AND REGULATIONS. [Add the following to this section]:

The Contractor, and all subcontractors, suppliers and vendors, shall comply with all City, State, and Federal orders regarding affirmative action to ensure equal employment opportunities and fair employment practices. Failure to file any report due under said orders will result in suspension of periodic progress payments.

The Contractor shall ensure unlimited access to the job site for all equal employment opportunity compliance officers.

5-3 LABOR.

5-3.3 Payroll Records. [Add the following to this section]:

Contractor shall comply with the provisions of California Labor Code Section 1776 which, among other things, require Contractor and each subcontractor to (1) keep accurate payroll records, (2) certify and make such payroll records available for inspection as provided by Section 1776, and (3) inform the City of the location of the records. The Contractor is responsible for compliance with Section 1776 by itself and all of its subcontractors. Verified payroll records shall be submitted to the City by the tenth day of each month. Progress payments will be withheld pending receipt of any outstanding reports.

5-4 INSURANCE.

5-4.5 Compliance with Insurance Requirements. [Add the following to this section]:

Contractor shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to City, all insurance required under this section. Contractor shall not commence any work or services under this Agreement unless and until it has provided evidence satisfactory to City that it has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

5-4.5.1 Types of Insurance Required. [Add the following to this section]:

As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Contractor shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance (Insurance Services Office form CG 00 01) written on an occurrence basis with limits of at least two million dollars (\$2,000,000.00) per occurrence, four million dollars (\$4,000,000.00) in the general aggregate, and four million dollars (\$4,000,000.00) for completed operations aggregate. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance (Insurance Services Office form CA 001) written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

C. Workers' Compensation Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Contractor agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, employees, agents and volunteers, and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

5-4.5.2 Acceptability of Insurers. [Add the following to this section]:

Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the

State of California List of Approved Surplus Line Insurers (LASLI), by the latest edition of A.M. Best's Key Rating Guide, except that the City will accept workers' compensation insurance from the State Compensation Fund. In the event the City determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City. Contractor shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

5-4.5.3 Insurance Endorsements. [Add the following to this section]:

Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. Required insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

(1) Additional Insured: The City, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and

(2) Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Contractor, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(3) Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the City. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Contractor's failure to pay the insurance premium, the notice provided to City shall be by ten (10) days prior written notice.

B. For all policies of Commercial General Liability Insurance, Contractor shall provide endorsements for completed operations to effectuate this requirement.

5-4.5.4 Deductibles and Self-Insured Retentions.

Any deductible or self-insured retention must be approved in writing by the City in advance and shall protect the City, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

5-4.5.6 Primary and Non-Contributing Insurance.

All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

5-4.5.7 Waiver of Subrogation.

All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the City, its officials, officers, employees, agents and volunteers, or shall specifically allow Contractor or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Contractor hereby agrees to waive its own right of recovery against the City, its officials, officers, employees, agents and volunteers, and Contractor hereby agrees to require similar written express waivers and insurance clauses from each of its subcontractors.

5-4.5.8 Evidence of Coverage.

Concurrently with the execution of the Agreement, Contractor shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Contractor shall promptly furnish, at City's request, copies of actual policies including all

declaration pages, endorsements, exclusions and any other policy documents City requires to verify coverage.

5-4.5.9 Requirements Not Limiting.

Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

5-4.5.10 Enforcement of Agreement (Non-Estoppel).

Contractor acknowledges and agrees that actual or alleged failure on the part of the City to inform Contractor of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the City nor does it waive any rights hereunder.

5-4.5.11 Insurance for Subcontractors.

Contractor shall either: (1) include all subcontractors engaged in any work or services for Contractor relating to this Agreement as additional named insureds under the Contractor's insurance policies; or (2) Contractor shall be responsible for causing its subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the City, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Contractor's subcontractors performing any work or services related to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers, as additional insureds. Contractor shall not allow any subcontractor to commence any work or services relating to this Agreement unless and until it has provided evidence satisfactory to City that the subcontractor has secured all insurance required under this section.

5-4.5.12 Other Insurance Requirements.

The following terms and conditions shall apply to the insurance policies required of Contractor pursuant to this Agreement:

A. Contractor shall provide immediate written notice to City if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Contractor agrees to ensure that subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.

F. Contractor agrees to provide immediate written notice to City of any claim, demand or loss against Contractor arising out of the work or services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

5-4.5.13 Contractor's Liability; City Not Liable; Claims Resolution

- A. Contractor's liability. The Contractor shall be responsible for any loss or damage that may occur to:
- The work or any part thereof;
 - Any of the materials or other things used or employed in performing the work;
 - Any injury to any person or persons, either workers or the public;
 - Any damage to property resulting from any cause which might have been prevented by the Contractor, including defects or obstructions at any time before completion of the work and its final acceptance.

B. City ordered precautions. If, in the opinion of the City Engineer, the precautions taken by Contractor are not safe or adequate at any time during the term of the Contract, the City Engineer may order the Contractor to take further precautions, and if the Contractor shall fail to do so, the City Engineer may order the work done by others and charge the Contractor for the cost thereof, such cost to be deducted from any moneys due or becoming due the Contractor. Failure of the City Engineer to order such additional precautions, however, shall not relieve the Contractor from his full responsibility for public safety.

C. City not liable. The City shall not be answerable or accountable in which might have been prevented by the Contractor:

- The work or any part thereof;
- Any of the materials or other things used or employed in performing the work;
- Any injury to any person or persons, either workers or the public;
- Any damage to property.

D. Claims Resolution. From time to time during the period of this contract, the City and/or the Contractor may be served with third-party claims, as a result of alleged conduct by Contractor. The following procedures shall be followed by City and Contractor:

For claims received by Contractor:

(1) Contractor shall provide City on a monthly basis details regarding any claim for damages to persons or property, including, date claim made, date of alleged damages, type of damages, alleged cause of damages and, as claims are resolved, details regarding Contractor's denial or payment of such claim and the reasons for denial or payment.

(2) Contractor shall resolve or deny any claim received within thirty (30) days of receipt. If Contractor is unable to resolve a claim within the thirty (30) days set forth above, it shall, prior to the expiration of the thirty (30) days request and extension in writing from the City.

For claims received by City:

(1) City shall process any claims received pursuant to Chapter 3-12 (Claims Against the City) of the Laguna Hills Municipal Code.

(2) If after investigation of the claim, the City determines the Contractor is liable under this Contract, City shall tender the claim to the Contractor for proper handling and resolution.

E. Retention of Claimed Damages by City. The City may retain so much of the money due the Contractor under and by virtue of the Contract as shall be

considered necessary by the City until disposition has been made of such suits or claims for damages aforesaid.

5-7 SAFETY

5-7.2 Safety Orders.

5-7.2.1 General. [Add the following paragraphs]:

The Contractor shall comply with the provisions of any Agency ordinances or regulations regarding requirements for the protection of excavations and the nature of such protection.

In connection with the performance of this contract, the City shall have the authority to enter the worksite at any time for the purpose of identifying the existence of conditions, either actual or threatened that may present a danger or hazard to any and all employees. The Contractor agrees that the City, in its sole authority and discretion, may order the immediate abatement of any and all conditions that may present an actual or threatened danger or hazard to any and all employees at the worksite.

The Contractor acknowledges the provisions of Section 6400 of the Labor Code, which requires that employees shall furnish employment and a place of employment that is safe and healthful for all employees working therein. In the event the City identifies the existence of any condition that presents an actual or threatened danger or hazard to any or all employees at the work site the City is hereby authorized to order the immediate abatement of that actual or threatened condition pursuant to this section. The City may also, at its sole authority and discretion, issue an immediate stop work order to the Contractor to ensure that no employee working at the worksite is exposed to a dangerous or hazardous condition. Any stop work order issued by the City to the Contractor in accordance with the provisions of this section shall not give rise to any claim or cause of action for delay damages by the Contractor or the Contractor's agents or subcontractors against the City.

In accordance with Section 6500 of the Labor Code, the Contractor is required to obtain a permit from the Division of Industrial Safety for any trench or excavation of five feet or more in depth and into which a person is required to descent.

Prior to beginning of excavations requiring shoring, the Contractor shall designate in writing to the Engineer someone whose responsibility it is to supervise the project safety measures and someone whose responsibility it is to supervise the installation and removal of sheeting, shoring and bracing. In addition to shoring the excavations in accordance with the minimum requirements of Industrial Safety Orders, it shall be the Contractor's responsibility to provide any and all additional shoring required to support the sides of the excavation against the effects of load which may exceed those desired by using the criteria set forth in the Industrial

Safety Orders. The Contractor shall be solely responsible for construction safety and for any damages which may result from his failure to provide adequate shoring of the excavation under any and all of the conditions of loading which may exist or which may arise during construction of the project.

In accordance with Section 7104 of the Public Contract Code, any public works contract which involves excavations that extend deeper than four feet below the surface shall provide as follows:

1. That the Contractor shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:
 - a) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code that is required to be removed to as Class I, Class II or Class III disposal site in accordance with provisions of existing law.
 - b) Subsurface or latent physical conditions at the site differing from those indicated.
 - c) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally as inherent in work of the character provided for in the contract.
2. That the public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.
3. That, in the event that a dispute arises between the public entity and the Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all work to be performed under the contract. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

5-7.9 Traffic and Access. [Add the following new section]:

When entering or leaving roadways carrying public traffic, the Contractor's equipment, whether empty or loaded, shall in all cases yield to public traffic.

The Contractor shall notify the City Engineer, Police Agency, Fire Agency, Post Office and all affected property owners, in writing of the proposed construction schedule a minimum of 72 hours, in advance of any limitation or closure of access

to their property. Form of said notice shall be as approved by the Engineer and shall contain the date and time of the closure. In the event of delay, whether beyond the control of the Contractor or not, the Contractor shall notify the City Engineer and all affected property owners as to the extent of the delay and his revised schedule. In the event of delay over 72 hours, the Contractor shall re-notify all parties as described above. Payment for notification and coordination as per Section 7-10 as modified herein shall be included in the compensation paid for the various items of work and no additional compensation will be allowed. The "Notices" will be furnished by the Contractor.

5-7.10 Haul Routes and Street Closures, Detours, Barricades. [Add the following new section]:

It shall be the Contractor's responsibility to furnish a detailed traffic control and detour plan with detour signing, traffic control, and barricade plan for Agency approval in accordance with Part 6, Temporary Traffic Control. Detours shall be in accordance with Caltrans standards. The Contractor shall submit detailed drawings of any proposed detour(s) to the Engineer for approval prior to the commencement of work. All traffic control devices, flaggers, labor and materials shall be included. The Contractor shall provide, at his expense, advanced warning signs advising the public of the impending major construction project and his proposed schedule. Said signs shall be posted at all major approaches to the construction zones a minimum of two weeks prior to the start of construction.

Payment for the above shall be deemed as included in the lump sum price bid for clearing and grubbing and no additional compensation shall be allowed.

The Contractor shall be responsible for providing temporary access to all driveways at the end of each work day. Access to all bus stops for pedestrians shall be maintained at all times.

The Contractor shall provide and maintain all other signs, barricades, pedestals, flashers, delineators and other necessary facilities for the protection of the public within the limits of the construction area. The Contractor shall also post proper signs to notify the public regarding detours and the condition of the roadway, all in accordance with the provisions of the Vehicle Code and the current State of California Department of Transportation Manual of Warning Signs, Lights and Devices for Use in Performance of Work Upon Highways.

Portable delineators shall be placed as necessary for proper delineation of the travel way. The spacing between delineators shall not exceed 50 feet on tangents or 25 feet on curves except when used for lane closure.

When closure of half the roadway requires one way traffic, the Contractor shall provide two (2) flaggers, equipped with working two (2) way radios, one (1) at each of the work area, with signing and delineation as per W.A.T.C.H. manual.

When used for lane closures, the fluorescent traffic cones or portable delineators shall be placed at intervals not to exceed the following:

Tapers	25 Feet
Edge of Closed Lane	
Tangents	100 Feet
Curves	50 Feet

If traffic cones or portable delineators are damaged, displaced or not in an upright position, from any cause, said cones or portable delineators shall immediately be replaced or restored to their original location, in an upright position, by the Contractor.

The Contractor shall furnish competent flagmen as are necessary to give adequate warning to traffic or to the public of any dangerous conditions to be encountered. Flagmen, while on duty and assigned to give warnings to the public that the highway is under construction and of any dangerous conditions to be encountered as a result thereof, shall perform their duties and shall be provided with the necessary equipment in accordance with the current "Instructions to Flagmen," of the Department of Transportation. The equipment shall be furnished and kept clean and in good repair by the Contractor, at his expense.

Should the Contractor appear to be neglectful or negligent in furnishing warning and protective measures as provided, the Engineer may direct attention to the existence of a hazard and the necessary warning and protective measures shall be furnished and installed by the Contractor at his expense. Should the Engineer point out the inadequacy of warning and protective measures, such as action on the part of the Engineer shall not relieve the Contractor from responsibility for public safety or abrogate his obligation to furnish and pay for these devices.

The Contractor shall also be required to post "Temporary No Parking - Tow Away" signs along the street to be resurfaced during each working day, seventy-two (72) hours prior to resurfacing (signs 72 hours prior to start of work.) The notification to property owners mentioned in Section 7-10.1 and "Temporary No Parking" signs will be furnished by the Contractor.

Contractor shall notify the following entities at least forty-eight (48) hours in advance of any street closure or restriction to access.

1. Orange County Sheriff's Department (949) 707-2645
2. Schools and School Bus Organizations – SVUSD (949) 586-1234
3. CR&R Waste Disposal (949) 728-0446
4. OCTA Stops and Zones (714) 560-5912
5. City Engineer
6. Sunset Property Services Street Sweeping (949) 551-5151
7. OCFA Fire Station #22 (949) 837-5471
8. Laguna Hills Post Office (949) 837-1010

All existing stop signs, street name signs and regulatory signs shall be maintained in visible locations during construction and permanently relocated or removed as directed by the plans and the Engineer. Signs which need not be maintained during construction or permanently relocated, shall be salvaged to the Agency. Traffic Lane lines shall be restored with reflective tabs at the end of each day and repainted within 7 calendar days.

Full Compensation for conforming to this article shall be considered as included in the lump sum per bid for Clearing and Grubbing and no additional compensation will be allowed therefore.

SECTION 6 - PROSECUTION AND PROGRESS OF WORK

6-1 CONSTRUCTION SCHEDULE AND COMMENCEMENT OF WORK.

6-1.0 General. [Add the following section]:

The Contractor's proposed Construction Schedule shall be submitted to the Engineer within ten (10) working days after the date of the Notice of Award of Contract. The schedule shall be supported by written statements from each supplier of materials or equipment indicating that all orders have been placed and acknowledged, and setting forth the dates that each item will be delivered. The schedule shall establish the order of work which minimizes disruption of existing travel lanes.

Prior to issuing the Notice to Proceed, the Engineer will schedule a preconstruction meeting with the respective Contractor to review the proposed Construction Schedule and delivery dates, arrange the utility coordination, discuss construction methods, and clarify inspection procedures.

The Contractor shall submit periodic Progress Reports to the Engineer by the tenth day of each month. The report shall include an updated Construction Schedule. Any deviations from the original schedule shall be explained. Liquidated damages will be assessed pending receipt of any outstanding reports, as set forth in Section 6-9.1 below.

6-1.3 Construction Schedule (Critical Path Method) [Add the following section]:

The Contractor shall submit to the Engineer practicable critical path method (CPM) progress schedules in conformance with these Special Provisions. Whenever the term "schedule" is used in this section it shall mean CPM progress schedule illustrated by the Gantt Bar method. The schedule shall be prepared by qualified and experienced scheduling staff.

Schedules shall show the order in which the Contractor proposes to carry out the work with logical links between time-scaled work activities, and calculations made using the critical path method to determine the controlling operation or operations. The Contractor is responsible for assuring that all activity sequences are logical and that each schedule shows a coordinated plan for complete performance of the work.

The Contractor shall produce schedules using computer software and shall furnish compatible software for the Engineer's exclusive possession and use. The Contractor shall furnish network diagrams, narrative reports, tabular reports and schedule data as parts of each schedule submittal.

The number of activities shall be sufficient to assure adequate planning of the Project, to permit monitoring and evaluation of progress, and to do an analysis of time impacts.

Schedule activities shall include the following:

- A. A clear legible description.
- B. Start and finish dates.
- C. A duration of not less than one working day, except for event activities, and not more than 20 working days, unless otherwise authorized by the Engineer.
- D. At least one predecessor and one successor activity, except for Project start and finish milestones.
- E. Required constraints.
- F. Codes for responsibility, stage, work shifts, location and contract pay item numbers.

The Contractor may show a scheduled completion date that is later than the Contract completion date on an update schedule, after the baseline schedule is accepted. The Contractor shall provide an explanation for a late scheduled completion date in the narrative report that is included with the schedule.

The Engineer's review and acceptance of schedules shall not waive any Contract requirements and shall not relieve the Contractor of any obligation thereunder or responsibility for submitting complete and accurate information. Schedules that are rejected shall be correct by the Contractor and resubmitted to the Engineer within five (5) working days of notification by the Engineer, at which time a new review period of one week will begin.

Errors or omissions on schedules shall not relieve the contractor from finishing all work within the time limit specified for completion of the Contract. If, after, a schedule has been accepted by the Engineer, either the Contractor or the Engineer discovers that any aspect of the schedule has an error or omission, it shall be corrected by the Contractor on the next schedule.

Payment for the Project schedule and revisions/updates to the schedule shall be made under other items of work and no additional payment shall be made therefore.

6-1.4 Acceleration. [Add the following section]:

The City reserves the right to accelerate the work of the Contract at any time during its performance. In the event the City directs acceleration, such directive will be given to the Contractor in writing. The Contractor shall keep cost and other Project records related to the acceleration directive separately from the normal Project cost records and shall provide a written record of acceleration costs to the City on a daily basis.

In the event the Contractor believes that some action or inaction on the part of the City constitutes an acceleration directive, the Contractor shall immediately notify the City in writing that the Contractor considers the actions or inactions an acceleration directive. The Contractor shall not accelerate their work efforts until the City responds to the written notification. If acceleration is then directed or required by the City, all cost records referred to in the previous paragraph shall be maintained by the Contractor and provided to the City on a daily basis.

In order to recover additional costs due to acceleration, the Contractor must document that additional expenses were incurred and paid by the Contractor. Labor costs recoverable will only be overtime or shift premium costs or the cost of additional laborers brought to the site to accomplish the accelerated work effort. Equipment costs recoverable will only be the cost of added equipment mobilized to the site to accomplish the accelerated work effort.

6-3 TIME OF COMPLETION.

6-3.1 General. [Add the following to this section]:

The time for completion shall be as set forth in the General Specifications.

6-3.2 Contract Time Accounting. [Add the following to this section]:

The Contractor's activities shall be confined to the hours between 7:00 AM and 5:00 PM, Monday through Friday, excluding holidays, unless otherwise specified. Work shall be prohibited any time on Saturday, Sunday or Federal Holidays except as provided herein. Deviation from these hours will not be permitted without the prior consent of the Engineer, except in emergencies involving immediate hazard to persons or property.

In the event of either a requested or emergency deviation, inspection service fees will be charged against the Contractor. The service fees will be calculated at

overtime rates (premium time) including benefits, overhead, and travel time and are established based on the City's current fee schedule or professional services agreement for construction inspection services. The service fees will be deducted from any amounts due the Contractor.

Construction activities during City Special Events may be restricted by City to exclude all or part of the work on primary arterial or access roads to the Special Events as determined by Engineer. The Contractor shall be responsible to ascertain the exact times of any such events within his proposed construction schedule which may restrict his operation and shall adjust his schedule accordingly. The construction restrictions shall only be for the actual days the events occur. All costs for maintaining traffic control, protection of work site and re-mobilization shall be deemed as included in the lump sum contract for their respective items and no additional compensation will be allowed.

6-3.3 Completion, Acceptance, and Warranty. [Add the following section]:

Work will be deemed completed on the same date when the Notice of Completion is recorded with the County of Orange.

6-9 LIQUIDATED DAMAGES. [Replace with the following]:

It is agreed by the parties to the Contract that time is of the essence and that in the case that all the work is not complete before or upon the expiration of the time limit set forth, damage will be sustained by the City. For each consecutive calendar day in excess of the time specified for the completion of the work, the Contractor shall pay to the Agency \$2,500.00. The Contractor shall also pay to the Agency \$500 for each occurrence of work in a through or turning lane in violation of these specifications as solely determined by Agency. In addition, the City shall have the right to charge to the Contractor and to deduct from payments for the work the actual cost to the City of engineering, inspection, superintendence, and other overhead expenses, which are directly chargeable to the Contract and which accrue during the period of such delay. The expenses and damages described above shall be deducted from any money due the Contractor under this contract. The Contractor and his sureties shall be liable for any excess cost.

6-10 ACCELERATION. [Add new section]:

a) Agency reserves the right to accelerate the work of the contract at any time during its performance. In the event that the Agency directs acceleration, such directive will be given to the Contractor in writing. The Contractor shall keep cost and other Project records related to the acceleration directive separately from normal Project cost records and shall provide a written record of acceleration cost to the Agency on a daily basis.

b) In the event that the Contractor believes that some action or inaction on the part of the Agency constitutes an acceleration directive, the Contractor shall immediately notify the Agency in writing that the Contractor considers the actions or inactions an acceleration directive. This written notification shall detail the circumstances of the acceleration directive. The Contractor shall not accelerate their work efforts until the Agency responds to the written notification. If acceleration is then directed or required by the Agency, all cost records referred to in section (a) shall be maintained by the Contractor and provided to the Agency on a daily basis.

c) In order to recover additional costs due to acceleration, the Contractor must document that additional expenses were incurred and paid by the Contractor. Labor costs recoverable will only be overtime or shift premium costs of the cost of additional laborers brought to the site to accomplish the accelerated work effort. Equipment costs recoverable will only be the cost of added equipment mobilized to the site to accomplish the accelerated work effort.

SECTION 7 - MEASUREMENT AND PAYMENT

7-3 PAYMENT.

7-3.2 Partial and Final Payment. [Add the following]:

The closure date for periodic progress payments will be five (5) working days prior to the first Monday of each month. The final progress payment will not be released until the Contractor returns the control set of Plans and Specifications showing the as-constructed conditions.

Partial payments, except the final payment, shall not be made for periods of less than one month. To claim a partial payment on the amount due or the final payment itself, the Contractor shall obtain approval of measurement of quantity of work completed from the City Inspector and shall prepare an invoice showing bid items, unit bid price, quantity completed, quantity previously paid, total quantity as of the date of invoice, amount claimed on the invoice, previous payment, amount to be retained, and the contract amount. The Contractor may substitute securities in lieu of retention as permitted by the provisions of Standard Specifications. The amount to be retained by the City shall be 5% of the work completed as of the date of the payment request. The invoice shall be submitted to the Engineer two weeks prior to the second or fourth Tuesday of the month, the days on which payments are placed in the warrant lists for Council approval. Such payments are made by the Finance Department during the week in which they are approved by the City Council. Payments will only be mailed and cannot be picked up.

After completion of the contract, the City Council shall, upon recommendation of the Engineer, accept the work as completed and authorize the final payment.

The final payment shall be the entire sum found to be due the Contractor after deducting therefrom all previous payments and all amounts to be kept and all amounts to be retained under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

The final payment of the retention amount to the Contractor shall be made thirty-five (35) days from the date of the recording of the Notice of Completion of the work after it is accepted by the City and shall be made on a duly certified voucher therefore, except as State Law may permit Contractor to receive said final payment prior to said thirty-five (35) day period after acceptance of the work by the City.

It is mutually agreed among the parties to the contract that no certificate given or payment made under the contract, except the final certificate of final payment, shall be conclusive evidence of full or substantial performance of this contract; no payment shall be construed to be an acceptance of any defective work or improper material.

Unless a written notice of protest disagreeing with the approved final payment and a notice of intention of additional claims is filed with the Engineer prior to the acceptance of the final payment, the acceptance of the final payment by the Contractor shall release the City, the City Council, and the Engineer from any and all claims or liabilities on account of work performed by the Contractor under the contract or any alternations thereof.

SUBSTITUTION OF SECURITIES

In conformance with Public Contract Code Section 22300, the Contractor may substitute securities for any monies withheld by the City to ensure performance under the Contract Agreement.

At the request and expense of the Contractor, the Contractor has the option to deposit securities, which have been approved by the City, and deposited with a State or Federally chartered bank as the escrow agent. Said securities will be used as a substitute for retention earnings required to be withheld by the City, pursuant to the construction contract. The Contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive interest thereon. Said securities shall have no obligation to any other construction contract for substitution of securities in lieu of retention. When the Contractor deposits the City approved securities with the escrow agent, the escrow agent shall notify the City within 10 calendar days of the deposit. Said securities shall be evaluated quarterly by the escrow agent to verify the current market value. If the current market value of said securities falls below the required amount, the escrow agent shall notify the Contractor and require additional securities and/or cash to be submitted for City approval, and be held in the escrow account to meet the Contractor's obligations. Said securities shall be held by the escrow agent until

such time as the escrow agent receives written notification from the City that the Contractor has satisfactorily completed his contract obligations.

Alternatively, the Contractor may request and the City shall make payment of retention earned directly to the escrow agent at the expense of the Contractor. The Contractor may direct the investment of the payment into securities and the Contractor shall receive the interest earned on the investments upon the same terms provided for securities deposited by the Contractor.

The type of securities deposited and the method of release shall be approved by the City Attorney's office.

The full five percent (5%) retention will be deducted from all payments. The City shall hold retainage from the Contractor and shall make prompt and regular incremental acceptances of portions, as determined by the City, of the Contract work, and pay retainage to the Contractor based on these acceptances. The Contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the Contract work by the City. Federal law (49 CFR Section 26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the City's prior written approval. Any violation of this provision shall subject the violating Contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor, deficient subcontract performance, or noncompliance by a subcontractor.

The final retention will be authorized for payment thirty-five (35) days after the date of recordation of the Notice of Completion. . The City may withhold from release of the final retention amounts authorized under Public Contracts Code Section 7107 and/or 125% of amounts identified in any Stop Notices received by the City.

7-3.3 Delivered Materials. [Replace with the following]:

Materials and equipment delivered but not incorporated into the work will not be included in the estimate for progress payment, subject to the discretion of the City Engineer.

7-3.4 Mobilization. [Replace with the following]:

Mobilization shall consist of preparatory work and operations, including but not limited to those necessary for the movement of personnel, equipment, supplies, and incidentals to the project site; for the establishment of all offices, buildings, and other facilities necessary for the work on this project; and for all other work

and operations which must be performed or cost incurred prior to the beginning work on the various contract items on the project site. Mobilization is deemed to include all aspects of mobilization and de-mobilization work occurring during the life of the project for any reason. Mobilization is deemed to include all aspects of de-mobilization work occurring at any time.

The compensation paid for mobilization shall be included in the contract lump sum price for Clearing and Grubbing and shall be full compensation for all costs incurred by the Contractor for doing all the work involved in mobilization as specified herein. Payment for mobilization will be included with the first monthly progress payment and shall be considered full compensation for the cost of such mobilization and administered for the entire contract period.

7-3.5 Contract Unit Prices

7-3.5.1 General. [Replace with the following]:

If a change is ordered in an item of work covered by a Contract Unit Price, and such change does not involve substantial change in character of the work from that shown on the Plans or specified in the Specifications, then no adjustment in payment will be made regardless of the quantity of work performed.

If a change is ordered in an item of work covered by a Contract Unit Price, and such change does involve a substantial change in the character of the work from that shown on the Plans or specified in the Specifications, an adjustment in payment will be made per **7-3.7**.

7-3.5.2 [Delete entire section]

7-3.5.3 [Delete entire Section]

7-3.7 Agreed Prices [Replace with the following]:

Agreed Prices are prices for new or unforeseen work established by mutual agreement between the Contractor and the Agency. If mutual agreement cannot be reached, the Engineer may direct the Contractor to proceed on the basis of Extra Work in accordance with Section 7-4.

7-4 PAYMENT FOR EXTRA WORK.

7-4.2 Basis for Establishing Costs.

7-4.2.1 Labor [Amend as follows]:

Delete "Workers Compensation Insurance and Liability Insurance" from the "employer payments" in the first paragraph.

7-4.3 Markup.

7-4.3.1 Work by the Contractor. [Replace with the following]:

The following percentages shall be the maximum added to the Contractor's costs and shall constitute the markup for all overhead, profits, Workers Compensation Insurance & Liability Insurance;

1) Labor	20
2) Materials	15
3) Equipment Rental	15
4) Other Items and Expenditures	15

To the sum of the Costs and markups provided for this subsection, one percent shall be added as compensation for bonding. In any event, notwithstanding the above markups, the total labor mark-up shall not exceed 33% of the base labor hourly pay rate. No additional compensation shall be allowed.

7-4.3.2 Work by a Subcontractor. [Replace with the following]:

When all or any part of the extra work is performed by a Subcontractor, the markup established in 7-4.3.1 shall be applied to the Subcontractor's actual cost of work. A markup of ten percent (10%) on the first \$5,000 of the subcontracted portion of the extra work and a markup of five percent (5%) on work added in excess of \$5,000 of the subcontracted portion of the extra work may be added by the Contractor.

The markups mentioned hereinafter shall include, but are not limited to, all costs for all forms of insurance and the services of superintendents, project managers, timekeepers and other personnel not working directly on the change order and pickup or yard trucks used by the above personnel. These costs shall be reported as labor or equipment elsewhere except when actually performing work directly on the change order and then shall only be reported at the labor classification of the work performed.

SECTION 9 – UTILITIES [Add new section]:

9-1 LOCATION. [Add the following new paragraphs]:

The Contractor shall notify the utilities designated in the General Specifications at least 48 hours in advance of excavating around any of their structures.

The existence and locations of utilities shown on the drawings have been determined by a search of the available records as provided by the respective utility owner. The exact locations have not been determined by potholing unless so indicated on the drawings. The Contractor shall determine the exact location

of all existing utilities prior to commencing work. He agrees to be fully responsible for any and all damages which may be caused by his failure to exactly locate and preserve any and all underground utilities, whether shown on the plans or not. In the event the Contractor encounters underground utilities not shown on the plans, he shall verify the exact location of the utility and immediately notify the Engineer, regardless of whether the unknown utility conflicts with the proposed construction or not. In the event of such a previously unknown conflict, the Contractor shall immediately notify the Engineer as to the extent, if any, of delays or additional costs resulting from said conflict. The Contractor shall perform work and provide necessary materials to disconnect or relocate existing utilities as indicated. Record on record drawings all existing utility termination points before disconnecting.

When uncharted or incorrectly charted underground piping or other utilities and services are encountered during site work operations, notify the applicable utility company immediately to obtain procedure directions. Cooperate with the applicable utility company in maintaining active services in operation.

PART 2 CONSTRUCTION MATERIALS

SECTION 201 – CONCRETE, MORTAR, AND RELATED MATERIALS

201-1.1.2 The class of concrete shall be 520-C-2500 with a maximum slump of four (4) inches for all sidewalks, driveways, curbs, gutter and alter intersection.

201-1.1.4.1 Test for Portland Cement Concrete [Add the following:]

1. All material shall comply with Orange County Standards (PF&RD), American Concrete Institute (Act 1) and Uniform Building Code.
2. Product Data:
 - a) Submit complete materials list of items proposed for the work. Identify materials source.
 - b) Submit admixture, curing compound, retarder, and accessory item product data.
 - c) Submit material certificates for aggregates, reinforcing, and joint fillers.
3. Submit concrete delivery tickets. Show the following:
 - a) Batch number
 - b) Mix by class or sack content with maximum size aggregate
 - c) Admixture

- d) Air content
- e) Slump
- f) Time of loading
- 4. Submit concrete test reports.
- 5. Provide field quality control testing and inspection during concrete operations.
- 6. Contractor shall provide adequate notice, cooperate with, provide access to the work, obtain samples, and assist test agency and their representatives in execution of their function.

Testing:

- a) Provide slump test on first load of concrete delivered each day and whenever requested due to changes in consistency or appearance of concrete.
- b) Provide air indicator test and air meter tests for all air entrained concrete.
 - 1. Perform aid indicator test with a “Chase” AE 35 or equal air indicator, and air meter test in accordance with ASTM C231 or 173. Test first load of concrete delivered each day.
 - 2. Furnish copies of field records and test reports as listed for strength tests.
- c) Strength Testing:
 - 1. Provide 1 set of 3 test specimens for each 50 cubic yards placed in any one day. Secure samples in accordance with ADTM C31.
 - 2. Test 1 specimen at 7 days and 2 specimens at 29 days in accordance with ASTM C39.
 - 3. Furnish copies of field records and test reports as follows:
 - 2 copies to City’s representative
 - 1 copy to Contractor
 - 1 copy to Ready Mix supplier

- d) Record the exact location of the concrete in the work represented by each set of cylinders and show on test reports.
- e) Provide an insulated moist box for protection of the test cylinders until shipped to the laboratory.

201-1.1 Materials (Requirements)

201-1.2.1.1 Portland Cement. [Replace the first sentence of the first paragraph]:

All cement to be used or finished shall be Type V.

201-2 STEEL REINFORCEMENT FOR CONCRETE.

201-2.2 Reinforcing Steel. [Add the following paragraph immediately after the first paragraph]:

All steel, except longitudinal steel shall be Grade 60 billet steel conforming to ASTM A 615.

201-4 CONCRETE CURING MATERIALS.

201-4.1 Contractor shall use Type II "Hunts" clear curing compound, unless otherwise specified by the Engineer.

203-3 EMULSIFIED ASPHALT

203-4.4.4.1 General [Replace subparagraph a) with the following]:

Crumb Rubber shall:

- a) be granulated scrap tire rubber derived from California Recycled Tires, free from fabric, wires, and other contaminants.

203-5 RUBBERIZED EMULSION-AGGREGATE SLURRY (REAS)

203-5.1 General [Add the following]

The REAS shall be Type II-Central Plant Mixed REAS or equal. Installation shall be per Section 302-4.4, as modified herein. Any Bidder that desires to submit a proposed "or equal" REAS is hereby required to submit the "or equal" specifications to Agency not less than 14 calendar days before the scheduled Bid Opening date to allow the Agency time to approve or disapprove the "or equal" specifications prior to the Bid Opening. Failure to follow the timeline for the submission of "or equal" specifications shall eliminate the opportunity for an "or equal" submission.

203-5.3 Mixing [Add the following]:

REAS shall be Central Plant Mixed and shall not be field mixed.

203-6 ASPHALT CONCRETE.

203-6.1 General. [Add the following to the end of the subsection]:

Asphalt concrete shall conform to the provisions of Subsection 203-6.4 as modified by Orange County Public Works Standard Plan 1805, and herein.

The viscosity grade of paving asphalt shall be PG 64-10. The mix designs and asphalt content shall be as follows:

The asphalt concrete mix shall be:

3/4" (III-B-2) Base Course for remove and replace asphalt concrete at 5.4%

1/2" (III-C-2) Surface Course for asphalt concrete overlay at 5.8%

Submit mix designs for approval 14 days prior to any work.

SECTION 210 - PAINT AND PROTECTIVE COATINGS

210-1 PAINT.

210-1.4 [Add the following]

210-1.4.1 General.

The paint for traffic striping and marking shall be as follows:

- I. Rapid Dry Water-Borne Traffic Line Paint; White, Yellow and Black; California Material Specification 8010-42L-30.
- II. Rapid Dry Solvent-Borne Traffic Line Paint; White, Yellow and Black; California Material Specification 8010-12F0-05.
- III. Fast Dry Solvent-Borne Traffic Line Paint; White, Yellow and Black; California Material Specification 8010-51K-04.

The paint for concrete curbs and asphalt curb shall be the following, or an approved equal:

- I. J.E. Bauer Company #2133 A-9 Red.
- II. J.E. Bauer Company #2134 A-9 Green.
- III. J.E. Bauer Company #1864 A-9 Blue.
- IV. J.E. Bauer Company #1653 A-9 Yellow.

Thinner shall not be mixed with paint. Paint shall dry "tack-free" within thirty (30) minutes. Paint used for pavement legends shall be a compound of paint and glass beads.

210-1.4.2 Reflective Material. [Add the following]:

Glass beads for traffic paint shall conform to State Material Specification 751-80-34.

SECTION 211 - MATERIAL TESTS

211-1 COMPACTION TESTS.

211-1.1 Laboratory Maximum Density. [Replace with the following]:

Laboratory maximum density tests shall be performed in accordance with Test Method No. Calif. 216G, Part II. The correction for oversized material as stated in Test Method No. Calif. 216 shall be replaced with Note 2 of ASTM D 1557.

211-1.2 Field Density. [Add the following paragraph]:

Field density tests will be made by the Engineer during the course of construction at the expense of the Agency. If field density tests indicate that any portion of the compacted subgrade has density lower than that specified, the Contractor shall rework that portion until the specified density is obtained. Retest of areas which have failed compaction will be performed by the Engineer at the Contractor's expense. The Contractor's compensation may be reduced for asphalt concrete compaction not in conformance with these specifications in accordance with the CalTrans Compaction Reduction Procedure.

PART 3 - CONSTRUCTION METHODS

300-1 CLEARING AND GRUBBING.

300-1.1 General. [Add the following]:

In addition to the work outlined in subsection 300-1 of the Standard Specifications, the following items of work are included under Clearing and Grubbing unless otherwise covered by a specific bid item and shall apply to all work in the Base Bid and any Alternate Bids awarded:

- (1) Mobilization/demobilization including multiple occurrences of mobilization/demobilization.
- (2) Clearing, removal, and disposal of debris generated from the work, including root pruning.

- (3) Hand removal and disposal of all vegetation, trees, tree roots, trash and other objectionable material from the affected portion of the project and areas adjoining thereto.
- (4) Protection of existing native plant materials and fencing.
- (5) Sediment and erosion control and implementation of Water Quality Best Management Practices in compliance with NPDES and State Construction Permit.
- (6) Protection and maintenance of existing improvements, including but not limited to fencing, storm drains, parking lot, bike trails, sidewalks, utilities, and traffic controls within the construction zone, except those specifically directed by the Engineer to be removed or relocated.
- (7) Maintain dust control at all times by watering; including developing a water supply and furnishing and placing all water required for work done in the contract, including water used for extra work.
- (8) Daily cleanup work site including streets, sidewalks and driveways. Daily litter removal. Daily and as needed street sweeping as specified herein. Recycling of waste materials and provisions for refuse containers from CR&R.
- (9) Providing traffic control and maintaining all signs, barricades and flashers necessary to maintain proper control and issuance of notices of access changes or parking space closures.
- (10) Notices to property owners, coordination with others and coordination with utility companies.
- (11) Preparation of Traffic Control Plans by a Registered Traffic Engineer to the satisfaction of the City Engineer.
- (12) Surveying for preservation of monuments, centerline ties and establishment of line and grade (if any).
- (13) Other items of work as directed in these Special Provisions.

300-1.2 Root Pruning and Tree Trimming [Add the following]

303-1.2.1 Root Pruning.

1. Cut tree roots along both side of walk area, and behind existing edges to a minimum of 20-inches deep.
2. Tree roots will not be cut up to the base of the trunk.

3. All tree root cutting will be approved by the City's representative.

Root pruning equipment shall be specifically designed for this purpose, sharpened adequately to sever roots in a clean manner, and equipped with padded tracks or rubber tires to prevent scraping or marking of sidewalks.

All cuts shall be backfilled whether immediately upon completion of root pruning or upon completion of sidewalk and curb and gutter repairs and root barrier installation provided that adequate warning devices are placed and maintained at each location. Backfill material shall consist of dirt, Crushed Aggregate Base or crushed miscellaneous base.

The Contractor shall repair or replace sprinkler system and all utility service connections within the right-of-way which are damaged or removed as a result of the root pruning operation. Repairs shall be initiated immediately and completed by the end of each working day. Repairs and replacements shall be at least equal to existing improvements, and shall match them in finish and dimension, and will be done at Contractor's expense.

300-1.4 Payment. [Add the following]:

Unless otherwise specified, compensation for clearing and grubbing shall be paid for at the **LUMP SUM** contract price and no additional compensation will be allowed. Payment shall include full compensation furnishing all labor, materials, tools, equipment and doing all work involved in clearing and grubbing as specified for the Base Bid and any Alternate Bids awarded. Payment shall be limited to not more than 50.0% per progress payment.

300-2 - UNCLASSIFIED EXCAVATION.

300-2.2 Unsuitable Material. [Add Subsection 300-2.2.2 as follows).

For AC removal and replacement, the work shall be done as a 2" cold plane/grind at the locations specified and restored with Asphalt Concrete Hot Mix. The areas and quantities shown on the plans are given only for the Contractor's aid in planning the work and/or preparing bids. The Engineer shall designate the limits to be removed and these designated areas shall be considered to take precedence over the areas shown on the plans. No guarantee is made that areas or quantities shown will equal the areas or quantities designated by the Engineer. Spilled or loose blocks of pavement and pavement cracks wider than 3/8 inch will be deemed justification for extending or adding to the removal and replacement of asphalt or Portland cement concrete pavement.

The areas indicated for removal and replacement shall be excavated to the full depth as specified. Where directed by the Engineer, additional aggregate base and/or native soil shall be removed to correct a subsurface problem.

300-2.6 Surplus Material. [Add the following]:

All surplus material shall be disposed of in a legal manner at the expense of the Contractor.

300-2.9 Payment.

Payment for all unclassified excavation or fill, saw cutting, hauling, disposal, cold planning/grinding and replacement of asphalt concrete shall be included in the unit price for "2" Grind/AC Inlay R&R" per square foot and no additional compensation will be allowed therefore.

SECTION 302 – ROADWAY SURFACING**302-4 SLURRY SEAL SURFACING****302-4.4 Rubberized Emulsion-Aggregate Slurry****302-4.8 Spreading and Application****302-4.8.1 General** [Delete second paragraph and replace with the following]:

Central Plant Mixed Rubberized Emulsion-Aggregate Slurry (CMREAS) shall be spread using a spreader truck which is equipped with an internal full sweep agitator, providing continuous internal agitation of the CMREAS during application.

[Add the following at the end of this Section as a continuation of this Section]:

Spreader truck equipment shall not be more than 15 years old from the date of manufacture to the date of use on this Project.

Contractor shall sweep and/or airblow clean all sidewalks and driveways of any loosened aggregate on the second day and on the seventh day post installation of the CMREAS. Each work effort to clean off sidewalks and driveways shall immediately be followed by mechanical and vacuum street sweeping to remove all loosened aggregate from the street and public right of way to the satisfaction of the Engineer.

The application of CMREAS shall be performed, to the maximum extent practicle, the day following the pick up of trash from each and every street. In no case shall the application of CMREAS be performed 48 hours or less prior to trash pick up.

The application rate of CMREAS shall be 10 square feet of coverage per one gallon of material.

302-4.12 Warranty [Add new Section as follows]:

Contractor shall provide a pro-rata five (5) year warranty against CMREAS product failure as measured by loss of material coverage from the site of the application since the date of installation.

302-5 ASPHALT CONCRETE PAVEMENT

302-5.1 General. [Replace the last paragraph with the following]:

Asphalt Concrete shall conform to the requirements of Subsection 203-6.1 as modified by these Special Provisions, and Orange County Public Works Department 2018 Standard Plans, Standard Plan 1805. Bituminous pavement removals shall conform to the provisions of Subsection 300.2.2 as modified as follows:

The AC pavement to be removed and replaced shall be cold planed/grind to a depth of two inches (2") to provide a neat and straight pavement break. Asphalt Concrete hot mix shall be inlayed to the removed section. The join between the existing pavement and the new pavement shall be sealed. Streets which are not scheduled for an asphalt concrete overlay shall have the finish grade and join flush with the existing surface.

Only areas that can be repaved to finish grade in one work day shall be excavated in the same one work day. AC pavement shall be placed on the same day as the related excavation or cold planing. All travel lanes shall be reopened at the end of the work day. AC shall be placed in two (2) inch lifts and compacted to 95% relative compaction.

At the conclusion of each work day, the newly paved areas shall be smooth, flush with finish grade and suitable for traffic. The Contractor shall place temporary reflective tabs to restore all lane lines affected by the new paving.

302-5.2 Miscellaneous Asphalt Concrete Placement. [Add new section].

This item shall consist of all preparatory work (including all handwork) necessary to place miscellaneous asphalt concrete. It shall include the following:

- (1) Fine grading to the tolerances set forth in Subsection 301-1.4 of the Standard Specifications.
- (2) Applying soil sterilant in accordance with Subsection 301-6 as modified by these Special Provisions.
- (3) Providing headers (if shown on plans) in accordance with Subsection 302-5.5 of the Standard Specifications.
- (4) Root removal.

302-5.4 Tack Coat.

Tack coat material shall be Grade SS-1h emulsified asphalt.

302-5.5 Distribution and Spreading. [Delete the subsection and add the following]:

Spreading and compacting of the AC shall comply with Section 39-6 of Caltrans Standard Specifications. A layer of prime coat to be applied between all bonded and unbonded layers. A layer of tack coat shall be applied to all vertical cut faces and between subsequent AC lifts.

302-5.5 Distribution and Spreading. [Delete the sixth paragraph and add the following]:

The depositing, distributing, and spreading of the asphalt concrete shall be accomplished in a single, continuous operation by means of a self-propelled mechanical spreading and finishing machine designed specifically for that purpose. The machine shall be equipped with a screen or strike-off assembly capable of being accurately regulated and adjusted to distribute a layer of the material to a definite predetermined thickness. The machine shall be equipped with automatic screen controls. The automatic screen controls require a reference system for the automatic system to follow. This reference can be the base on which the asphalt concrete is being placed, the lane next to the material being placed, or a string line. The automatic screen control can also follow a traveling reference system. A traveling reference system may be a ski attached to a control arm, which notes changes in base contours and adjusts the screen automatically to compensate. A string line or traveling reference system shall be used to allow the automatic control to adjust screen height as necessary to maintain proper longitudinal (length-wise) grade of the pavement. To maintain proper transverse (width-wise) grade, the automatic screen control shall use a pendulum system attached to a beam running between the two screen pull arms. When paving is of a size or in a location that use of a self-propelled machine is impractical, the Engineer may waive the self-propelled requirement.

At those locations where new asphalt concrete pavement overlay joins existing asphalt pavement, the Contractor shall rake out all aggregate 3/8-inch or larger and feather the new paving to form a smooth transition to join the existing pavement.

Spillage resulting from hauling operation along or across any publicly travel way shall be removed immediately by the Contractor at its expense.

302-5.8 Bituminous Pavement Crack Sealing. [Add new section]:

302-5.8.1 General.

Bituminous Pavement Crack Sealing consists of furnishing all labor, equipment, and materials and performing all operations in connection with bituminous

pavement crack sealing. Crack sealing shall be performed upon all streets scheduled for the application of CMREAS and AC Overlay without further designation.

302-5.8.2 Cleaning.

All pavement cracks greater than or equal to 1/8" width shall be routed by mechanical means and cleaned by air blowing. All debris resulting therefrom shall immediately be removed by mechanical means and disposed of in a legal landfill or pavement recycling facility.

302-5.8.3 Material.

The crack sealing material shall be an asphalt cement, aromatic rubber extender oil, and a minimum of 20% powdered rubber by weight combined in such manner as to produce a material with the following properties:

1. WORKABILITY

The material shall pour readily and penetrate large cracks at temperatures below 400° Fahrenheit.

2. CURING

The product shall contain no water or volatile solvents and shall cure immediately upon cooling to a sufficient viscosity to prevent tacking by traffic.

3. LABORATORY EVALUATION

When a sample of the product has been heated at 350° Fahrenheit for two hours, it shall pass the following tests:

Softening Point (R&B) 135° F Min. (ASTM D312)

Flexibility A 1/8" thick specimen of the product conditioned to 10° F shall be capable of being bent to a 90° angle over 1" mandrel without cracking.

The sealer shall be forced into the crack by use of a squeegee. The sealer shall be flush with the existing pavement surface prior to the application of the AC overlay or slurry seal.

302-5.9 Measure and Payment. [Add the following]:

Asphalt Concrete. Payment shall be made for asphalt concrete overlay at the contract unit price bid per **TON** and shall include full compensation for all labor, materials, tools and equipment, and for doing all work involved in A.C. overlay

including crack sealing, with or without paving fabric as specified, leveling course and placement of temporary striping.

2" Grind and AC Inlay Remove and Replace. Payment for the removal and replacement of asphalt concrete at multiple sites as designated herein shall be made at the contract unit price bid per **Square Foot** and shall include full compensation for all labor, materials, tools, and equipment for excavation, cold planning/grinding, removal, re-compaction of sub-grade, root removal to a depth of 4" below subgrade, disposal, AC pavement complete and in place, and daily placement of temporary traffic striping.

Bituminous Pavement Crack Sealing shall be included within the unit cost for Asphalt Concrete Overlay or Type II Central Plant Mixed Rubberized Emulsion-Aggregate Slurry, as applicable, and shall include full compensation for all labor, materials, tools, and equipment necessary to complete this item, and no additional compensation is allowed therefore.

SECTION 314 – TRAFFIC STRIPING, CURB AND PAVEMENT MARKINGS, AND PAVEMENT MARKERS [Replace with the following]:

314-1 GENERAL. [Replace with the following]:

Traffic signs, stripes, legends, and raised pavement markers shall conform to the State of California, Department of Transportation Standard Specifications, Traffic Sign Specifications, California MUTCD, and Maintenance Manual Sections 84 and 85 as modified herein.

Pavement legends shall conform to Agency stencil size, shape and orientation. Stripes and pavement legends shall be reflectorized.

Removal of all conflicting traffic lines and pavement markings shall be completed by wet sandblasting and includes removal of raised pavement markers. In the case of thermoplastic, removals shall be accomplished by grinding with extra care taken so as to not create a divot in the existing pavement. The Contractor is hereby notified that the use of black paint to cover the existing traffic striping during any traffic detour shall not be allowed. The existing traffic striping shall be obliterated by wet-sand blasting (with immediate clean-up of sand-blasted areas) or by other methods approved by the City Engineer. At the end of construction all traffic striping shall be repaired and restored to the satisfaction of the Engineer.

Raised pavement markers shall conform to the California Department of Transportation Standard Specifications Section 85 and shall be of type as called for on the plans.

Traffic lane-line striping as indicated on plan shall be applied with (2) coats of paint. A minimum of (7) days shall be provided between first and second coat of paint,

unless otherwise directed by Engineer. A three-inch (3") wide black paint shall be painted between yellow four-inch (4") stripes.

314-1.1 LAYOUT, ALIGNMENT, AND SPOTTING

Layout - The Contractor shall furnish the necessary control points for all striping and markings, and shall be responsible for the completeness and accuracy thereof to the satisfaction of the Engineer.

Spotting shall be completed prior to the removal of any existing stripes or markings. No striping work will start until the Engineer has approved the spotted or "cat-tracked" markings. Existing stripes and markings shall be removed prior to painting new ones, but in no case shall any section of street be left without the proper striping for more than (24) hours, or over weekends or holidays.

314-1.2 APPLICATION OF TRAFFIC PAINT

All markings shown on Plan shall be installed as per the Caltrans Standard Plan details indicated.

Traffic Paint shall be applied at the rate of 16 to 18 gallons per mile of solid 4-inch wide stripe (one gallon for every 98 square feet). The dry paint film thickness shall be 8 to 10 mils. Glass beads shall be applied at the rate of 110 pounds per mile of solid 4-inch wide stripe (one pound per 16 square feet).

Traffic stripes and painted pavement markings on new surfacing shall be applied in (2) coats, except where otherwise shown on the plans. The first coat of paint shall be completely dry before application of the second coat. On existing surfacing, traffic stripes and pavement markings shall be applied in one coat. Paint to be applied in one coat shall be applied at an approximate rate of one gallon per 107 square feet.

A 3 inch wide black stripe shall be painted between the two 4 inch wide yellow stripes of a double-yellow centerline traffic stripe.

Each coat of paint for any traffic stripe, including glass beads where required, shall be applied in one pass of the striping machine, regardless of the number, width, and pattern of individual stripes involved.

Paint to be applied in (2) coats shall be applied approximately as follows:

	<u>Square Foot Coverage per Gallon</u>	
	<u>First Coat</u>	<u>Second Coat</u>
Water Borne Paint	215	215

The exact rate of paint to be applied will be determined by the Engineer. The volume of paint applied shall be measured by stabbing the paint tank with a calibrated rod.

At the option of the Engineer, if the striping machine is provided with air atomizer spray units (not airless) and is equipped with paint gauges, the volume of paint may be determined by using such gauges.

Ready-mixed paints shall be suitable for use on either asphalt or Portland cement concrete.

Unless otherwise directed by the Engineer, glass beads shall be uniformly incorporated in all coats of paint concurrently with the application of the paint, except that glass beads shall not be applied to black paint. Beads shall be embedded in the coat of traffic paint being applied to a depth of one half their diameters.

Glass beads shall be applied at an approximate rate of (5) pounds per gallon of paint. The exact rate will be determined by the Engineer. The amount of glass beads applied shall be measured by stabbing the glass bead tank with a calibrated rod.

314-1.3 INSTALLATION OF RAISED PAVEMENT MARKERS

Placement of raised pavement markers shall comply with Caltrans Specification Subsection 85-1.06. Application of epoxy shall comply with Caltrans Specifications Subsection 95-1.04.

314-1.4 MEASUREMENT AND PAYMENT

Payment for all Signing and Striping Installation shall be included in the contract LUMP SUM price bid item for **Striping** and shall include full compensation for furnishing all labor, material (including adhesives, glass beads, and paint, tools, equipment and incidentals; and for doing the work involved in striping, legends and raised pavement reflective white/yellow/blue markers complete in place, including removal of existing stripes, raised pavement markers and necessary traffic control as shown on the plans and as specified in these Special Provisions and as directed by the Engineer, and no additional compensation will be allowed.

PART 4 EXISTING IMPROVEMENTS

SECTION 403 – MANHOLE ADJUSTMENT AND RECONSTRUCTION

403-3 Manholes in Asphalt Concrete Pavement. [Add the following].

Adjustments to grade of manholes and vault shall conform to the provisions of the Moulton Niguel Water District or the El Toro Water District or City of Laguna Hills, as appropriate.

The method of adjusting existing manholes and vault in areas of new construction or reconstruction shall be as follows:

- 1) Manhole and vault locations shall be marked prior to pavement operations.
- 2) Manhole frames and covers and manhole shafts shall be removed to a depth of six inches below subgrade and covered with an adequate steel cover.
- 3) Upon completion of roadway construction, circular holes shall be cut where the manhole and vault exists.
- 4) The manholes and vault shall then be raised to the proper grade, the manhole frames and covers replaced, and the pavement shall be replaced with an asphalt concrete structural section equivalent to that existing in adjacent areas.

If the manhole cover is unstable or noisy under traffic, said conditions shall be corrected by placing a coil of asphalt saturated rope, a plastic type washer or asphaltic compounds, as approved by the Engineer, on the cover seat.

The Contractor will exercise care so that surface materials such as rocks, dirt and debris do not enter sewer lines.

403-3.1 Adjustment of Water Valve Covers/Gas Valves/Survey Covers. [Add the following subsection].

Existing valve covers shall be adjusted to grade by the Contractor, to the satisfaction of the Moulton Niguel Water District or the El Toro Water District or City of Laguna Hills or Southern California Gas, as appropriate.

Water valves and gas valves shall be protected in a place and shall be accessible at all times during construction.

Valve covers shall be marked as to their location by the Contractor prior to the placement of the pavement. The Contractor shall remove and replace the valve box. Valve covers shall be adjusted to new pavement grade after paving operation.

The Contractor shall notify the **MOULTON NIGUEL WATER DISTRICT or the EL TORO WATER DISTRICT** forty-eight (48) hours prior to beginning of work.

403-5 PAYMENT [Replace with the following]

Adjust Manhole Cover to Grade and adjust Valve Cover to Grade including all appurtenant work and asphalt concrete paving, shall be paid at the contract unit price bid for **EACH**, and no additional compensation will be allowed therefore.

SECTION 404 – COLD MILLING

404-1 GENERAL (Replace the second sentence of the first paragraph with the following)

The presence of paving fabric is unknown, accordingly, Contractor shall perform his own investigation and determine the status of paving fabric. The Agency shall not be responsible for any existing paving fabric, if any.

404-11 MEASUREMENT. [Replace with the following]

Bituminous Pavement Cold Planing on Ridge Route Drive will be full width as per the plans.

Cold Planing on Mill Creek Drive, if awarded as an Alternate Bid, shall include edge grinding of 0" to 1" for a 6' wide grind for all streets - typical, and end of street grinding/join point of 1" depth for a 15' wide transverse grind.

All Cold Planing will be measured for payment by the **SQUARE FOOT**, except as noted below. Payment for Bituminous Pavement Cold Planing, complete in place, including dust control, building of temporary ramps, removal of loosened materials, daily placement of reflective tabs for temporary traffic delineation and for removal and disposal of any contamination encountered from pre-existing pavement fabric shall be made at the contract unit price bid per square foot, and no additional compensation is allowed therefore. NOTE: Cold Planing/grinding 2" for pavement removal and AC placement shall be paid under that bid item, complete and in place.

PART 7 STREET LIGHTING AND TRAFFIC SIGNAL SYSTEMS**SECTION 700 – MATERIALS****700-5.8.2 Inductive Loop Detectors** [Add the following]

Vehicle Loop Detectors

Detector loops shall conform to the provisions in Section 86 5, "Detectors," of the Caltrans Standard Specifications and these Special Provisions.

Loops shall be installed on the same day in which the loop slots are cut. This shall include placement of the loop conductors and slot sealant.

Type E detector loops (circular), per Standard Plan ES 5B shall be six (6) feet in diameter. The sides of the slot shall be vertical and the minimum radius of the slot entering and leaving the circular part of the loop shall be 2 inches. Slot width shall be a maximum of 3/4 inch. Loop wire for circular loops shall be Type 2.

Loop detector lead in cable shall be Type B. Detector loop locations shall be approved by Engineer in the field prior to installation.

The Contractor shall test the detectors with a motor driven cycle, as defined in the California Vehicle Code, which is licensed for street use by the Department of Motor Vehicles of the State of California. The unladen weight of the vehicle shall not exceed 220 pounds, and the engine displacement shall not exceed 100 cubic centimeters. Special features, components or vehicles designed to activate the detector will not be permitted. The Contractor shall provide an operator who shall drive the motor driven cycle through the response or detection area of the detector at not less than three miles per hour, not more than seven miles per hour. The detector shall provide an indication in response to this test.

Each new loop shall be capable of accepting two or more sensor units.

Loops shall be meggered before termination within the presence of a City technician.

In testing a vacant loop, any drift that exceeds an average of more than 1 Hertz/minute shall be cause for rejection.

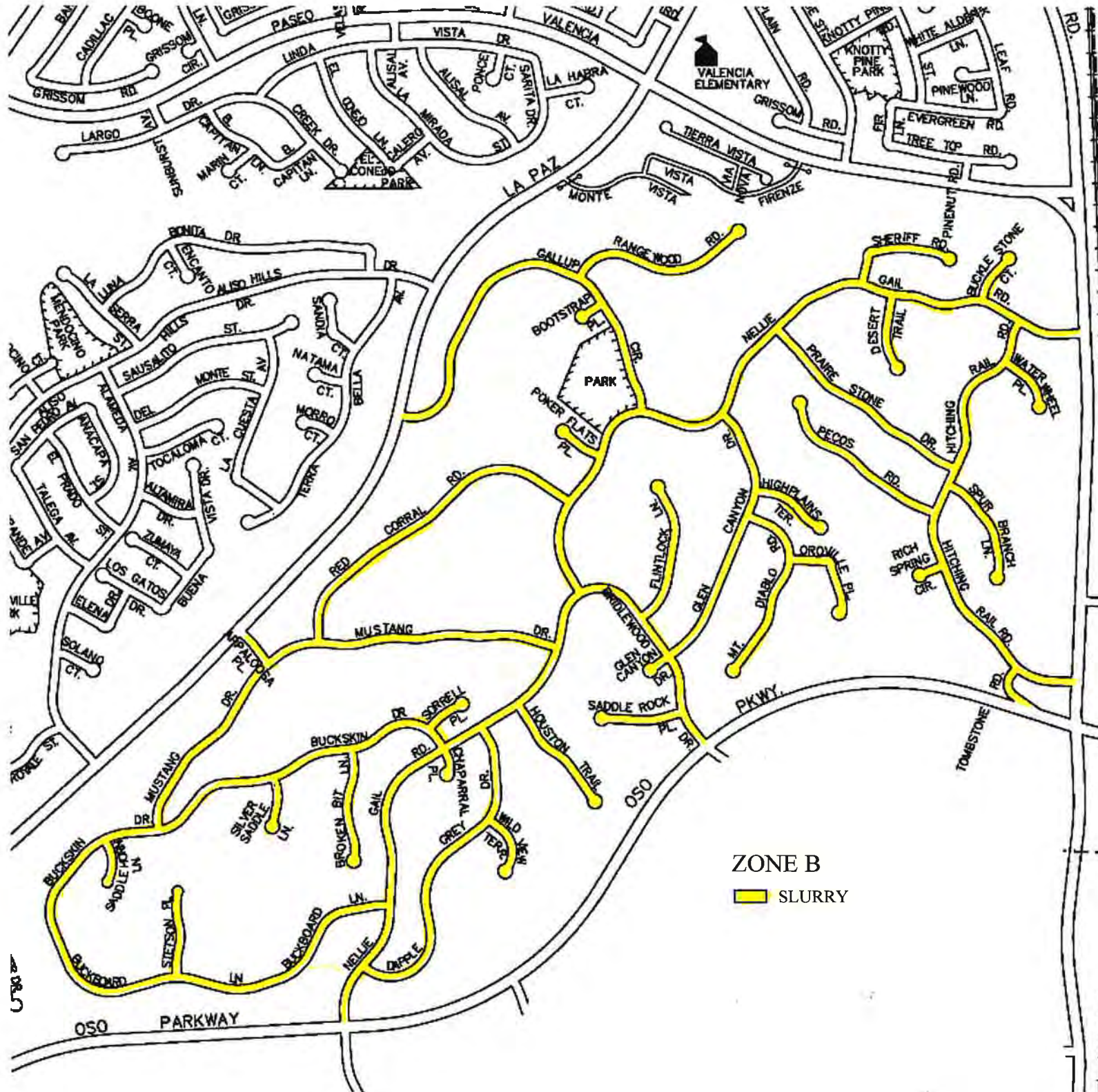
All limit line and "home-run" loop wires shall be in crosswalk area.

700-5.8.2.4 Sealants [Add the following]

Slot sealant for loop detectors shall be Hot Melt Rubberized Asphalt Sealant and conform to the provisions in the State Standard Specifications Section 86 5.01A(5). "Installation Details", of the Standard Specifications and as directed by the Engineer in the field.

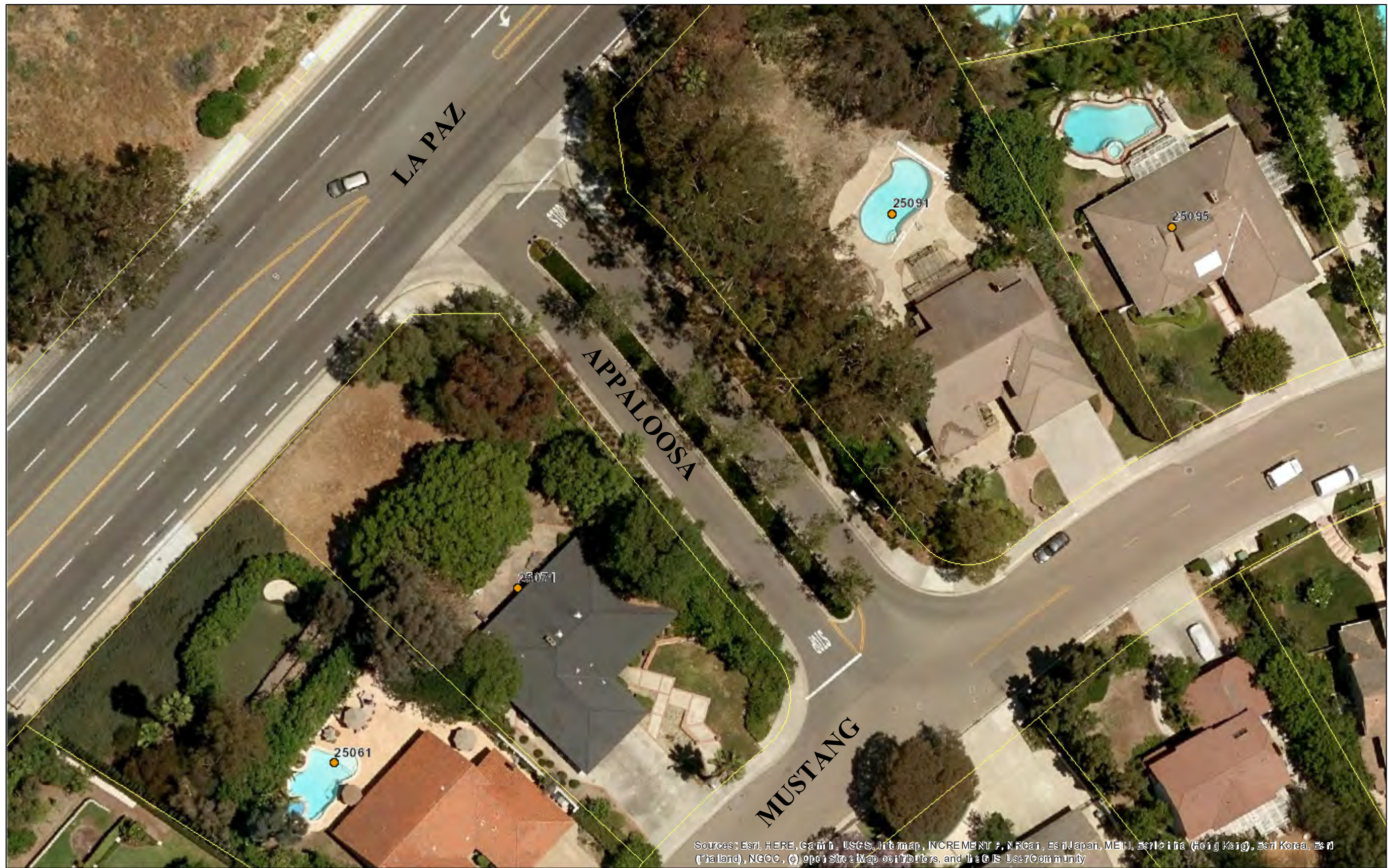
APPENDIX A

ZONE B WORK LISTING/STRIPING/MAP

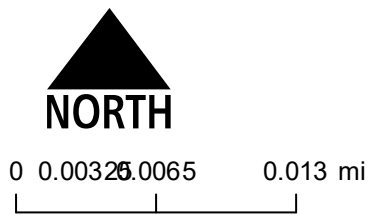


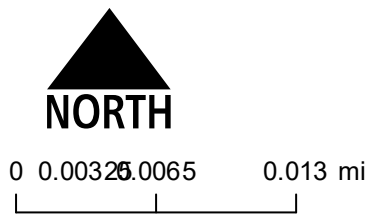
APPENDIX A - WORK AREAS IN ZONE B

STREET NAME	FROM	TO	ZONE	WIDTH	LENGTH	SQ FT	GRIND SF/ AC R&R	# LOCATIONS
ANVIL	FARRIER	END	B	39	805	31400		
APPALOOSA	LA PAZ	MUSTANG	B	39	233	9087		
BOOTSTRAP	GALLUP	END	B	39	182	7098	586	3
BUSKIN	235' N OF NELLIE GAIL	BUCKBOARD	B	39	2900	113100	117101	54
BUCKSKIN	NELLIE GAIL	235' NORTH	B	39	235	9165	100	1
BUCKBOARD	BUCKSKIN	NELLIE GAIL	B	39	3033	118287	2184	12
BUCKLESTONE	NELLIE GAIL	END	B	39	355	13845	240	1
BROKEN BIT	BUCKSKIN	END	B	39	790	30810	45	1
BRIDLEWOOD	OSO	SADDLEROCK	B	39	218	8502	240	2
BRIDLEWOOD	SADDLEROCK	FLINTLOCK	B	39	726	28314		
BRIDLEWOOD	FLINTLOCK	NELLIE GAIL	B	39	503	19617	276	2
CHAPARRAL	NELLIE GAIL	END	B	39	163	6357		
DAPPLE GRAY	NELLIE GAIL SOUTH	NELLIE GAIL NORTH	B	39	2273	88647	232	2
DESERT TRAIL	NELLIE GAIL	END	B	39	520	20280	112	1
FARRIER	MUSTANG	END	B	39	680	26500		
FLINTLOCK	BRIDLEWOOD NORTH	END	B	39	1008	39312	1708	5
GALLUP CIRCLE	500' E/O LA PAZ	LA PAZ	B	39	500	19500		
GALLUP CIRCLE	NELLIE GAIL	500' E/O LA PAZ	B	39	2355	91845	1939	12
GLEN CANYON	BRIDLEWOOD	END	B	39	153	5967	72	1
GLEN CANYON	NELLIE GAIL	BRIDLEWOOD	B	39	1860	72540	421	5
HIGHPLAINS	GLEN CANYON	END	B	39	520	20280	534	6
HITCHING RAIL	CABOT ROAD	NELLIE GAIL	B	39	3136	122304	85	1
HORSESHOE	RED CORRAL	END	B	39	417	16250		
HOUSTON TRAIL	NELLIE GAIL	END	B	39	865	33735		
MT. DIABLO	GLEN CANYON	END	B	39	1336	52104	1291	3
MUSTANG	APPALOOSA	NELLIE GAIL	B	39	1992	77688	1599	17
MUSTANG	APPALOOSA	BUCKSKIN	B	39	1400	54600	2504	4
NELLIE GAIL	CABOT	BRIDLEWOOD	B	39	5040	196560	290	1
NELLIE GAIL	BRIDLEWOOD	OSO	B	39	3614	140946	11416	4
OROVILLE	MT. DIABLO	END	B	39	616	24024	54	1
PRAIRIESTONE	HITCHING RAIL	NELLIE GAIL	B	39	1536	59904	284	2
POKER FLATS	NELLIE GAIL	END	B	39	322	12558		
PECOS	HITCHING RAIL	END	B	39	1288	50232	367	4
RED CORRAL	680' W/O MUSTANG	740' W/O NELLIE GAIL	B	39	836	32604		
RED CORRAL	MUSTANG	680' WEST	B	39	680	26520		
RED CORRAL	NELLIE GAIL	740' WEST	B	39	740	28860		
RANGEWOOD	GALLUP CIR	END	B	39	1295	50505		
RICH SPRING	HITCHING RAIL	END	B	39	190	7410	578	5
SADDLE ROCK	BRIDLEWOOD	END	B	39	553	21567		
SADDLE HORN	BUCKSKIN	END	B	39	334	13026		
SHERIFF	NELLIE GAIL	END	B	39	780	30420	275	2
SPUR BRANCH	HITCHING RAIL	END	B	39	780	30420	28	1
STETSON	BUCKBOARD	END	B	39	625	24375	1264	3
SORRELL	BUCKSKIN	END	B	39	280	10920	56	1
SILVER SADDLE	BUCKSKIN	END	B	39	338	13182		
TOMBSTONE	OSO PARKWAY	HITCHING RAIL	B	39	294	11466		
WILDVIEW	DAPPLE GREY	END	B	39	430	16770	24	1
WATERWHEEL	HITCHING RAIL	END	B	39	410	15990	1098	7
TOTALS:						1955393	147003	



APPALOOSA AT LA PAZ



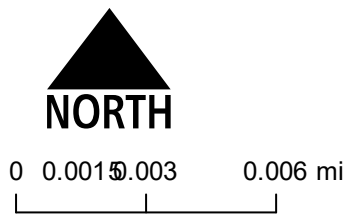


BRIDLEWOOD AT FLINTLOCK



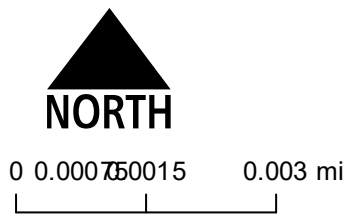


BRIDLEWOOD AT GRAND CANYON



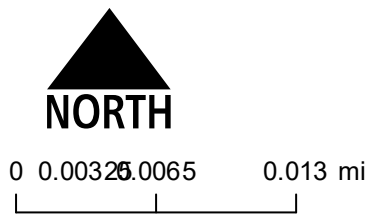


Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)



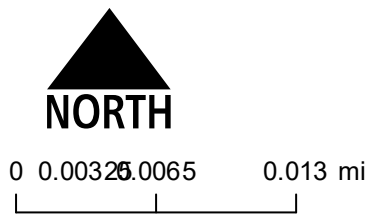
BRIDLEWOOD AT OSO PKWY





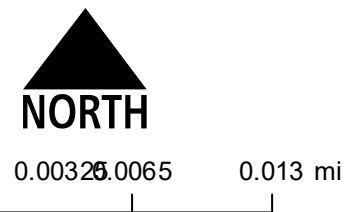
BRIDLEWOOD AT SADDLE ROCK





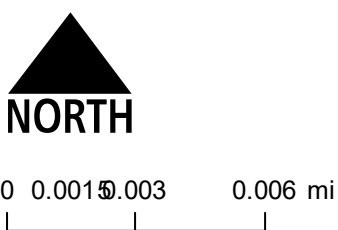
BUCKBOARD AT STETSON





BUCKBOARD HORSE XING



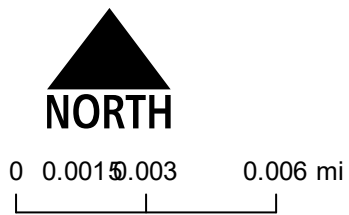


Farrier





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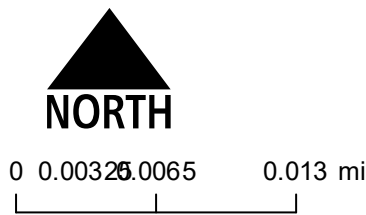


GALLUP AT LA PAZ



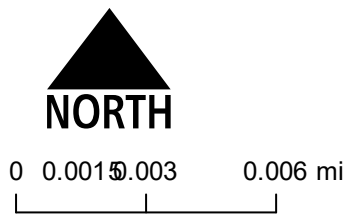


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GALLUP HORSE XING





HITCHING RAIL AT CABOT





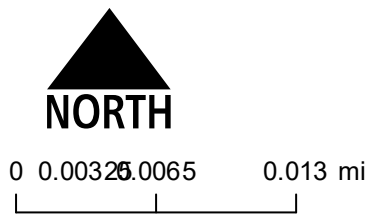
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0 0.001 0.003 0.006 mi

Horseshoe



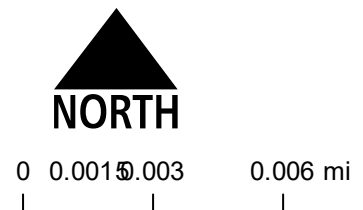


MUSTANG AT BUCKSKIN



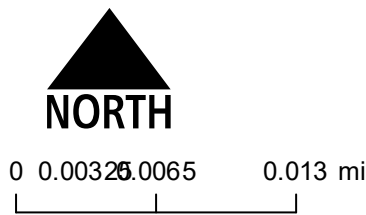


MUSTANG AT FARRIER





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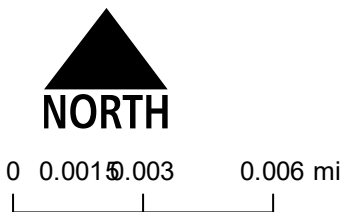


MUSTANG AT RED CORRAL



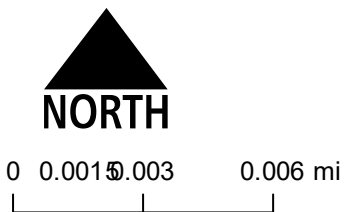


NELLIE GAIL HORSE CROSSING





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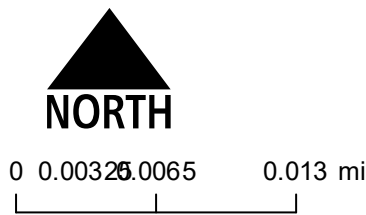


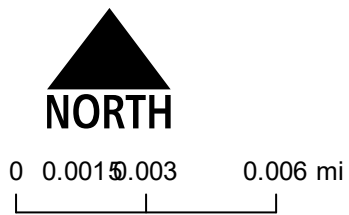
NELLIE GAIL HORSE XING





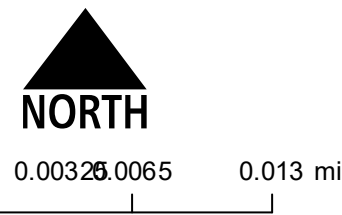
NELLIE GAIL AT BRIDLEWOOD





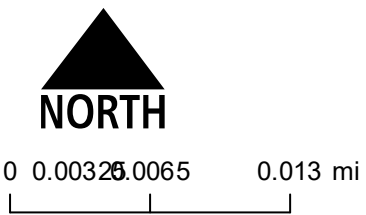
NELLIE GAIL AT BUCK BOARD





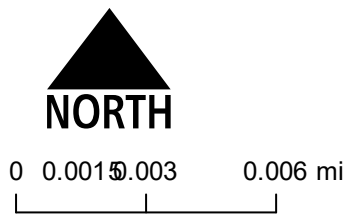
NELLIE GAIL AT BUCKLESTONE





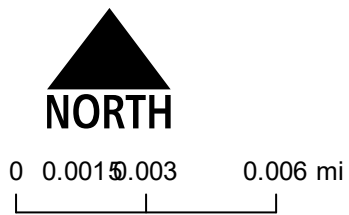
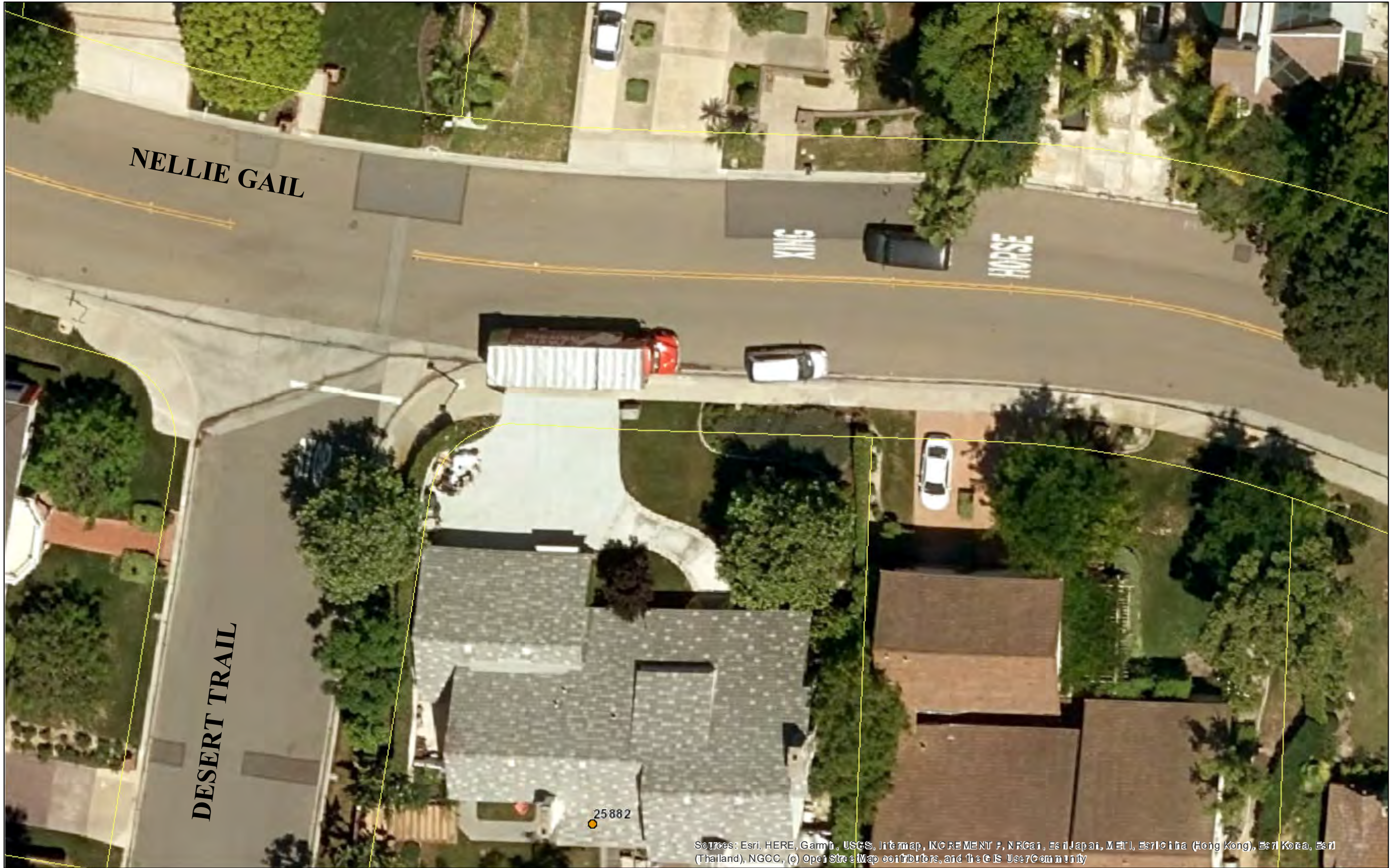
NELLIE GAIL AT CABOT RD





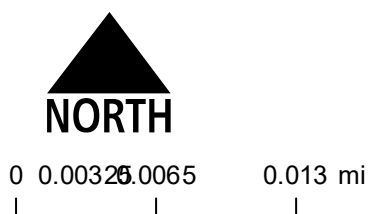
NELLIE GAIL AT DAPPLE GRAY





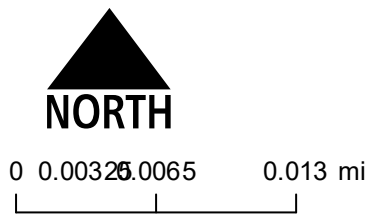
NELLIE GAIL AT DESERT TRAIL





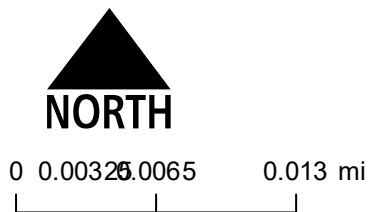
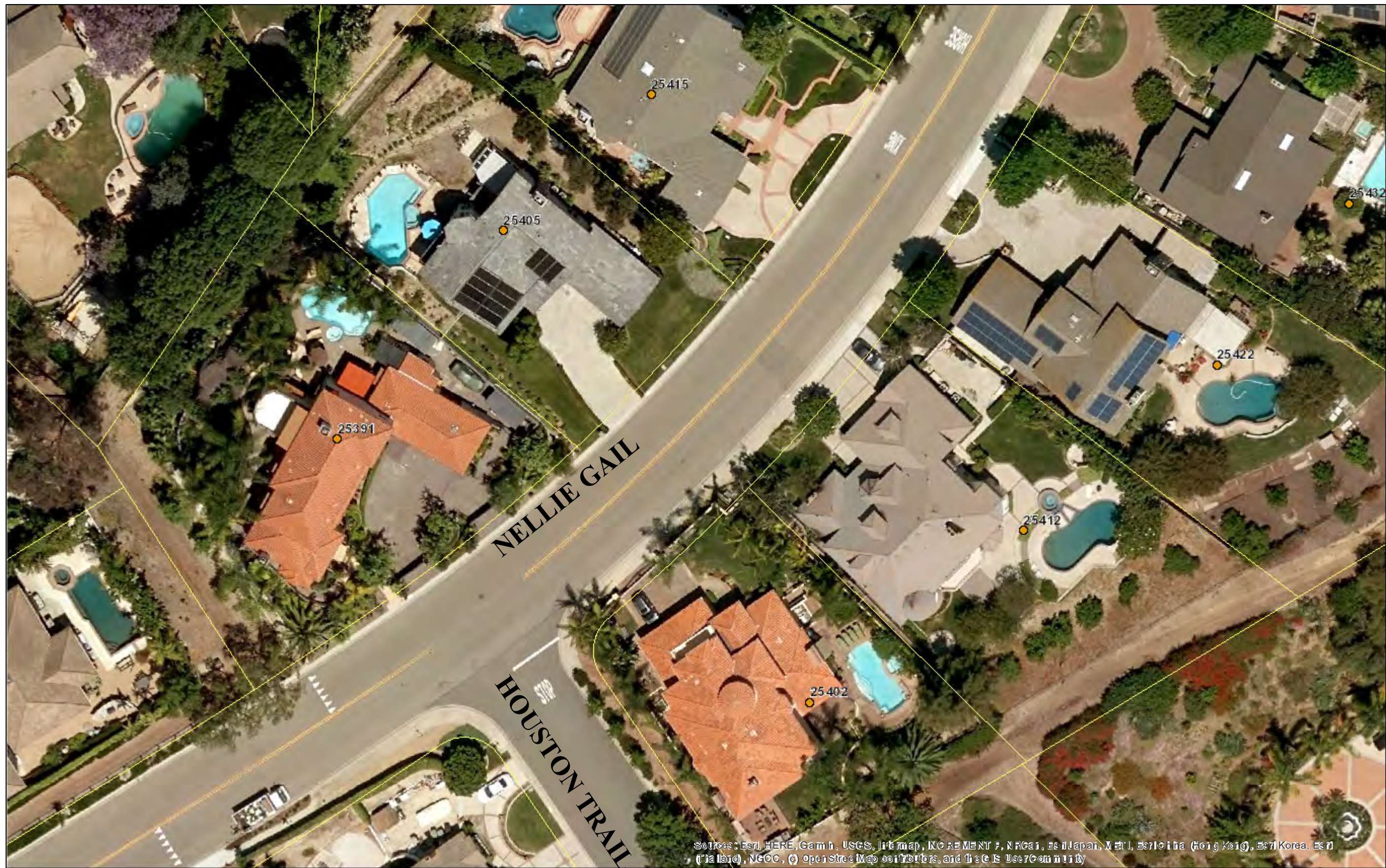
NELLIE GAIL AT GALLUP





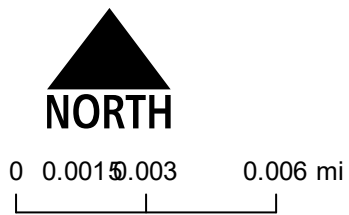
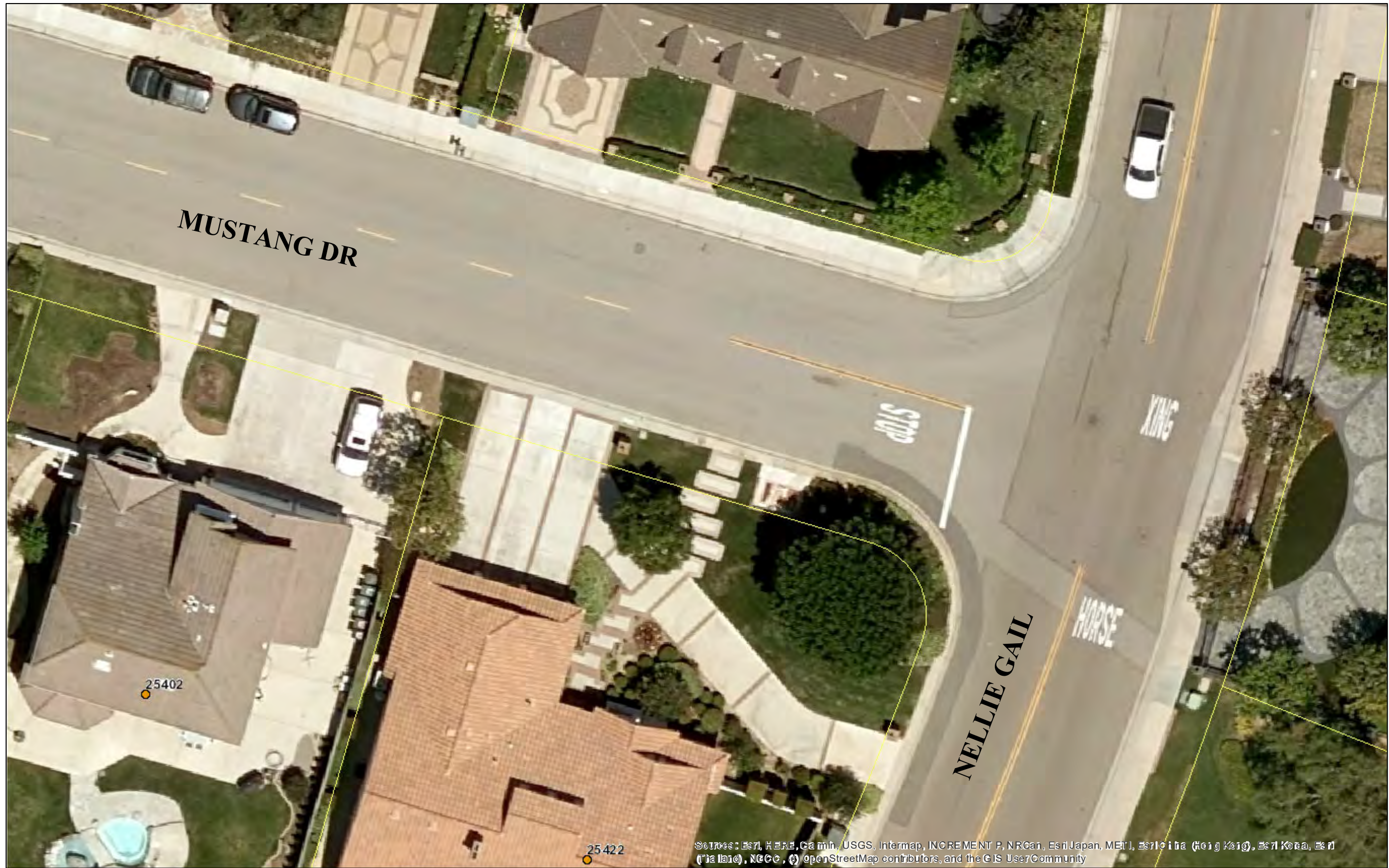
NELLIE GAIL AT GLEN CANYON





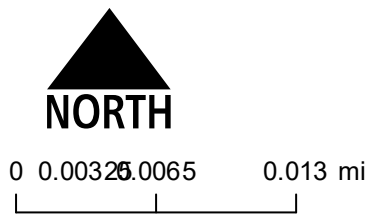
NELLIE GAIL AT HOUSTON TRAIL





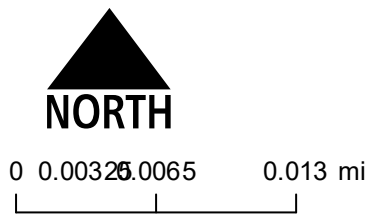
NELLIE GAIL AT MUSTANG DR





NELLIE GAIL AT OSO PKWY



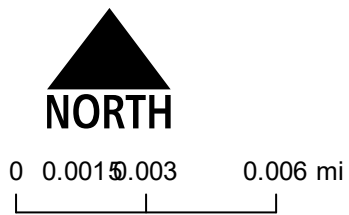


NELLIE GAIL AT POKER FLATS



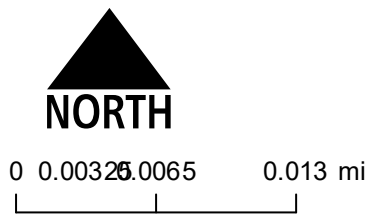
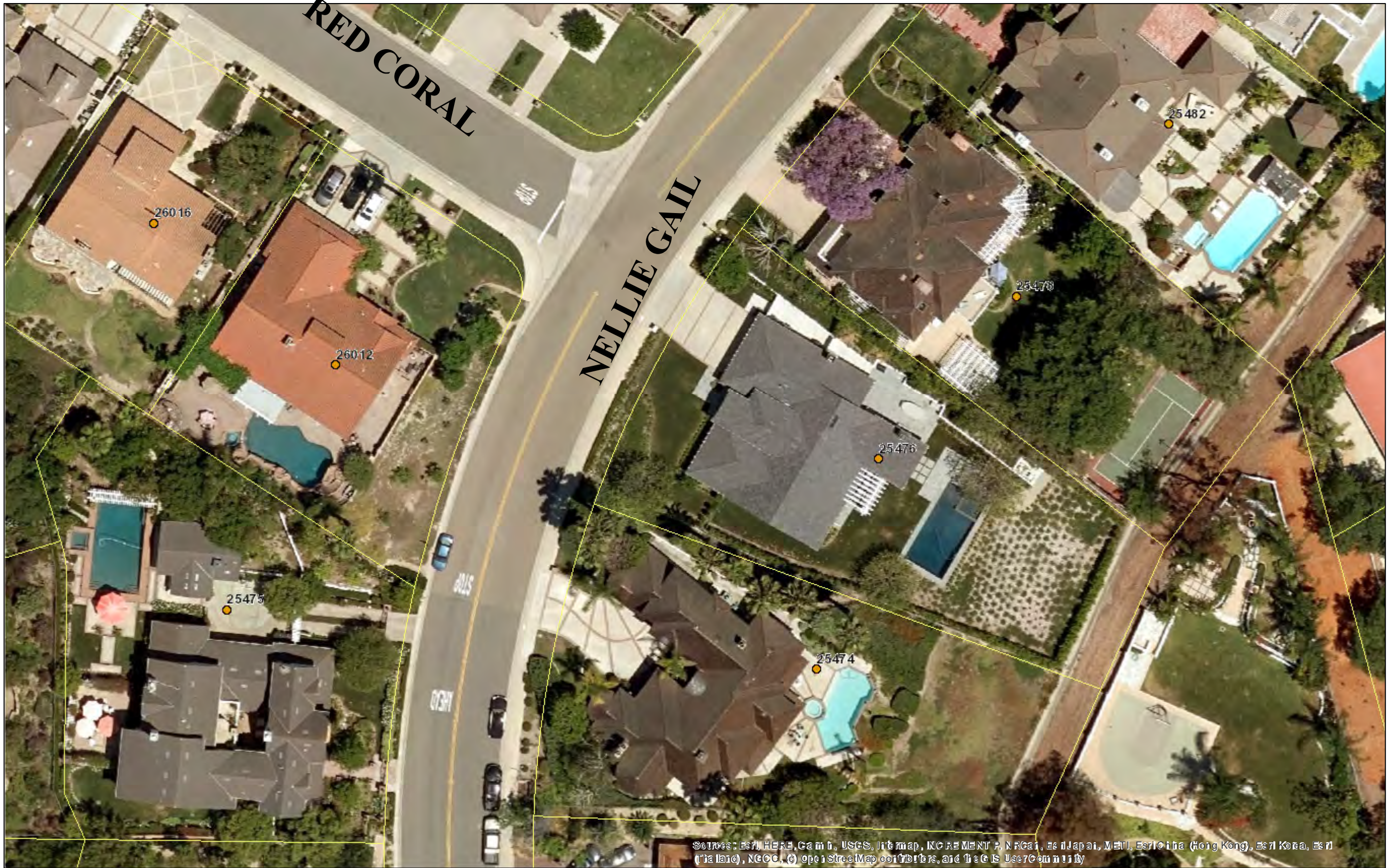


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri
(Ireland), NCCO, © OpenStreetMap contributors, and the GIS User Community



NELLIE GAIL AT PRAIRE STONE



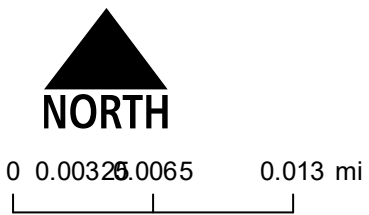


NELLIE GAIL AT RED CORAL





Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

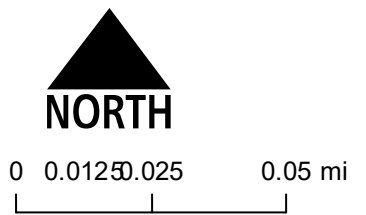


NELLIE GAIL AT SHERIFF





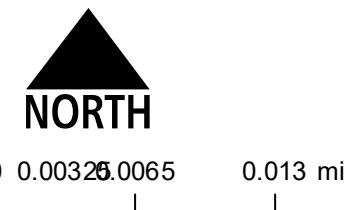
NELLIE GAIL BUCKBOARD TO BUCKSKIN



HOUSTON TRAIL

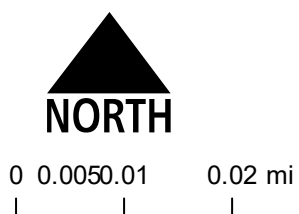


Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)



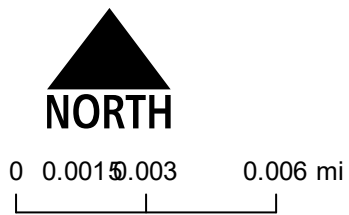
NELLIE GAIL BUCKSKIN TO HOUSTON TRAIL





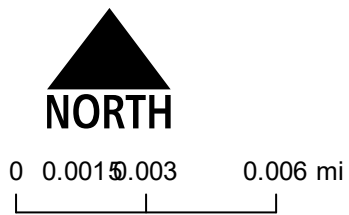
NELLIE GAIL FROM DAPPLE GRAY TO BUCK BOARD





TOMBSTONE AT HITCHING RAIL





TOMBSTONE AT OSO PKWY



APPENDIX B

ZONE C WORK LISTING/STRIPING/MAP

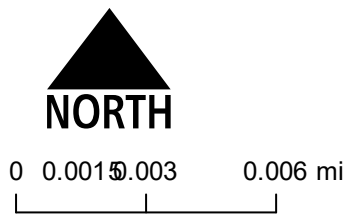
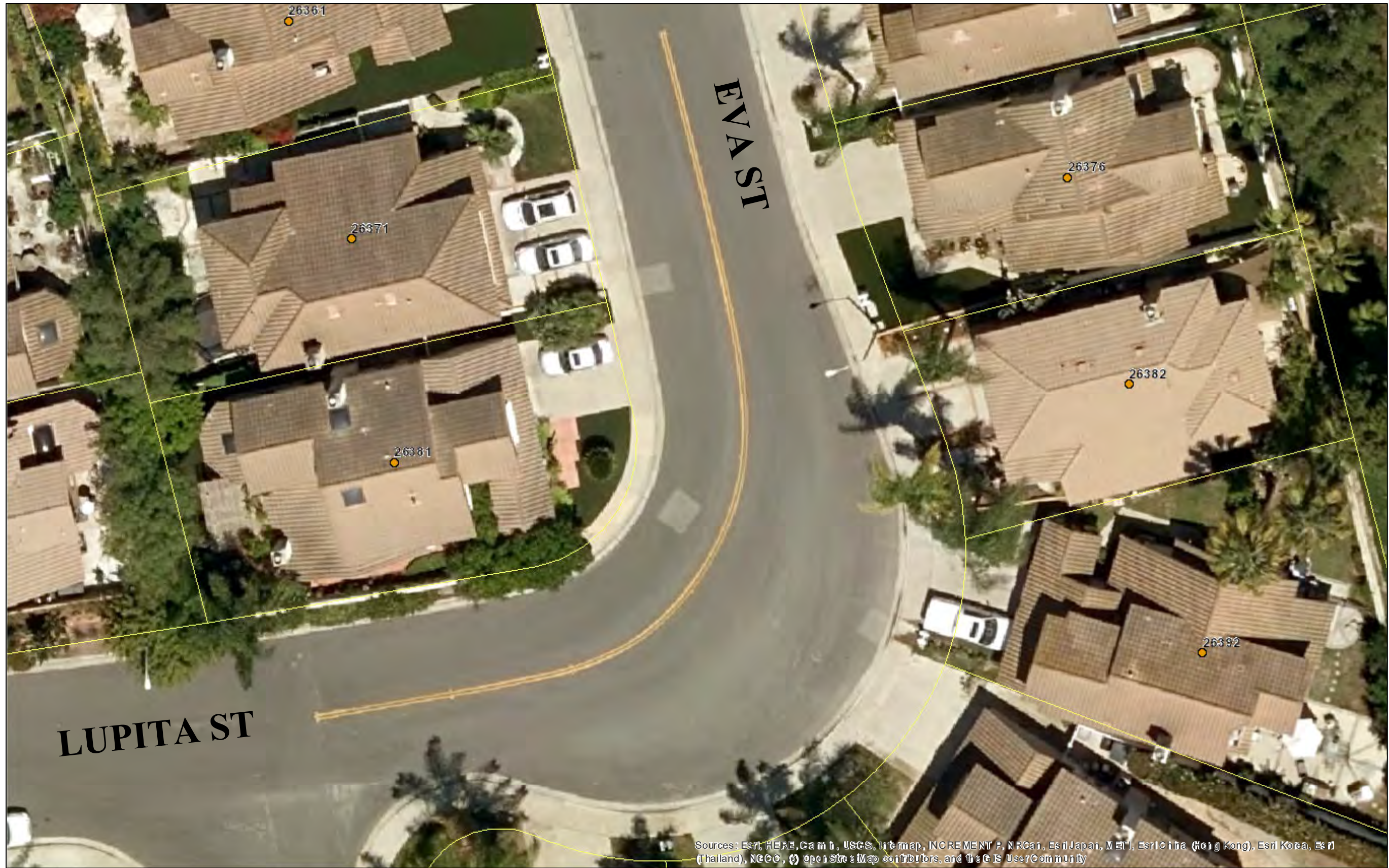
Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

ZONE C

 SLURRY

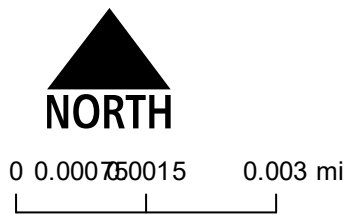
APPENDIX B - ZONE C WORK AREAS

<u>STREET</u>	<u>FROM</u>	<u>TO</u>	<u>ZONE</u>	<u>WIDTH</u>	<u>LENGTH</u>	<u>SF</u>	<u>GRIND SF/AC R&R</u>	<u># LOCATIONS</u>
AMALIA	YOLANDA	CARMEL	C	32	211	6752		
ANDREA	END	END	C	32	286	9152		
CARMEL	END	END	C	32	865	27680		100
EVA	LUPITA	YOLANDA	C	32	961	30752		
LOUISA	MOULTON	END	C	32	1226	39232		16
LUPITA	LOUISA	EVA	C	32	584	18688		
PATRICIA	LUPITA	END	C	32	397	12704		
RAMONA	ALICIA	YOLANDA	C	32	471	15072		98
ROSA	LUPITA	END	C	32	559	17888		
YOLANDA	EVA	RAMONA	C	32	769	24608		230
TOTALS						202528		444



EVA ST AT LUPITA ST



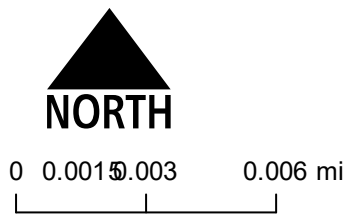


LUISA ST AT MOULTON PKWY





Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, Esri Korea, Esri (Thailand), NOAA, Swisstopo, Mapbox, and the GIS User Community

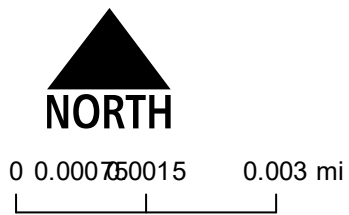


LUPITA ST AT LUISA ST





Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Beijing), Esri Korea, Esri (India), NCC, © OpenStreetMap contributors, and the GIS User Community

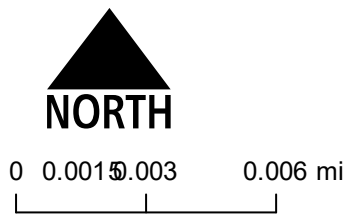


Ramona St at Alicia Pkwy





RAMONA ST AT YOLANDA ST



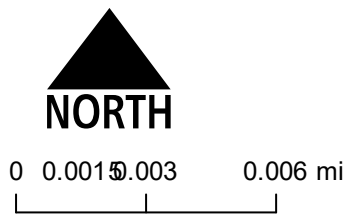


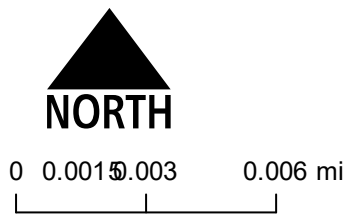
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

YOLANDA ST

EVA ST

YOLANDA ST AT EVA ST



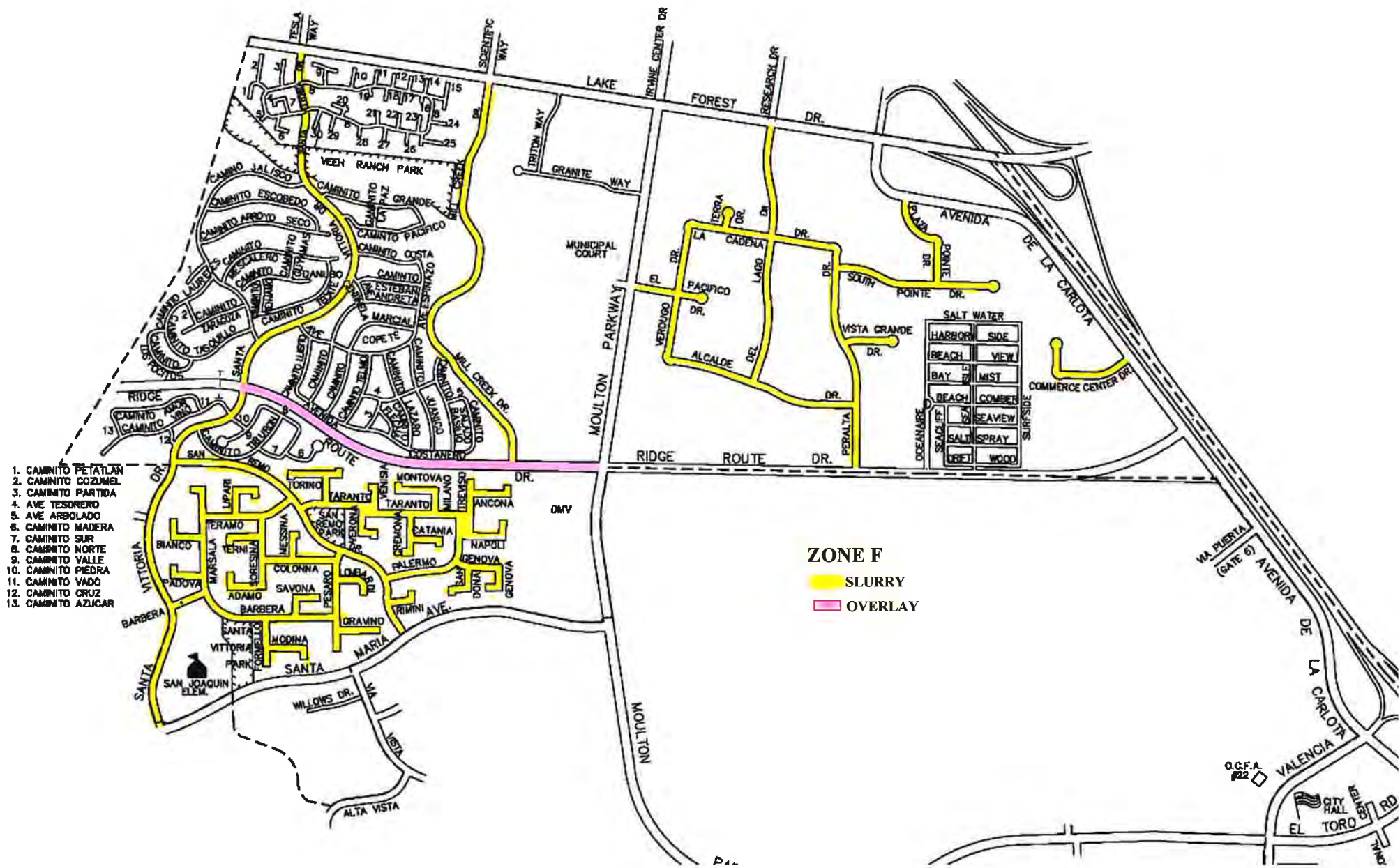


YOLANDA ST



APPENDIX C

ZONE F WORK LISTING/STRIPING/MAP

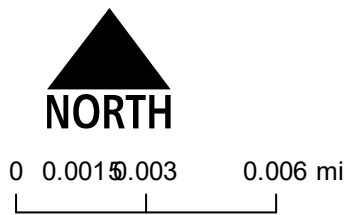


Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and

APPENDIX C - ZONE F WORK AREAS

<u>STREET</u>	<u>FROM</u>	<u>TO</u>	<u>ZONE</u>	<u>WIDTH FT.</u>	<u>LENGTH FT</u>	<u>SQ FT</u>	<u>GRIND SF/AC R&R</u>	<u>#LOCATIONS</u>
ALCALDE	VERDUGO	PERALTA	F	40	1618	64720		
ADAMO	SORESINA	END	F	32	571	18272		
ANCONA	TREVISO	END	F	32	411	13152		
BARBERA	SANTA VITTORIA	PESARO	F	35	4137	144795		
BIANCO	MARSALA	END	F	32	601	19232		
COMMERCE CENTER	AVE DE LA CARLOTA	END	F	46	947	43562		
COLONNA	SORESINA	PESARO	F	32	569	18208		
CREMONA	TARANTO	END	F	32	474	15168		
CATANIA	CREMONA	END	F	32	432	13824		
DEL LAGO	LA CADENA	ALCALDE	F	40	1185	47400		
DEL LAGO	LAKE FOREST	LA CADENA	F	40	890	35600		
EL PACIFICO	MOULTON	VERDUGO	F	40	305	12200		
EL PACIFICO	VERDUGO EAST	END	F	40	235	9400		
FORMELLO	BARBERA	END	F	32	543	17376		
GENOVA	PALERMO	END	F	32	797	25504		
GRAVNO	PESARO	END	F	32	520	16640		
LA CADENA	PERALTA	VERDUGO	F	40	1235	49400		
LOMBARDI	PESARO	END	F	32	493	15776		
LIPARI	TERAMO	END	F	32	594	19008		
MODINA	FORMELLO	END	F	32	550	17600		
MESSINA	COLONNA	END	F	32	373	11936		
MARSALA	BARBERA	END	F	32	1175	37600		
MILANO	TERANTO	MONTOVA	F	32	211	6752		
MONTOVA	MILANO	END	F	32	442	14144		
MILL CREEK	LAKE FOREST	RIDGE ROUTE	F	40	3675	147000	14417	44
NAPOLI	PALERMO	END	F	32	680	21760		
PLAZA POINTE	SOUTH POINTE	AVE DE LA CARLO	F	40	840	33600		
PERALTA	RIDGE ROUTE	LA CADENA	F	40	1862	74480		
PESARO	SAN REMO	END	F	32	1090	34880		
PADOVA	MARSALA	END	F	32	466	14912		
PALERMO	SAN REMO	TARANTO	F	32	961	30752		

RIMINI	SAN REMO	END	F	32	404	12928		
RIDGE ROUTE	MOULTON	SANTA VITTORIA	F	60	3062	183720		
SAVANO	BARBERA	END	F	32	590	18880		
SORESINA	ADAMO	TERAMO	F	32	764	24448		
SAN DONA	GENOVA	END	F	32	512	16384		
SANTA VITTORIA	LAKE FOREST	RIDGE ROUTE	F	35	3484	121940	1570	6
SANTA VITTORIA	RIDGE ROUTE	SANTA MARIA	F	32	3326	106432	600	2
SAN REMO	SANTA VITTORIA	SANTA MARIA	F	32	2652	84864	622	9
SOUTH POINTE	PERALTA	END	F	40	1365	54600		
TERRA	LA CADENA	END	F	32	167	5344		
TERNI	SORESINA	END	F	32	454	14528		
TERAMO	SAN REMO	MARSALA	F	32	750	24000		
TREVISO	NAPOLI	END	F	32	683	21856		
TARANTO	TREVISO	VERONA	F	32	879	28128		
TARANTO	VENICIA	SAN REMO	F	32	626	20032		
TORINO	TARANTO	END	F	32	1039	33248		
VISTA GRANDE	PERALTA	END	F	32	441	14112		
VERDUGO	ALCALDE	LA CADENA	F	40	1129	45160		
VERONA	TARANTO	END	F	32	425	13600		
VENISIA	TARANTO	END	F	32	346	11072		
TOTALS						1899929	17209	

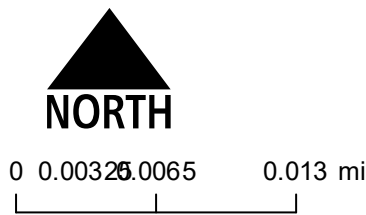


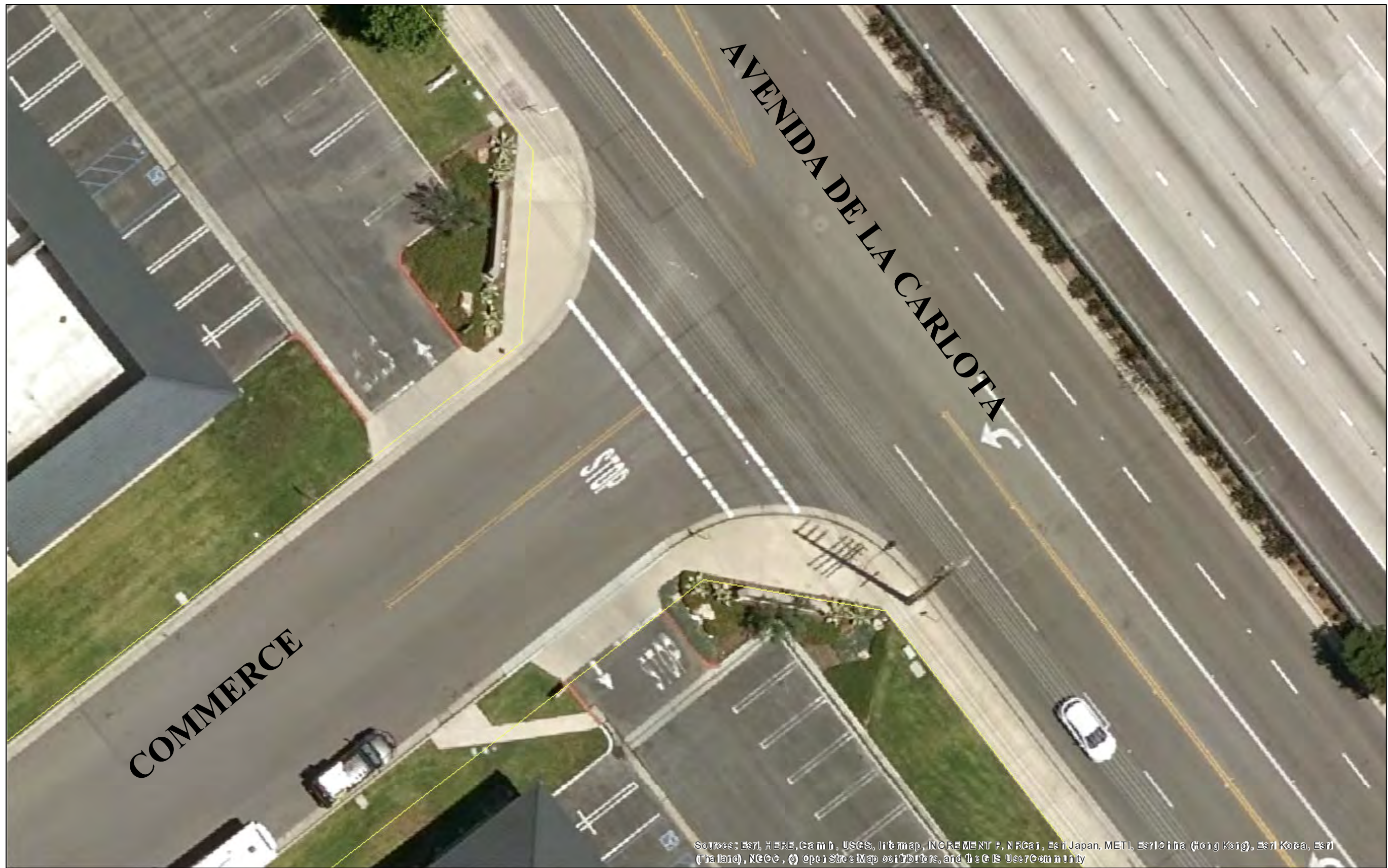
ALCALDE AT DEL LAGO



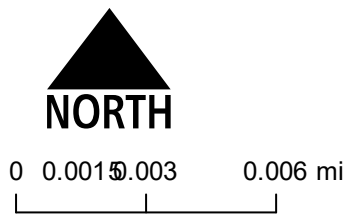


BARBERA AT FORMELO



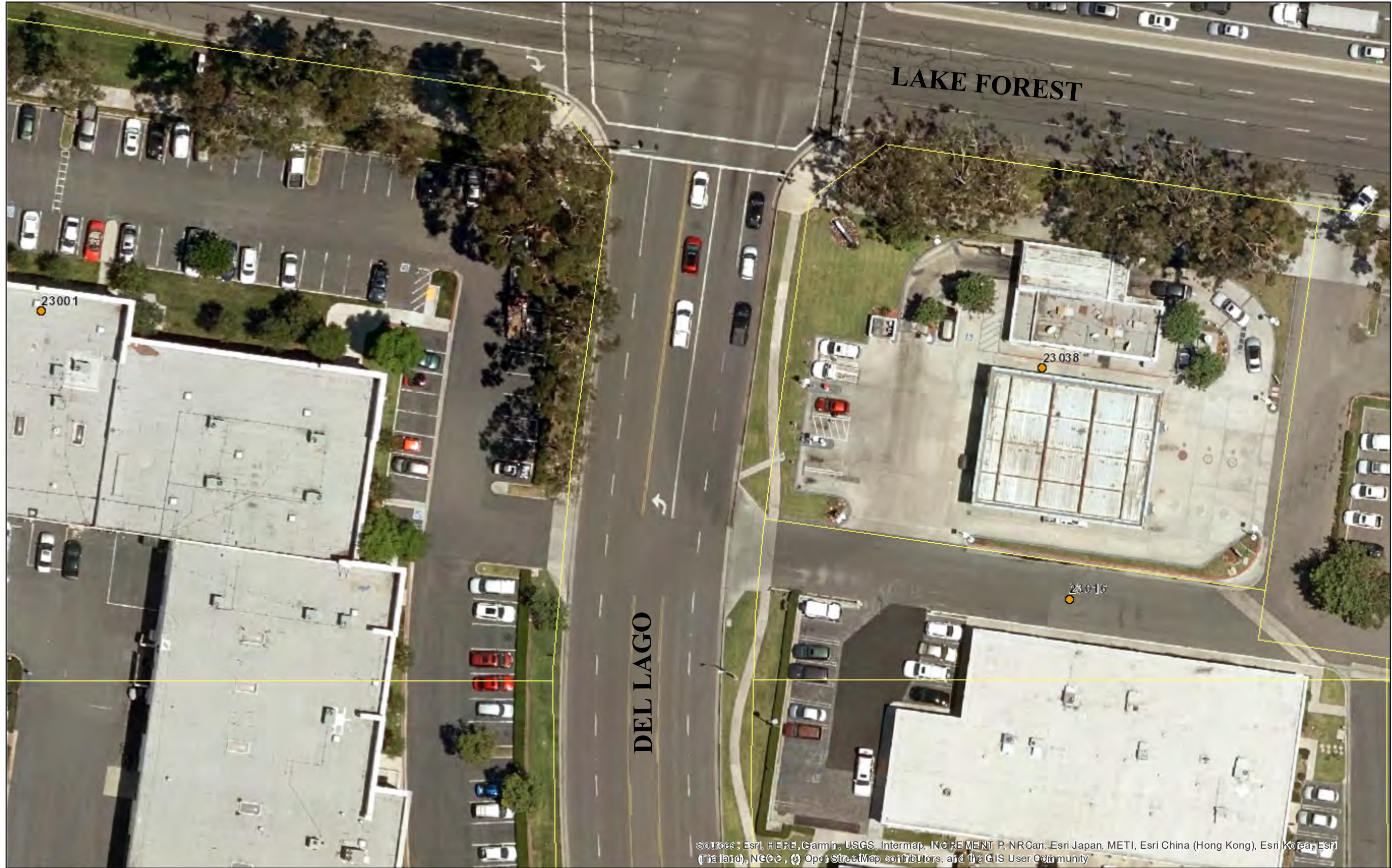


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

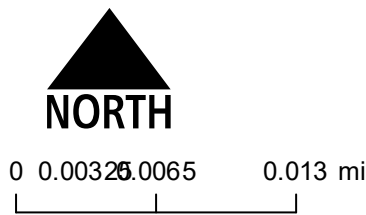


COMMERCE AT AVENIDA DE LA CARLOTA



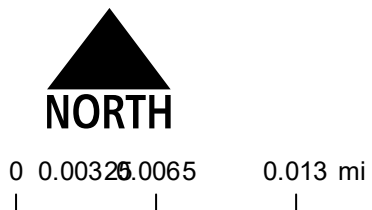


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Ireland), NCCO, © OpenStreetMap contributors, and the GIS User Community



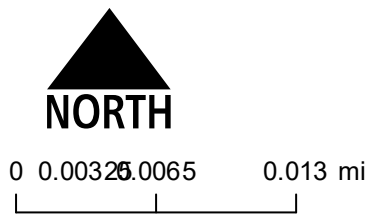
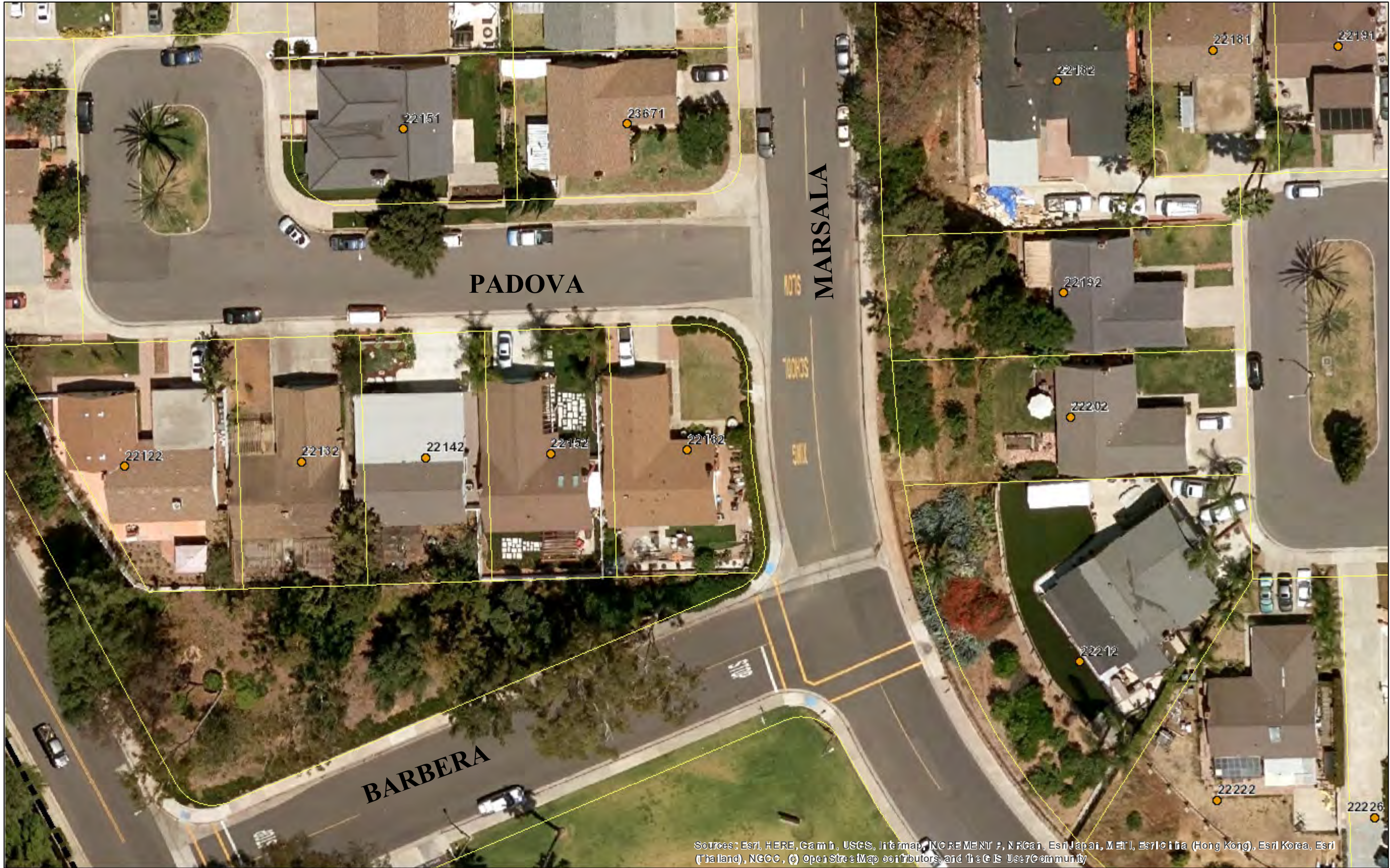
DEL LAGO AT LAKE FOREST





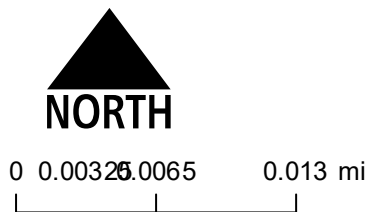
LA CADENA AT DEL LAGO





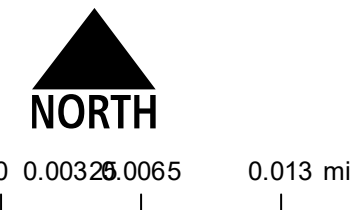
BARBERA AT MARSALA





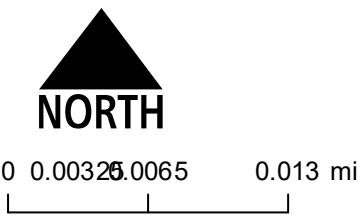
LAKE FOREST AT SANTA VITTORIA





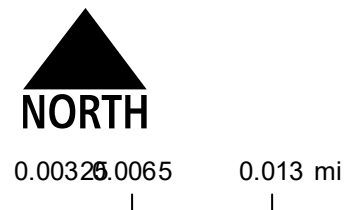
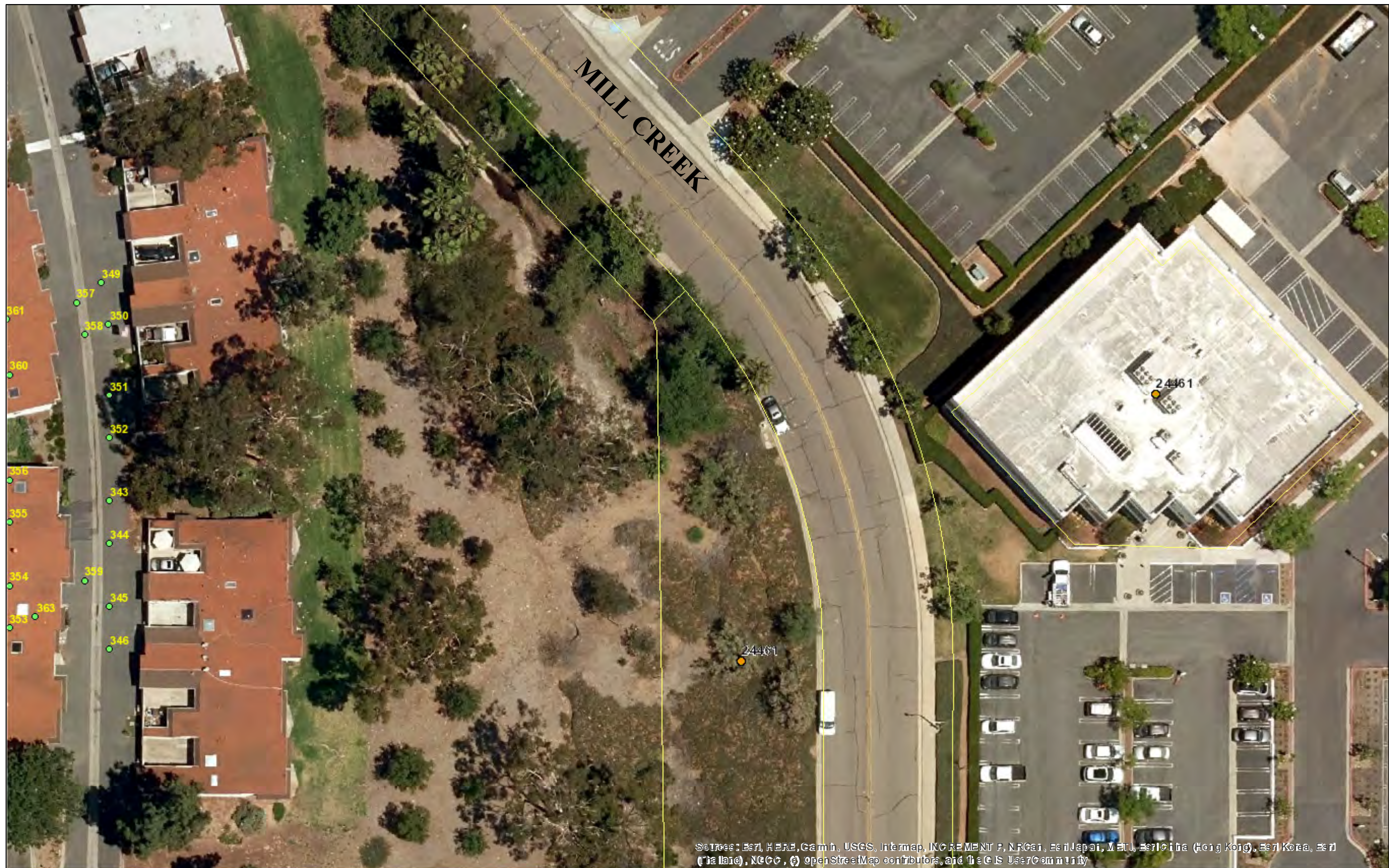
MARSALA ST PADOVA





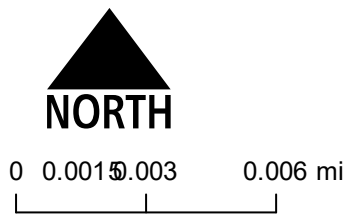
MARSALA AT TERAMO





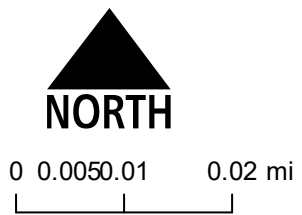
MILLCREEK NO RIDGE ROUTE





MILLCREEK AT LAKE FOREST



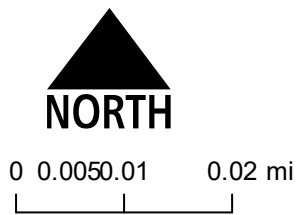


MILL CREEK SO CHANNEL





Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)

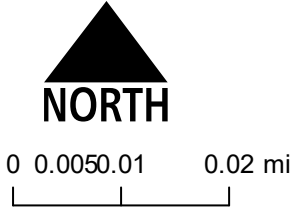


MILLCREEK SO LAKE FOREST



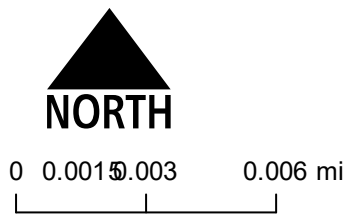


MILLCREEK





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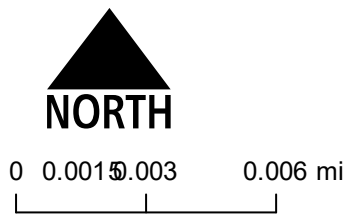


PACIFICO AT MOULTON



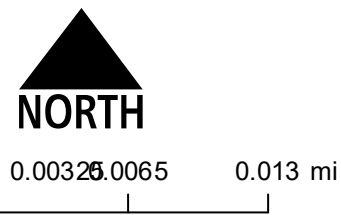


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Beijing), Esri Korea, Esri (India), NCC, © OpenStreetMap contributors, and the GIS User Community



PACIFICO AT VERDUGO



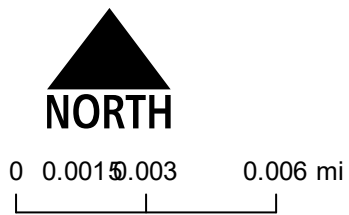


PALERMO AT GENOVA





Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NCCO, © OpenStreetMap contributors, and the GIS User Community



PERALTA AT ALCALDE



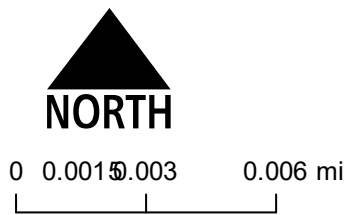


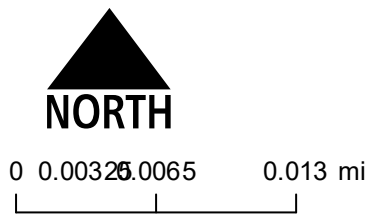
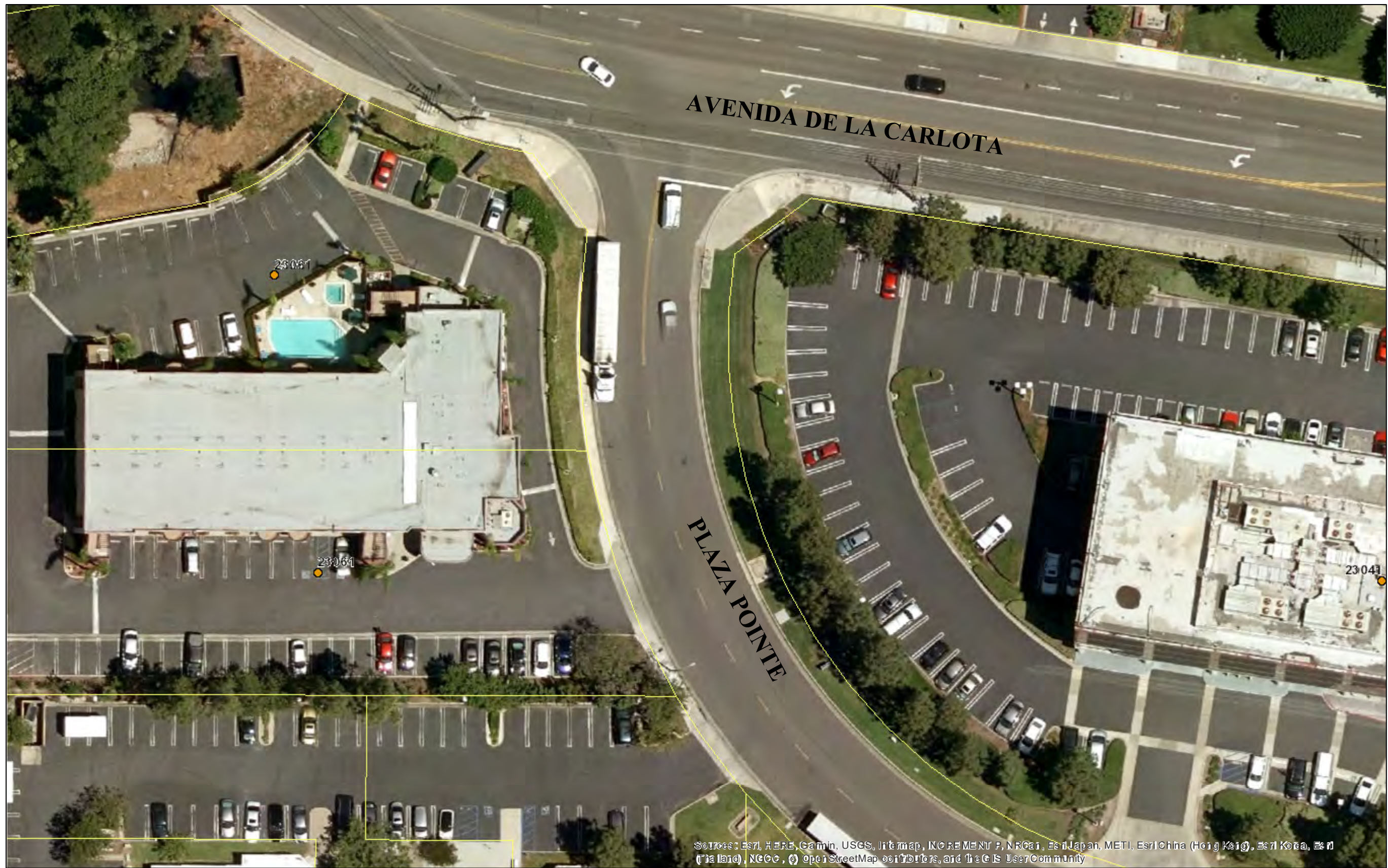
PERALTA

RIDGE ROUTE

Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Beijing), Esri Korea, Esri (India), NCCO, © OpenStreetMap contributors, and the GIS User Community

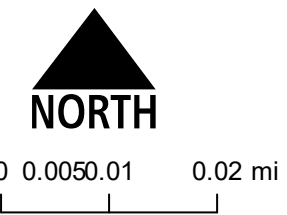
PERALTA AT RIDGE ROUTE





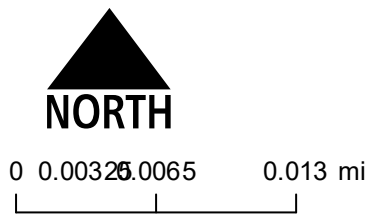
PLAZA POINTE AT AVENIDA DE LA CARLOTA





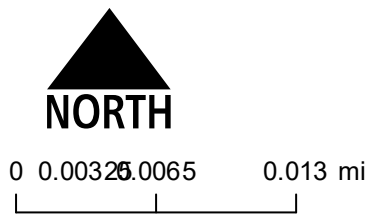
PLAZA POINTE AT SOUTH POINTE





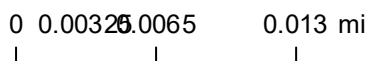
RIDGE ROUTE AT MILL CREEK





SAN REMO AT PALERMO



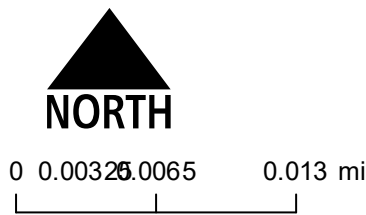


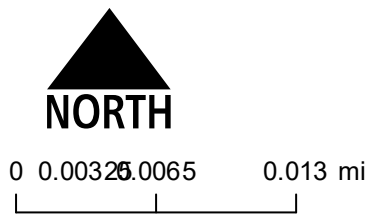
SAN REMO AT PESARO





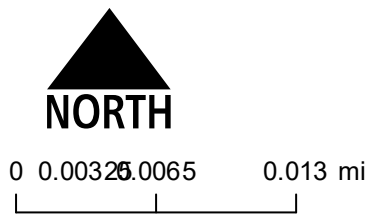
SAN REMO AT RIMINI





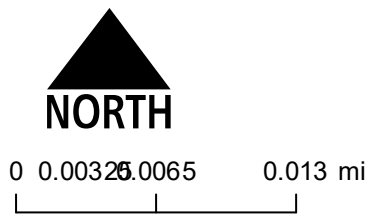
SAN REMO AT SANTA MARIA





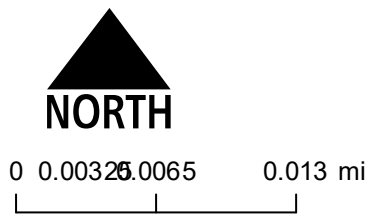
SAN REMO AT TERAMO





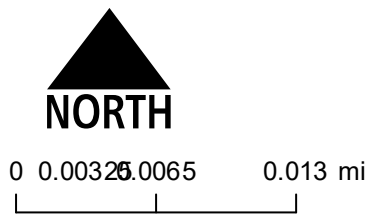
SANTA VITTORIA AT CENTINELA





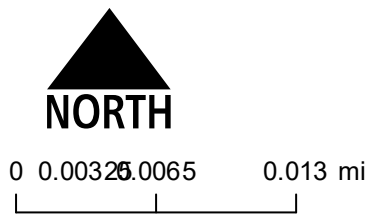
SANTA VITTORIA AT COPETE





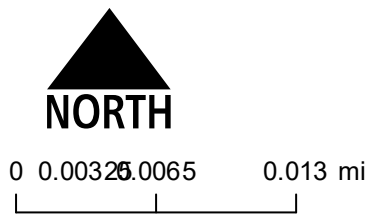
SANTA VITTORIA AT COSTA





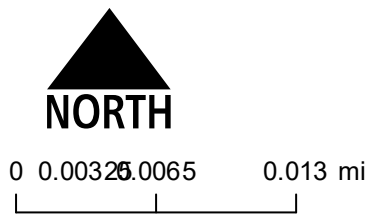
SANTA VITTORIA AT GRANDE





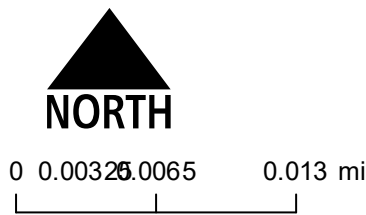
SANTA VITTORIA AT JALISCO





SANTA VITTORIA AT RIDGE ROUTE



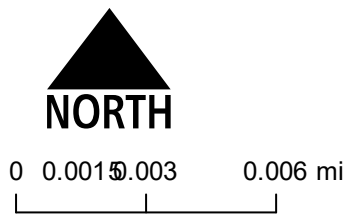


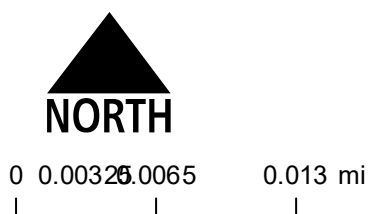
SANTA VITTORIA AT SAN REMO





SANTA VITTORIA AT SANTA MARIA



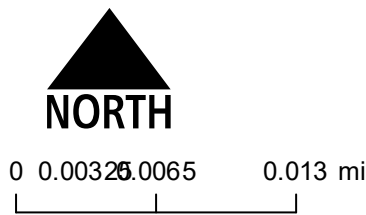


SANTA VITTORIA AT TIBURON





Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, © OpenStreetMap contributors, and the GIS User Community

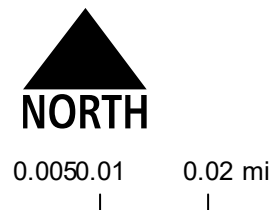


SANTA VITTORIA AT VEEH PRK



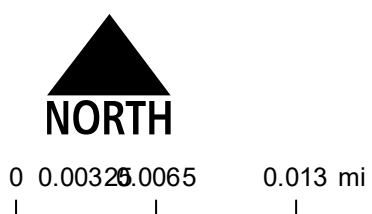


Attachment: Plans and Specifications CIP No. 101-L and CIP No. 188 (2551 : Award of CIP No. 101-L and CIP No. 188)



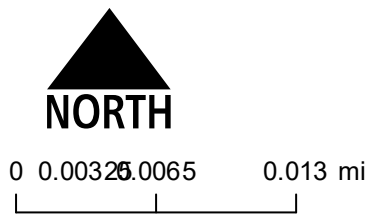
SANTA VITTORIA NO BARBERA





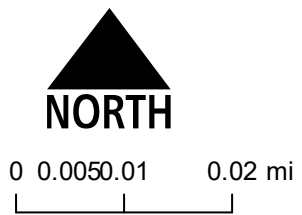
SANTA VITTORIA NO RIDGE ROUTE

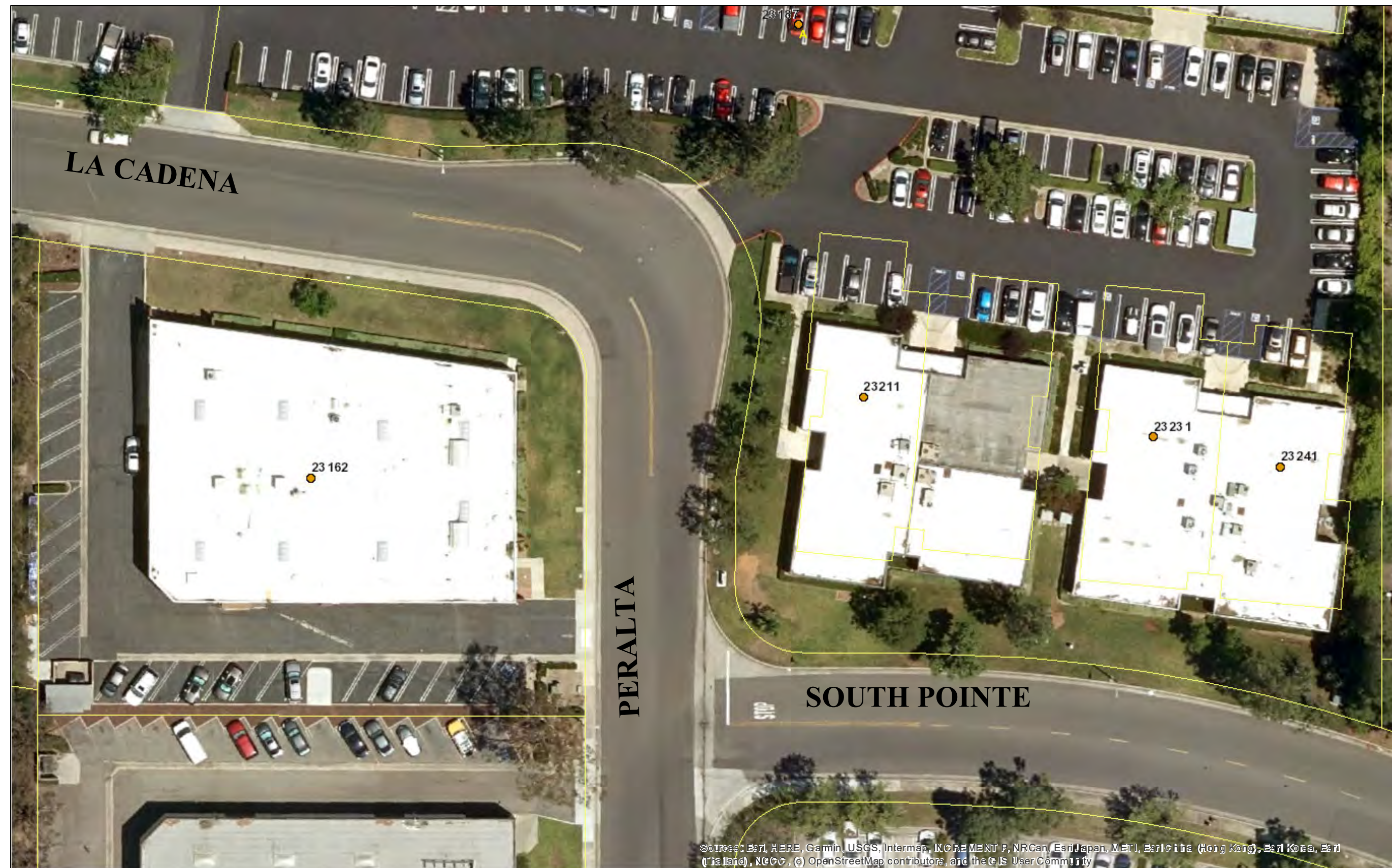




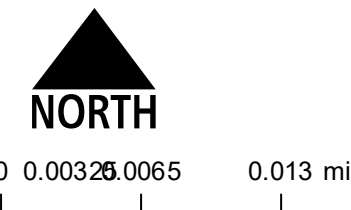
SANTA VITTORIA SO BARBERA







Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (India), NCCO, (c) OpenStreetMap contributors, and the GIS User Community



SOUTH POINTE AT PERALTA



APPENDIX D

RIDGE ROUTE DRIVE PLANS

GENERAL NOTES

1. ALL WORK SHALL CONFORM TO STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION, LATEST EDITION, THE ORANGE COUNTY PUBLIC FACILITIES & RESOURCES DEPARTMENT STANDARD PLANS, LATEST EDITION, AND THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION STANDARD PLANS & SPECIFICATIONS, LATEST EDITION. ALL WORK WITHIN STATE RIGHT-OF-WAY INCLUDING BUT NOT LIMITED TO SPREADING AND COMPACTION SHALL CONFORM TO THE REQUIREMENTS OF CALIFORNIA DEPARTMENT OF TRANSPORTATION, STANDARD PLANS LATEST EDITION AND STANDARD SPECIFICATION, LATEST EDITION AND TO THE 2012 CALIFORNIA MUTCD STANDARDS.
2. ALL EXISTING IMPROVEMENTS INCLUDING CURB AND GUTTERS, SIDEWALKS, & ASPHALT CONCRETE, WHICH ARE BEING JOINED OR MATCHED IN CONNECTION WITH THIS PROJECT, SHALL BE JOINED OR MATCHED IN A MANNER SATISFACTORY TO THE CITY ENGINEER INCLUDING NECESSARY SAWCUTTING, REMOVAL, REPLACEMENT AND CAPPING. REGARDING SAWCUTTING, PAVEMENT TO BE REMOVED SHALL BE SAWCUT TO A MINIMUM DEPTH OF 4" (100mm) TO PROVIDE A NEAT AND STRAIGHT PAVEMENT BREAK ALONG BOTH SIDES OF THE TRENCH (DUGOUT AREAS). AC PAVEMENT SHALL BE SAWCUT TO FULL DEPTH.
3. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY PERMITS AND SHALL NOTIFY THE CITY ENGINEER AT (714) 707-2600, 48 HOURS PRIOR TO STARTING EACH PHASE OF CONSTRUCTION AND PRIOR TO REQUIRING INSPECTION.
4. TRAFFIC CONTROL AND SAFETY DEVICES SHALL BE PLACED AND MAINTAINED PER THE WORK AREA TRAFFIC CONTROL HANDBOOK (WATCH) MANUAL AND TO THE SATISFACTION OF THE CITY ENGINEER.
5. LOCATIONS OF THE UTILITY LINES AS SHOWN ON THE PLANS ARE BASED ON INFORMATION PROVIDED BY UTILITY OWNERS. THE CONTRACTOR SHALL BE RESPONSIBLE TO VERIFY THEIR ACTUAL LOCATIONS, TO PROTECT AND MAINTAIN ALL EXISTING UTILITIES. ANY DAMAGE TO SUCH FACILITIES CAUSED BY THIS WORK SHALL BE REPAIRED BY THE CONTRACTOR AT HIS OWN EXPENSE.
6. TRAFFIC STRIPING, PAVEMENT LEGENDS, RAISED PAVEMENT MARKERS AND LOOP DETECTORS SHALL BE PER CALTRANS TRAFFIC MANUAL, MAINTENANCE MANUAL, STANDARD PLANS AND STANDARD SPECIFICATIONS PER LATEST EDITION. ALL EXISTING STRIPING AND MARKERS SHALL BE RESTORED.
7. PAINTING PROCEDURES FOR STRIPING AND MARKINGS SHALL BE PER STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION (GREEN BOOK) REFLECTORIZE ALL STRIPING AND PAVEMENT LEGENDS AND MATCH CITY STENCIL SIZES AND SHAPES UNLESS OTHERWISE NOTED. TRAFFIC STRIPING AND PAVEMENT LEGENDS SHALL BE APPLIED IN TWO COATS - THE SECOND COAT SHALL BE APPLIED SEVEN DAYS AFTER THE FIRST COAT. MATCH CITY STENCIL SIZES.
8. TYPE DB 2-WAY BLUE REFLECTIVE MARKERS SHALL BE INSTALLED ADJACENT TO EXISTING FIRE HYDRANTS WITHIN THE LIMITS OF THIS PROJECT PER STATE AND CITY STANDARDS.
9. ALL CONFLICTING STRIPING, MARKINGS AND RAISED PAVEMENT MARKERS SHALL BE REMOVED BY WET SANDBLASTING OR APPROVED EQUIVALENT.
10. PRIOR TO RESURFACING OF EXISTING PAVEMENTS THE CONTRACTOR SHALL COMPLETELY REMOVE STRIPES AND RAISED MARKERS.
11. RELATIVE COMPACTION SHALL BE IN ACCORDANCE WITH SECTIONS 19-5.03 AND 19-5.04 OF CALTRANS STANDARD SPECIFICATIONS, LATEST EDITION.
12. TEMPORARY STRIPING SHALL IMMEDIATELY BE PAINTED AFTER EACH COLD PLANING/PAVEMENT GRINDING OPERATION EACH DAY TO MATCH THE STRIPING PLAN AND EXISTING CONDITIONS.

CITY OF LAGUNA HILLS
STREET REHABILITATION PLAN
FOR
RIDGE ROUTE DRIVE
FROM SANTA VITTORIA DRIVE
TO MOULTON PARKWAY
CIP NO. 188



SHEET INDEX

SHT	NO.	DESCRIPTION
1		TITLE SHEET
2		TYPICAL SECTIONS AND DETAILS
3-4		STREET IMPROVEMENT PLANS
5-6		STRIPING PLANS

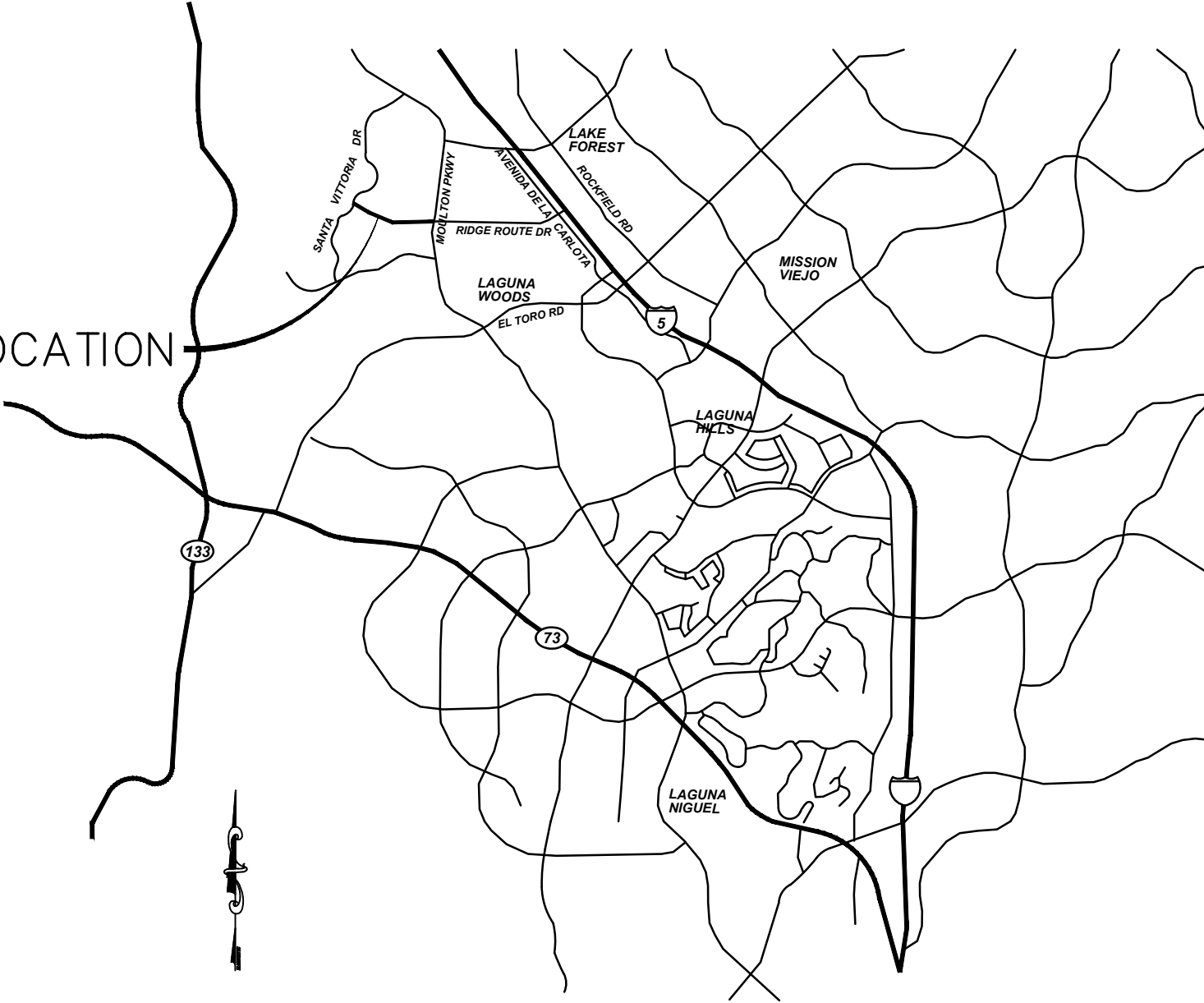
UTILITY CONTACTS

AT&T	(714) 666-5696
DAVID GOLDSTEIN	
THE GAS COMPANY	(714) 634-3158
STEVE ALCALA	
COX COMMUNICATION	(949) 546-2812
COOPER CHARLTON	
SOUTHERN CALIFORNIA EDISON	(949) 458-4413
CHRIS SCHAFER	
EL TORO WATER DISTRICT	(949) 837-7050
BRIAN MILLER	

NPDES NOTES

1. EVERY EFFORT SHOULD BE MADE TO ELIMINATE THE DISCHARGE OF NON-STORMWATER FROM THE PROJECT SITE AT ALL TIMES.
2. ERODED SEDIMENTS AND OTHER POLLUTANTS MUST BE RETAINED ON-SITE AND MAY NOT BE TRANSPORTED FROM THE SITE VIA SHEET FLOW, SWALES, AREA DRAINS, NATURAL DRAINAGE COURSES OR WIND.
3. STOCKPILES OF EARTH AND OTHER CONSTRUCTION RELATED MATERIALS MUST BE PROTECTED FROM BEING TRANSPORTED FROM THE SITE BY THE FORCES OF WIND OR WATER.
4. FUELS, OILS, SOLVENTS, AND OTHER TOXIC MATERIALS MUST BE STORED IN ACCORDANCE WITH THEIR LISTING AND ARE NOT TO CONTAMINATE THE SOIL AND SURFACE WATERS. ALL APPROVED STORAGE CONTAINERS ARE TO BE PROTECTED FROM THE WEATHER. SPILLS MUST BE CLEANED UP IMMEDIATELY AND DISPOSED OF IN A PROPER MANNER. SPILLS MAY NOT BE WASHED INTO THE DRAINAGE SYSTEM.
5. EXCESS OR WASTE CONCRETE MAY NOT BE WASHED INTO THE PUBLIC WAY OR ANY OTHER DRAINAGE SYSTEM. PROVISIONS SHALL BE MADE TO RETAIN CONCRETE WASTES ON-SITE UNTIL THEY CAN BE DISPOSED OF AS SOLID WASTE.
6. TRASH AND CONSTRUCTION RELATED SOLID WASTES MUST BE DEPOSITED INTO A COVERED RECEPTACLE TO PREVENT CONTAMINATION OF RAINWATER AND DISPERSAL BY WIND.
7. SEDIMENTS AND OTHER MATERIALS MAY NOT BE TRACKED FROM THE SITE BY VEHICLE TRAFFIC. THE CONSTRUCTION ENTRANCE ROADWAYS MUST BE STABILIZED SO AS TO INHIBIT SEDIMENTS FROM BEING DEPOSITED INTO THE PUBLIC WAY. ACCIDENTAL DEPOSITIONS MUST BE SWEEPED UP IMMEDIATELY AND MAY NOT BE WASHED DOWN BY RAIN OR OTHER MEANS.
8. ANY SLOPES WITH DISTURBED SOILS OR DENUDED OF VEGETATION MUST BE STABILIZED SO AS TO INHIBIT EROSION BY WIND AND WATER.

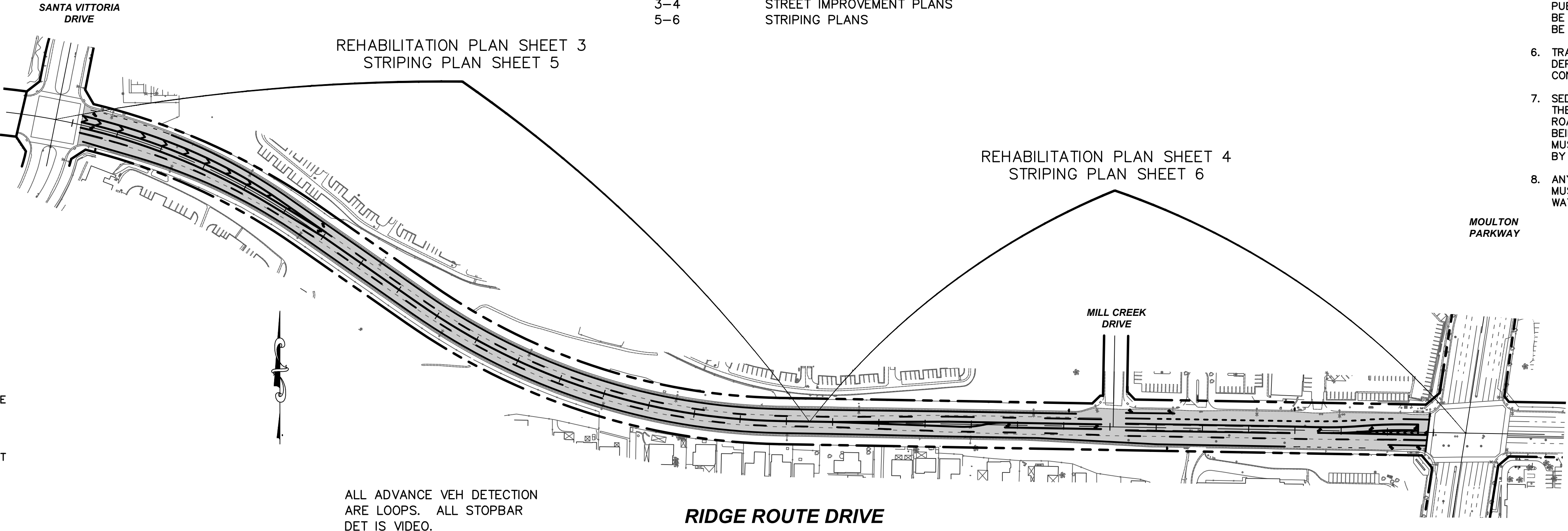
PROJECT LOCATION



VICINITY MAP
N.T.S.

ABBREVIATIONS

AC	ASPHALT CONCRETE
AB	AGGRADED BASE
C&G	CURB AND GUTTER
CL	CENTER LINE
EP	EDGE OF PAVEMENT
EX. OR EXIST.	EXISTING
INT.	INTERSECTION
R/W	RIGHT OF WAY
SDWK	SIDEWALK
STD.	STANDARD
TYP	TYPICAL



RIDGE ROUTE DRIVE

INDEX MAP
NTS

BID SET
5/25/2021



DIAL TOLL FREE
1-800-227-2600
AT LEAST TWO DAYS
BEFORE YOU DIG

REVISIONS

NUMBER	DATE	INITIAL	APP'VD

WOLFE
ENGINEERING AND DESIGN INC.
360 E. 1ST. ST. #282
TUSTIN, CA 92780
(714) 955-4376 - FAX (866) 301-9653



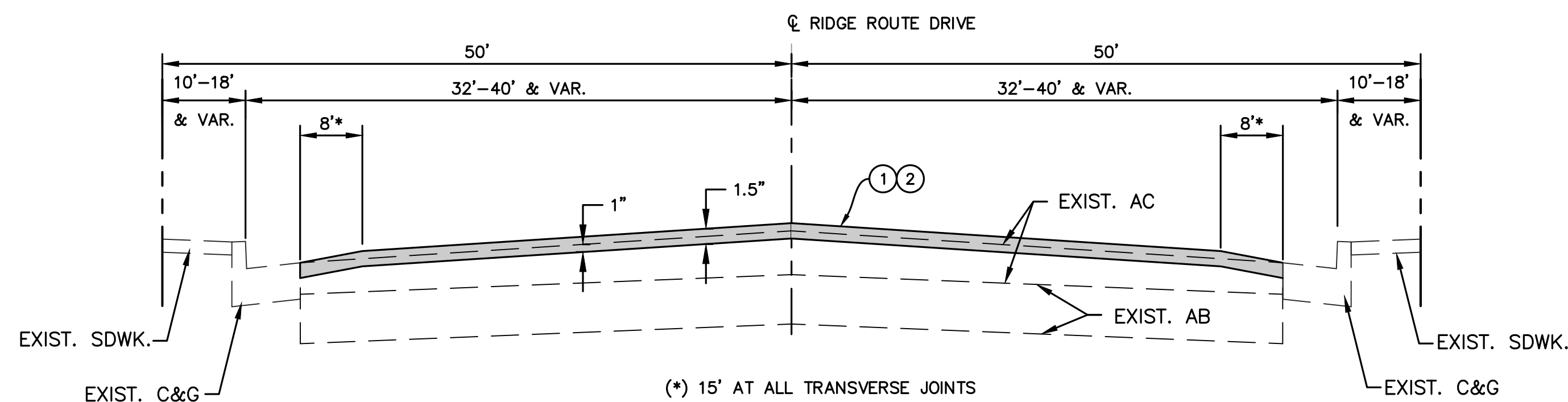
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<i>Andrew</i>	12-20
R.C.E. NO. 03101	
DRAWN BY: IM/JW	12-20
CHECKED BY: LW	12-20
DESIGNED BY: LW	12-20

APPROVED:	DATE
CITY OF LAGUNA HILLS	5/25/2021
<i>Kenneth H. Rosenfield</i>	
KENNETH H. ROSENFELD	DATE
CITY ENGINEER/DIRECTOR OF PUBLIC SERVICES	
R.C.E. No. 33496	

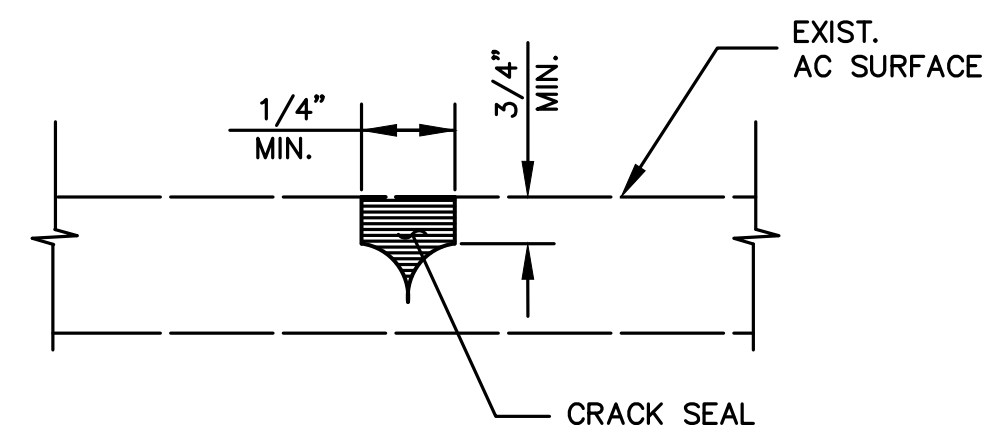
TITLE SHEET
RIDGE ROUTE DRIVE
STREET REHABILITATION PLAN

CITY OF LAGUNA HILLS

SHEET 1 OF 6



TYPICAL SECTION
RIDGE ROUTE DRIVE
N.T.S.



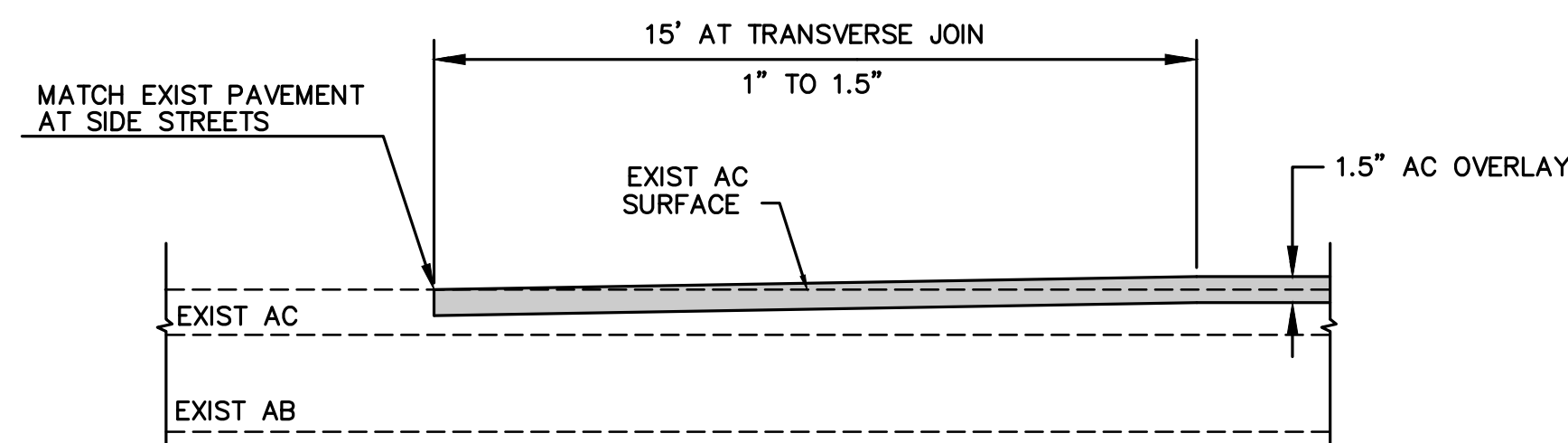
NOTES:

1. ROUTE AND AIR BLOW DEBRIS AND MOISTURE FROM ALL CRACKS 1/4" WIDE OR GREATER WITH HOT AIR LANCE.
2. FILL WITH HOT CRACK SEAL COMPOUND PER SPECIFICATION.
3. SEALANT SHALL BE FLUSH WITH EXIST. PAVEMENT SURFACE.

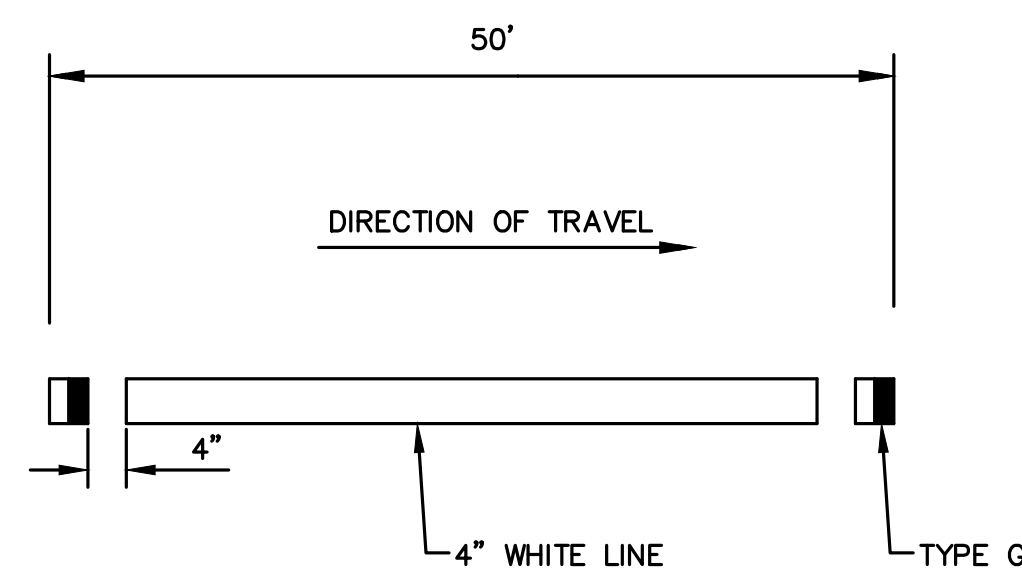
CRACK SEALING DETAIL
N.T.S.

CONSTRUCTION NOTES

- ① GRIND TO A DEPTH OF 1" (1.5" AT JOINTS) AND OVERLAY WITH 1.5" ASPHALT CONCRETE.
- ② ADJUST MANHOLE FRAME AND COVER TO GRADE.
- ③ ADJUST WATER VALVE TO GRADE.
- ④ ADJUST GAS VALVE TO GRADE.
- ⑤ CRACK SEAL PER DETAIL ON SHEET 2..
- ⑥ REPLACE TRAFFIC LOOPS.



TYPICAL COLD PLANE
AT TRANSVERSE JOIN DETAIL
N.T.S.



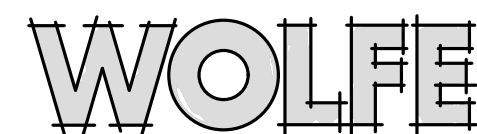
DETAIL "A"
NTS



DIAL TOLL FREE
1-800-227-2600
AT LEAST TWO DAYS
BEFORE YOU DIG

REVISIONS

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ENGINEERING AND DESIGN INC.
360 E. 1ST. ST. #262
TUSTIN, CA 92780
(714) 955-4376 - FAX (866) 301-9653



PREPARED UNDER THE SUPERVISION OF

Kenneth H. Rosenfield
R.C.E. No. 65131

DRAWN BY: IM/JW
CHECKED BY: LW
DESIGNED BY: LW

DATE

12-20

12-20

12-20

12-20

APPROVED:

CITY OF LAGUNA HILLS

KENNETH H. ROSENFELD
CITY ENGINEER/DIRECTOR OF PUBLIC SERVICES
R.C.E. No. 33496

DETAIL SHEET
RIDGE ROUTE DRIVE
STREET REHABILITATION PLAN

CITY OF LAGUNA HILLS

SHEET 2 OF 8

SANTA VITTORIA DRIVE

BEGIN CONSTRUCTION
AT EXIST. X-WALK LINEMATCH LINE STA 77+00.00
SEE ABOVE RIGHTSTREET C INT
STA 10+00 SANTA VITTORIA DRIVE =
STA 68+13.23 RIDGE ROUTE DRIVE

RIDGE ROUTE DRIVE

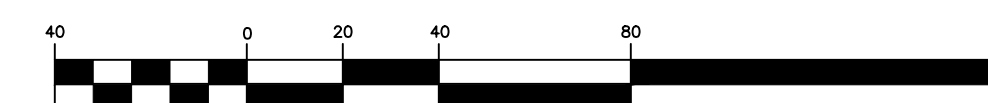
RIDGE ROUTE DRIVE

CONSTRUCTION NOTES

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- ② ADJUST MANHOLE FRAME AND COVER TO GRADE.
- ③ ADJUST WATER VALVE TO GRADE.
- ④ ADJUST GAS VALVE TO GRADE.
- ⑤ CRACK SEAL PER DETAIL ON SHEET 2..
- ⑥ REPLACE TRAFFIC LOOPS.

MATCH LINE STA 77+00.00
SEE BELOW LEFTMATCH LINE STA 86+00.00
SEE SHEET 4

GRAPHIC SCALE

(IN FEET)
1 inch = 40 ft.**DIGALERT**DIAL TOLL FREE
1-800-227-2600
AT LEAST TWO DAYS
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WOLFEENGINEERING AND DESIGN INC.
360 E. 1ST. ST. #262
TUSTIN, CA 92780
(714) 955-4376 - FAX (866) 301-9653

PREPARED UNDER THE SUPERVISION OF

R.C.E. No. 65131

DRAWN BY: IM/JW

CHECKED BY: LW

DESIGNED BY: LW

DATE

12-20

APPROVED:

CITY OF LAGUNA HILLS

KENNETH H. ROSENFELD

DATE

CITY ENGINEER/DIRECTOR OF PUBLIC SERVICES

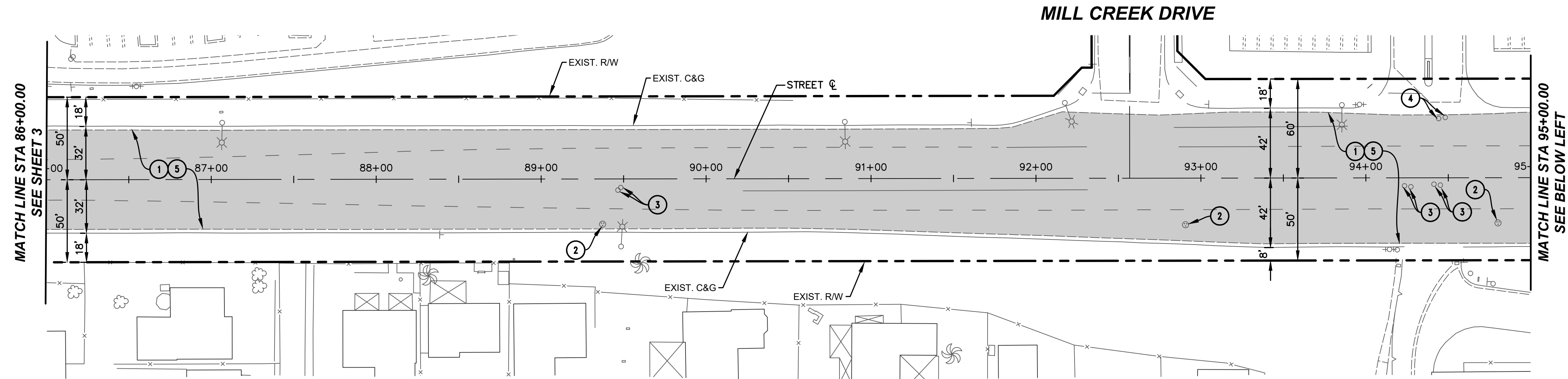
R.C.E. No. 33496

STREET REHABILITATION PLAN
RIDGE ROUTE DRIVE

FROM STA 68+13.23 TO STA 86+00

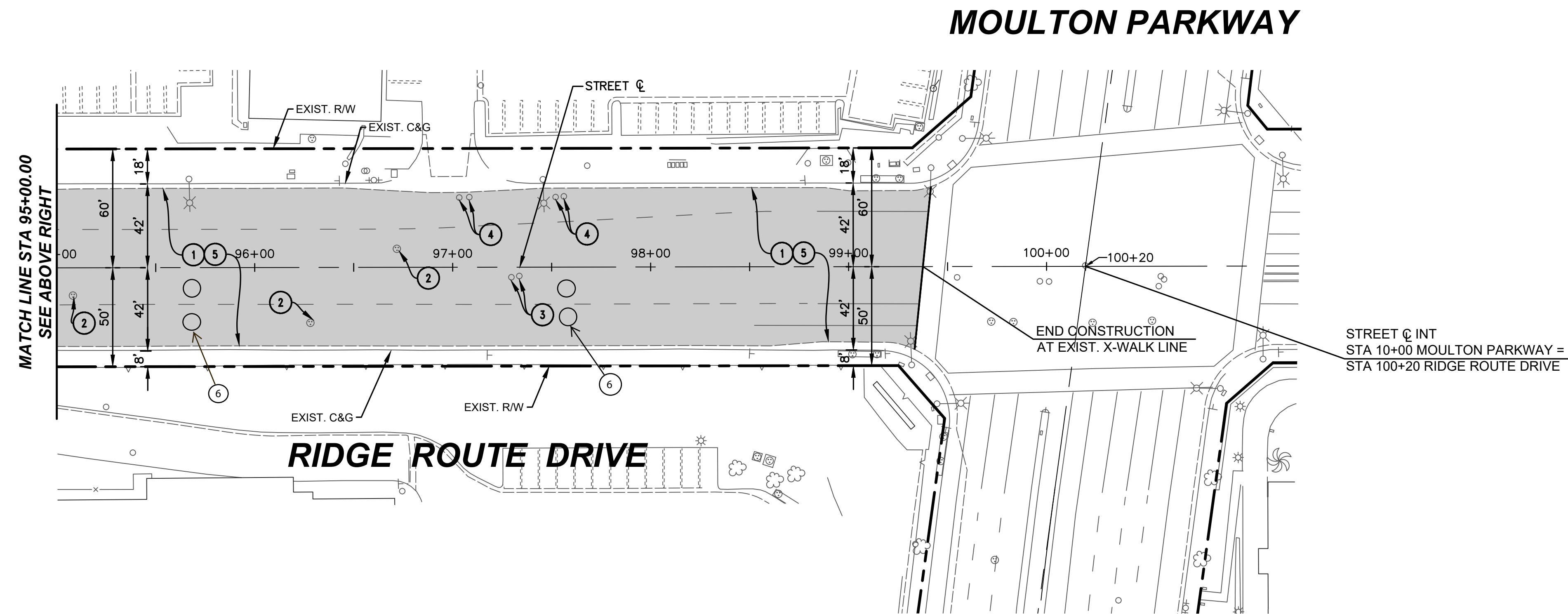
CITY OF LAGUNA HILLS

SHEET 3 OF 6

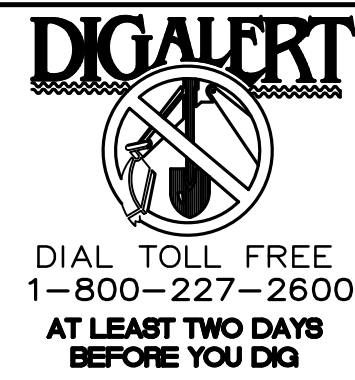
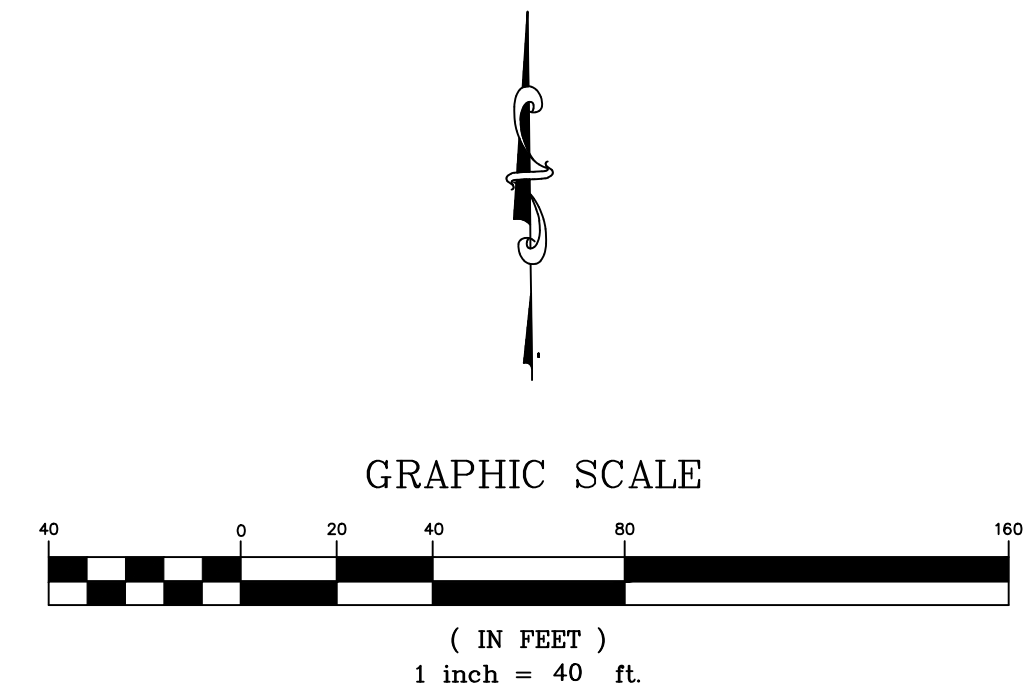


CONSTRUCTION NOTES

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- ③ ADJUST WATER VALVE TO GRADE.
- ④ ADJUST GAS VALVE TO GRADE.
- ⑤ CRACK SEAL PER DETAIL ON SHEET 2..
- ⑥ REPLACE TRAFFIC LOOPS.



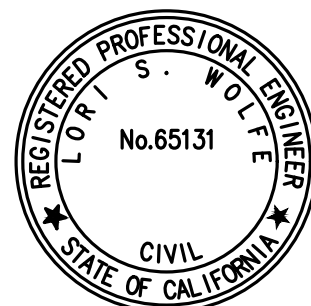
RIDGE ROUTE DRIVE



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(714) 955-4376 - FAX (866) 301-9653



PREPARED UNDER THE SUPERVISION OF
Kenneth H. Rosenfield
R.C.E. No. 65131
DRAWN BY: IM/JW
CHECKED BY: LW
DESIGNED BY: LW

DATE
12-20
12-20
12-20

APPROVED:
CITY OF LAGUNA HILLS

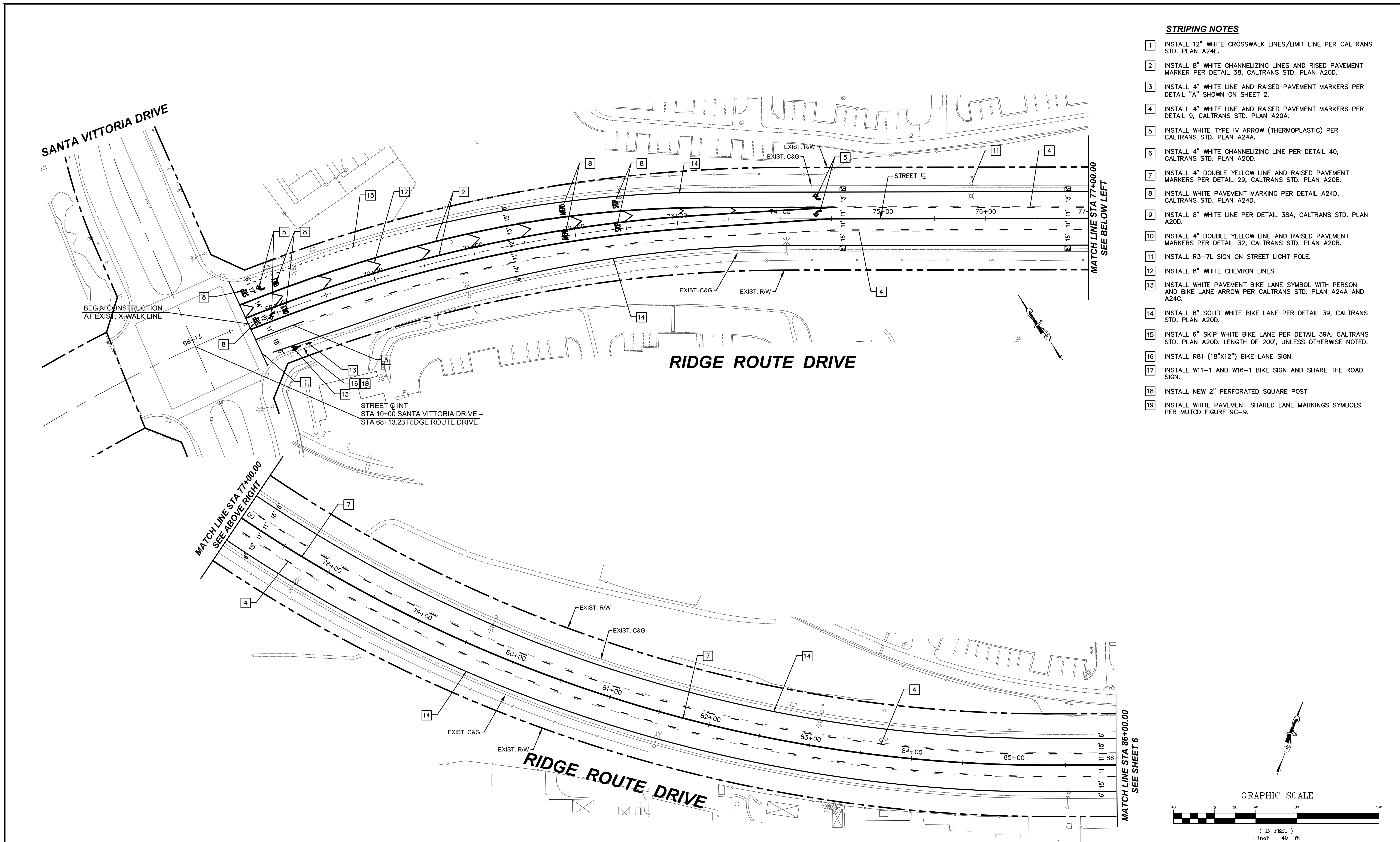
KENNETH H. ROSENFELD DATE
CITY ENGINEER/DIRECTOR OF PUBLIC SERVICES
R.C.E. No. 33496

**STREET REHABILITATION PLAN
RIDGE ROUTE DRIVE**

FROM STA 86+00 TO STA 100+20

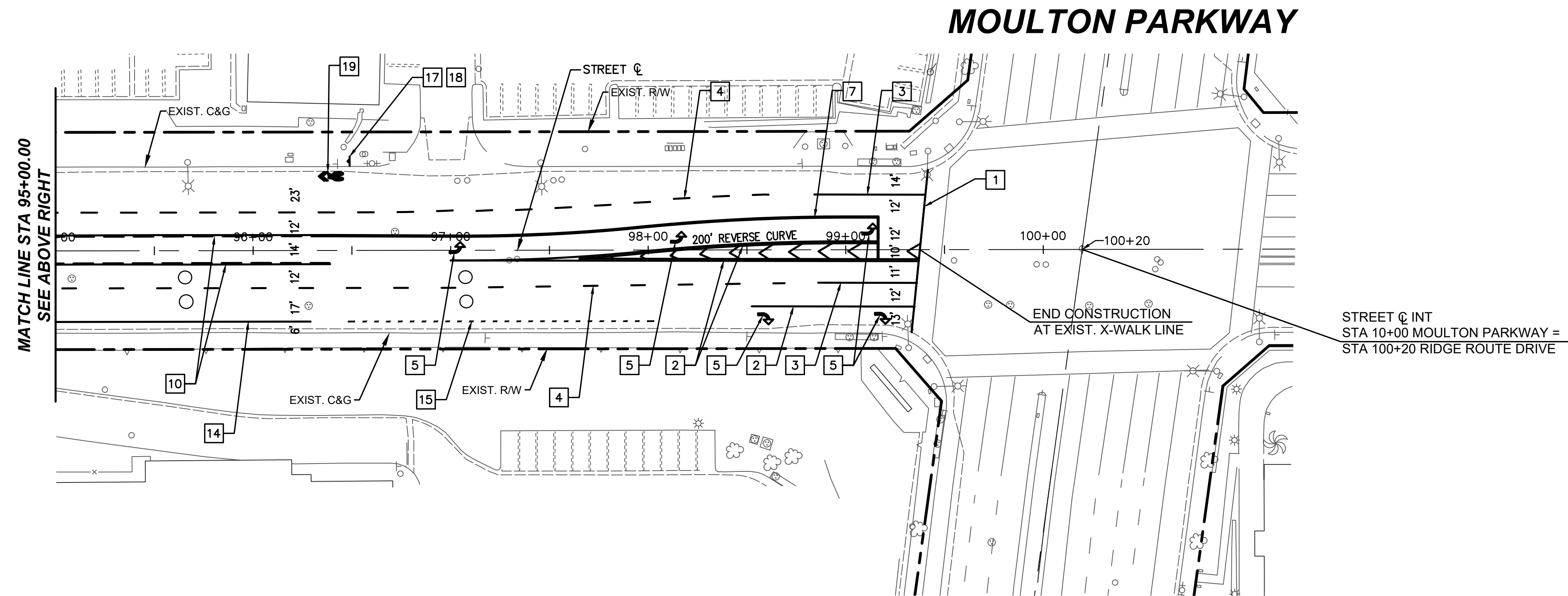
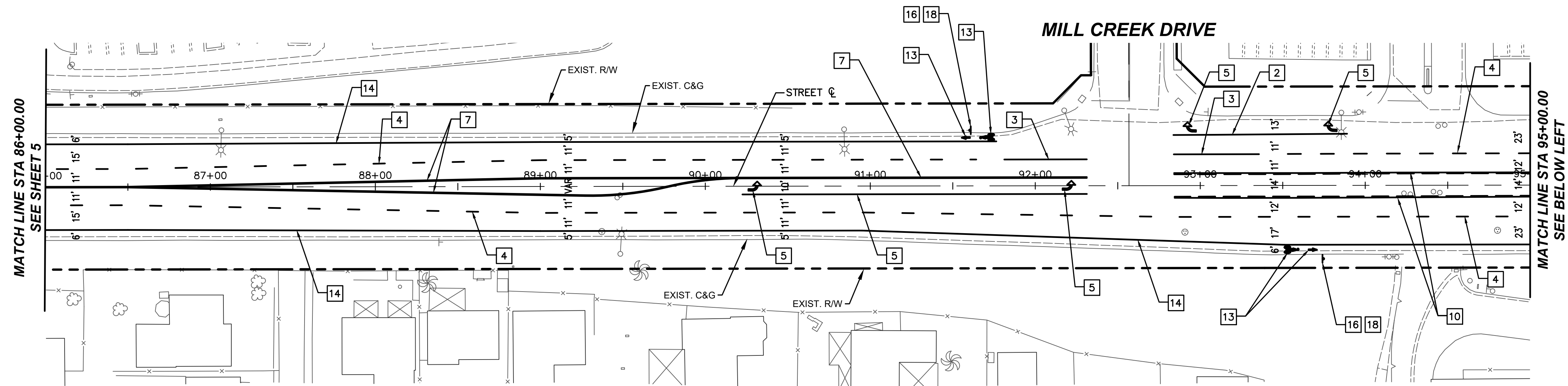
CITY OF LAGUNA HILLS

SHEET 4 OF 6



- STRIPING NOTES**
- 1 INSTALL 12" WHITE CROSSWALK LINES/LIMIT LINE PER CALTRANS STD. PLAN A24E.
 - 2 INSTALL 8" WHITE CHANNELIZING LINES AND RISED PAVEMENT MARKER PER DETAIL 38, CALTRANS STD. PLAN A20D.
 - 3 INSTALL 4" WHITE LINE AND RAISED PAVEMENT MARKERS PER DETAIL "A" SHOWN ON SHEET 2.
 - 4 INSTALL 4" WHITE LINE AND RAISED PAVEMENT MARKERS PER DETAIL 9, CALTRANS STD. PLAN A20A.
 - 5 INSTALL WHITE TYPE IV ARROW (THERMOPLASTIC) PER CALTRANS STD. PLAN A24A.
 - 6 INSTALL 4" WHITE CHANNELIZING LINE PER DETAIL 40, CALTRANS STD. PLAN A20D.
 - 7 INSTALL 4" DOUBLE YELLOW LINE AND RAISED PAVEMENT MARKERS PER DETAIL 29, CALTRANS STD. PLAN A20B.
 - 8 INSTALL WHITE PAVEMENT MARKING PER DETAIL A24D, CALTRANS STD. PLAN A24D.
 - 9 INSTALL 8" WHITE LINE PER DETAIL 38A, CALTRANS STD. PLAN A20D.
 - 10 INSTALL 4" DOUBLE YELLOW LINE AND RAISED PAVEMENT MARKERS PER DETAIL 32, CALTRANS STD. PLAN A20B.
 - 11 INSTALL R3-7L SIGN ON STREET LIGHT POLE.
 - 12 INSTALL 8" WHITE CHEVRON LINES.
 - 13 INSTALL WHITE PAVEMENT BIKE LANE SYMBOL WITH PERSON AND BIKE LANE ARROW PER CALTRANS STD. PLAN A24A AND A24C.
 - 14 INSTALL 6" SOLID WHITE BIKE LANE PER DETAIL 39, CALTRANS STD. PLAN A20D.
 - 15 INSTALL 6" SKIP WHITE BIKE LANE PER DETAIL 39A, CALTRANS STD. PLAN A20D. LENGTH OF 200', UNLESS OTHERWISE NOTED.
 - 16 INSTALL R81 (18"x12") BIKE LANE SIGN.
 - 17 INSTALL W11-1 AND W16-1 BIKE SIGN AND SHARE THE ROAD SIGN.
 - 18 INSTALL NEW 2" PERFORATED SQUARE POST
 - 19 INSTALL WHITE PAVEMENT SHARED LANE MARKINGS SYMBOLS PER MUTCD FIGURE 9C-9.

 DIAL TOLL FREE 1-800-227-2600 AT LEAST TWO DAYS BEFORE YOU DIG	REVISIONS					 ENGINEERING AND DESIGN INC. 360 E. 1ST. ST. #262 TUSTIN, CA 92780 (714) 955-4376 - FAX (866) 301-9653		PROJECT: THE SUPERVISION OF	DATE	APPROVED: CITY OF LAGUNA HILLS	STRIPING PLAN RIDGE ROUTE DRIVE FROM STA CITY OF LAGUNA HILLS	SHEET 5 OF 6
	R.C.E. No. 33496	04-25-2013	KENNETH H. ROSENFELD CITY ENGINEER/DIRECTOR OF PUBLIC SERVICES R.C.E. No. 33496									
	NUMBER	DATE	INITIAL	APPROVED				DRAWN BY: UNW/JM	02-20			
								CHECKED BY: LW	02-20			
								DESIGNED BY: LW	02-20			

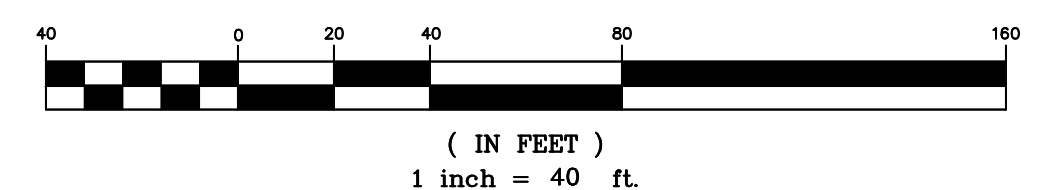


STRIPING NOTES

- 1 INSTALL 12" WHITE CROSSWALK LINES/LIMIT LINE PER CALTRANS STD. PLAN A24E.
- 2 INSTALL 8" WHITE CHANNELIZING LINES AND RISED PAVEMENT MARKER PER DETAIL 38, CALTRANS STD. PLAN A20D.
- 3 INSTALL 4" WHITE LINE AND RAISED PAVEMENT MARKERS PER DETAIL "A" SHOWN ON SHEET 2.
- 4 INSTALL 4" WHITE LINE AND RAISED PAVEMENT MARKERS PER DETAIL 9, CALTRANS STD. PLAN A20A.
- 5 INSTALL WHITE TYPE IV ARROW (THERMOPLASTIC) PER CALTRANS STD. PLAN A24A.
- 6 INSTALL 4" WHITE CHANNELIZING LINE PER DETAIL 40, CALTRANS STD. PLAN A20D.
- 7 INSTALL 4" DOUBLE YELLOW LINE AND RAISED PAVEMENT MARKERS PER DETAIL 29, CALTRANS STD. PLAN A20B.
- 8 INSTALL WHITE PAVEMENT MARKING PER DETAIL A24D, CALTRANS STD. PLAN A24D.
- 9 INSTALL 8" WHITE LINE PER DETAIL 38A, CALTRANS STD. PLAN A20D.
- 10 INSTALL 4" DOUBLE YELLOW LINE AND RAISED PAVEMENT MARKERS PER DETAIL 32, CALTRANS STD. PLAN A20B.
- 11 INSTALL R3-7L SIGN ON STREET LIGHT POLE.
- 12 INSTALL 8" WHITE CHEVRON LINES.
- 13 INSTALL WHITE PAVEMENT BIKE LANE SYMBOL WITH PERSON AND BIKE LANE ARROW PER CALTRANS STD. PLAN A24A AND A24C.
- 14 INSTALL 6" SOLID WHITE BIKE LANE PER DETAIL 39, CALTRANS STD. PLAN A20D.
- 15 INSTALL 6" SKIP WHITE BIKE LANE PER DETAIL 39A, CALTRANS STD. PLAN A20D. LENGTH OF 200', UNLESS OTHERWISE NOTED.
- 16 INSTALL R81 (18"x12") BIKE LANE SIGN.
- 17 INSTALL W11-1 AND W16-1 BIKE SIGN AND SHARE THE ROAD SIGN.
- 18 INSTALL NEW 2" PERFORATED SQUARE POST
- 19 INSTALL WHITE PAVEMENT SHARED LANE MARKINGS SYMBOLS PER MUTCD FIGURE 9C-9.



GRAPHIC SCALE



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REVISIONS

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TUSTIN, CA 92780
(714) 955-4376 - FAX (866) 301-9653



FOR THE SUPERVISION OF
Kenneth H. Rosenfield
R.C.E. No. 33496
DRAWN BY: *UNW/JM*
CHECKED BY: LW
DESIGNED BY: LW

DATE
04-25-2013
02-20
02-20
02-20

APPROVED:
CITY OF LAGUNA HILLS

KENNETH H. ROSENFELD
CITY ENGINEER/DIRECTOR OF PUBLIC SERVICES
R.C.E. No. 33496

STRIPING PLAN
RIDGE ROUTE DRIVE

FROM STA 86+00 TO STA 100+20

CITY OF LAGUNA HILLS

SHEET 6 OF 6



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Dan Meehan
Community Services Superintendent
ISSUE: 2021 Fourth of July Post Event Report

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

SUMMARY:

The City of Laguna Hills held the annual Fourth of July celebration at the Laguna Hills Community Center & Sports Complex on Sunday, July 4, 2021. The 2021 Fourth of July event was modified due to Covid-19 precautions, which resulted in the elimination of the carnival rides, games, informational and food booths. Live music was provided by Straight 78 and four food trucks were secured to provide dinner options for those in attendance. The OC Sheriff's Department provided public information, trinkets for children, and free water bottles. Staff is estimating that between 5,000 and 6,000 people attended the City of Laguna Hills' annual Fourth of July event this year.

The fireworks display was again provided by Fireworks America. The fireworks show was well received by the audience, and had a total cost of \$26,500.

The firing location for the show was the grass area between the football field and the baseball field on the Laguna Hills High School campus. On Thursday, July 5, 2021, City staff walked the campus and found that shells and debris had fallen on the track and football field and tennis courts, however, the pool area and the entire upper field was free from debris. In addition, City staff, with the assistance from the City's landscape maintenance vendor, cleaned the campus of this debris. There was no evidence of any burns or damage to the synthetic turf fields or new track surface.

2021 Fourth of July Post Event Report

August 24, 2021

Page 2

Planning for the 2022 Fourth of July celebration will soon be initiated and will be presented to the City Council at a future meeting. This next year event is expected to include recognition of the City's 30th Anniversary Celebration, the return of full event activities (carnival rides, games and food booths), live music and consideration for an improved sound system.

This information was presented to the Parks and Recreation Commission at its August 4, 2021, meeting. The Commission was pleased with the success of the event.

FISCAL IMPACT:

The adopted budget for FY 2021-2022 includes \$58,450 for the City's 2021 Fourth of July Celebration event. Expenditures for the 2021 Fourth of July Celebration totaled \$34,750. A nominal expense may be added to the overall total for SVUSD clean-up efforts of firework debris in areas that City staff could not access (e.g. roof areas). This expense is not currently represented in the figures presented in this staff report.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Chair and Agency Members
FROM: Jennifer Lee
Assistant City Clerk
ISSUE: Approval of Minutes for July 13, 2021, Regular Meeting

RECOMMENDATION: That the Planning Agency approve the Minutes for the July 13, 2021, Regular Meeting.

ATTACHMENTS:

- 210713 PA Minutes

interest at this time based on the information presented herein by City Staff, approve the Lighting Agreement, and authorize the Interim City Manager to execute the Lighting Agreement.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Erica Pezold, Mayor
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member

5. PLANNING AGENCY

Mayor Pezold recessed the City Council Meeting, and acting in capacity as Chair, called the Regular Meeting of the Planning Agency of the City of Laguna Hills, California, to order at 9:38 p.m.

5.1. ROLL CALL OF PLANNING AGENCY MEMBERS

Attendee Name	Title	Status	Arrived
Erica Pezold	Chair	Present	
Don Sedgwick	Vice Chair	Present	
Janine Heft	Agency Member	Present	
Bill Hunt	Agency Member	Present	
Dave Wheeler	Agency Member	Present	

5.2. PUBLIC COMMENTS

There were no Planning Agency public comments on non-agendized items.

5.3. APPROVAL OF MINUTES

5.3.1 Approval of Minutes for June 22, 2021, Regular Meeting

Recommendation: That the Planning Agency approve the Minutes for the June 22, 2021, Regular Meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Don Sedgwick, Vice Chair
SECONDER:	Bill Hunt, Agency Member

AYES:	Erica Pezold, Chair; Don Sedgwick, Vice Chair; Janine Heft, Agency Member; Bill Hunt, Agency Member; Dave Wheeler, Agency Member
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5.4. ADMINISTRATIVE REPORTS

There were no Planning Agency administrative reports.

5.5. PLANNING AGENCY PUBLIC HEARINGS

There were no Planning Agency public hearings.

PLANNING AGENCY ADJOURNMENT

Chair Pezold adjourned the Planning Agency Meeting at 9:43 p.m. All Council Members were present in chamber.

6. CITY COUNCIL PUBLIC HEARINGS

6.1 Confirmation of 2021 Weed Abatement Cost Report

Interim City Manager Rosenfield reviewed the information provided in the staff report and responded to Council Member requests for additional information.

Mayor Pezold opened the public hearing.

There were no public comments on the public hearing item.

Mayor Pezold closed the public hearing.

Recommendation: That the City Council conduct a public hearing regarding the 2021 Weed Abatement Cost Report and adopt Resolution No. 2021-07-13-3 "A Resolution of the City Council of the City of Laguna Hills, California, confirming the 2021 Weed Abatement Cost Report and providing for the collection of weed abatement assessments on the next regular tax bill levied against the subject parcel for municipal purposes."

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Janine Heft, Council Member
SECONDER:	Dave Wheeler, Council Member
AYES:	Erica Pezold, Mayor; Don Sedgwick, Mayor Pro Tempore; Janine Heft, Council Member; Bill Hunt, Council Member; Dave Wheeler, Council Member



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services
ISSUE: A Resolution in Support of Local Control of Land Use and Other Matters

RECOMMENDATION: That the City Council adopt a Resolution entitled "A Resolution of the City Council of the City of Laguna Hills, California, opposing any legislation which erodes local control over land use, zoning, housing, and other local matters and supporting legislation which maintains and enhances local discretion."

SUMMARY:

Over the past few years, the California legislature has introduced numerous bills that, if passed, would significantly weaken cities' control of local issues such as land use, zoning, housing, and more. These proposals are becoming more frequent and severe each State legislative session. Consequently, an advocacy group known as the California Cities for Local Control – a coalition of local governments and individual elected officials formed to ensure that cities retain local control over their jurisdictions – is actively advocating on behalf of cities, specifically pertaining to local control and city powers. Staff recommends that the City Council adopt the attached Resolution, expressing to the State Legislature the need to support and maintain local control over housing, zoning, land use, and other matters that are of importance to Laguna Hills.

BACKGROUND:

Over the past several legislative sessions, the State legislature has passed legislation that diminishes local control, particularly related to housing and zoning. This has been a trend in the legislature for several years. During the last two legislative sessions, the State Legislature has proposed laws that would allow building multi-family units on any

A Resolution in Support of Local Control of Land Use and Other Matters

August 24, 2021

Page 2

property in a city, regardless of local zoning standards, and would make housing unit approval an administrative function rather than require a vote of the Planning Commission and/or City Council for approval. Although the majority of such proposals have failed in the past, legislators often modify these bills and reconsider them in future legislative cycles. Consequently, it is important that the City, and other cities, monitor and advocate on legislation related to local control.

The California Constitution (Article 11, Section 7), grants cities the power to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” Furthermore, cities have the authority to adopt local ordinances so long as there is no express or implied preemption under State law. Accordingly, the City should have the ability to make important local decisions independent of the California legislature, especially pertaining to issues such as housing, zoning, and land use.

A coalition of local governments and individual elected officials under the name California Cities for Local Control (CCLC) has formed to advocate for local control and authority with a mission to spread awareness and enlist support to ensure cities can continue to manage their own land use and zoning issues. As of August 4, 2021, 76 cities have passed resolutions supporting CCLC’s mission to protect local control, including the following 10 cities in Orange County:

- Fullerton
- Huntington Beach
- Laguna Niguel
- Laguna Woods
- Mission Viejo
- Newport Beach
- Orange
- Rancho Santa Margarita
- Villa Park
- Yorba Linda

The attached Resolution expresses the City Council’s support to retain local control over housing, zoning, land use, and other matters important to Laguna Hills. If adopted by

A Resolution in Support of Local Control of Land Use and Other Matters

August 24, 2021

Page 3

the City Council, the signed Resolution will be forwarded to the CCLC. Staff recommends that the City Council adopt the Resolution.

ATTACHMENTS:

- Proposed Resolution

RESOLUTION NO. 2021-08-24-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA HILLS, CALIFORNIA, OPPOSING ANY LEGISLATION WHICH ERODES LOCAL CONTROL OVER LAND USE, ZONING, HOUSING, AND OTHER LOCAL MATTERS AND SUPPORTING LEGISLATION WHICH MAINTAINS AND ENHANCES LOCAL DISCRETION

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, the legislature of the State of California each year proposes, passes, and has signed into law a number of bills addressing a range of issues; and

WHEREAS, a number of bills usurp the authority of local jurisdictions to determine policies and practices that best suit each city and its residents; and

WHEREAS, numerous laws and mandates passed by the legislature are slowly eroding local control, especially with respect to land use, and with a detrimental effect on our communities; and

WHEREAS, the City Council of the City of Laguna Hills feels strongly that local government is best able to determine the policies and programs suitable and practical for each city based on the circumstances of each community; and

WHEREAS, the City Council of the City of Laguna Hills objects to the proliferation of State legislation that deprives local government of the ability to retain local control over important matters such as land use, zoning, and housing.

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

SECTION 1. The City Council hereby opposes any legislation which erodes local control over land use, zoning, housing, and other local matters.

SECTION 2. The City Council hereby supports legislation which maintains and enhances local control and local decision authority.

SECTION 3. The City Council hereby directs Staff to monitor proposed legislation for each annual State legislative session and communicate with local legislators regarding the City Council's positions as stated herein.

PASSED, APPROVED AND ADOPTED this 24th day of August 2021.

ERICA PEZOLD, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. 2021-08-24-X adopted by the City Council of the City of Laguna Hills, California, at a
Regular Meeting thereof held on the 24th day of August 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

Attachment: Proposed Resolution (2538 : A Resolution in Support of Local Control of Land Use and Other Matters)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services
ISSUE: Private Donation Policy for Public Improvements

RECOMMENDATION: That the City Council direct Staff to prepare a formal City Council Policy on the acceptance of private financial donations in support of Public Improvements.

SUMMARY:

The City accepts private donations for the planting of landscaping and coordinates with the donor on the location of the plantings and type of materials to be planted. This donation program is based upon City Council Policy No. 315, Tree Preservation. During the 2019-2021 Fiscal Year Budget adoption process, the City Council approved a Budget Proposal to expand this donation program for other types of improvements. This Proposal was not addressed in the last fiscal year due to other priorities resulting from the COVID-19 Pandemic. Staff requests City Council input on the scope and extent of this expanded donation program in order to develop and return with a formal City Council Policy for future adoption.

BACKGROUND:

During the 2019-2021 Fiscal Year Budget adoption process, the City Council approved a Budget Proposal to establish a private financial donation program for various community public improvements. This Proposal was not addressed in the last fiscal year due to other priorities resulting from the COVID-19 Pandemic. This report is intended to initiate a discussion leading to the preparation and adoption of a City Council Policy addressing the scope and extent of this program.

Donation Policy for Public Improvements

August 24, 2021

Page 2

The City has a current donation program relative to landscaping, trees and shrubs, otherwise known as “softscape”. This donation program is authorized under existing City Council Policy No. 315, Tree Preservation, attached. Staff promulgated the rules for these donations from the Policy as shown on the attached one-page donation form dating back to just after the last update of Policy No. 315. In this past year, the public has been very generous by donating over \$2,000 towards the planting of trees and shrubs throughout the community for the betterment of public properties. The City is appreciative of these donations, coordinates with the donating party on the location of the softscape installation, invites the donor to attend and participate in the planting and sends them a thank you letter upon completion.

The City Council has approved a Budget Proposal to expand the acceptance of private financial donations for public improvements and Staff requests direction on the types of improvements, as well as the type of acknowledgements, the City Council desires. Staff suggests the types of “hardscape” improvements that could be reasonably accepted and installed in the City are as follows:

- Park benches
- Bus Stop benches
- Waste receptacles
- Drinking Fountains
- Bicycle racks
- Playground equipment
- Shade structures
- Area lighting
- Entry monuments

It is Staff’s recommendation that these hardscape improvements would only be accepted if 100% of the cost is funded, the area identified for the installation is consistent with public need, the donation does not cause the City to incur secondary costs, and the location of the installation is an appropriate site, size and is otherwise compatible with other existing improvements. The City Council is requested to review and comment upon this list of hardscape donation opportunities.

The City Council is also requested to provide direction as to whether or not the above-described financial donation is to be acknowledged by any other means than a thank

Donation Policy for Public Improvements

August 24, 2021

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you letter. It is also feasible to issue a City Council Certificate of Appreciation for each donation or to allow for the creation and placement of a small donation plaque with each hardscape improvement. Staff notes the City does not currently allow plaques for private purposes to be installed on public property. If the City Council desires to allow plaques, it is suggested that the wording be limited to a phrase such as “Bench Donated by John Doe” and not allow for memorial language in order to keep the plaques small and to also avoid creating a perception of a “private sanctuary” in a public facility.

FISCAL IMPACT:

Private donations for public improvements are expected to be a full cost recovery program. The cost of public improvements will significantly vary depending upon the type of improvement or infrastructure being funded. The public will be required to fully cover the cost of the improvements in order for this program to be implemented.

ATTACHMENTS:

- Tree Preservation Policy No. 315
- Tree and Landscape Donation Program Form

CITY OF LAGUNA HILLS



CITY COUNCIL POLICY
SUBJECT: TREE PRESERVATION
POLICY No. 315

Effective Date: February 24, 1998
Last Revision: May 27, 2014

PURPOSE:

To establish guidelines for public tree preservation, tree trimming, tree planting and tree removal practices.

BACKGROUND:

Trees are an important asset in the community and their preservation is a goal of the City's General Plan. Maintenance of public trees is performed for the health of the tree, enjoyment of the residents, and for wildlife benefits. As existing trees reach a mature age, the City receives increasing requests for tree trimming and tree removal. This policy is provided to clarify the conditions which the City will utilize to evaluate such requests and establishes procedures to accept donations for tree planting.

The City of Laguna Hills has an estimated 13,000 public trees located in its parks and open spaces and along the public streets. Unfortunately, some poor choices were made in the past as to the selection of tree types, locations of planting and maintenance practices, particularly in narrow residential parkway areas. Many tree species have grown or will grow too large for their settings. The root systems of some trees have caused sidewalks, curbs, and gutters to become damaged or infringed upon private properties. Other species have not thrived well in their Laguna Hills environment and are not healthy specimens.

As a result of these tree growth problems and normal tree maintenance practices, the City's Public Services Department has prepared the Tree Preservation Policy to provide guidance to mitigate the problems and expenses to the community caused by trees while preserving as many trees as possible.

POLICY:

Authorized Tree Trimming:

Laguna Hills is currently on a four to five year tree trimming cycle. Trees are pruned for the following reasons: (1) health maintenance, structural form and safety; (2) to provide vertical clearances in the public right-of-way (trees are raised to 9 feet over sidewalks and 16 feet over streets) for pedestrians and

**City Council Policy
No. 315
Tree Preservation**

vehicles, and (3) to address trees which become larger than is desirable or safe for given site constraints.

Tree trimming involves thinning and raising branches. Thinning out can reduce the height and spread of a tree while retaining its natural shape and is the practice preferred rather than topping. Topping adversely impacts tree structure. Trees will not be topped. Trees will not be trimmed solely for the benefit of views or for litter control.

The appropriate time to fully trim a tree will depend on the type of tree, its condition, and the results desired. Light pruning can be done any time. Broken, dead, weak, or individual branches can be removed with little or no effect on a tree, no matter what time of the year. Generally, however, tree trimming will be scheduled in the Fall/Winter/Spring months.

No person, other than the City, is authorized to trim public trees without an appropriate permit. A tree trimming permit may be issued for the trimming or thinning of a tree only in accordance with guidelines established by the City. If a permit is issued and granted for a private entity to trim a tree, the permit shall be available on-site at all times during trimming activity.

Authorized Tree Removal

Upon request, and for the criteria described below, public trees will be inspected and authorized for removal:

1. Tree is deemed hazardous, diseased and/or declining.
2. Tree is damaging the sidewalk, curb or gutter, and is not receptive to preventative root pruning.
3. The tree and/or its roots are a threat to private property.
4. Trees in conflict with overhead utility lines.

No person, other than the City, is authorized to remove public trees without a permit. Trees will not be removed solely for view enhancement. Tree removal includes stump and root removals in a manner meeting the approval of the City.

For the preservation of these assets, a resident requesting removal of a street tree, that has been justified for removal by the City, will be requested to donate and plant another tree in its place. The size, species type, and location will be specified by the Director of Public Services or his designee. If the resident will not replace the tree, the City will do so provided the tree is determined by the Director of Public Services to enhance the tree preservation goals.

**City Council Policy
No. 315
Tree Preservation**

Unauthorized Tree Removal or Trimming

Any person identified as having removed or trimmed a tree, so as to cause damage to the tree will be responsible for the full cost of replacement of the tree.

Street Tree List

The following list of tree species shall be used by the Director of Public Works or his designee when selecting a replacement tree for street parkways.

Species for 2-3 Foot Parkways, or 2'X2' Cut-Outs

Expected root flair diameter 1' to 1.5 ft. at 40 years

- Lagerstoemia indica "fauriei" (mildew resistant)
Crape Myrtle
- Tristania laurina
Brisbane Box
- Pyrus calleryana "Aristocrat"
Aristocrat Pear
- Cercis occidentalis
Western Redbud

Species for 3-5 Foot Parkways, or 4'X4' Cut-Outs

Expected root flair diameter 1.5' to 2 ft. at 40 years

- Pyrus calleryana "Bradford"
Bradford Pear
- Archontophoenix cunninghamiana
Queen Palm
- Metrosideros excelsus
New Zealand Christmas Tree
- Pistachia chinensis
Chinese Pistache
- Hymenosporum flavum
Sweetshade
- Geijera parviflora
Australian Willow
- Eriobotrya deflexa
Bronze Loquat

**City Council Policy
No. 315
Tree Preservation**

Species for 5-6' Ft. Parkways or 5'X5' Cut-Outs

Expected root flair diameter 2' to 4 ft. at 40 years

- Melaleuca uuinquenervia
Paperbark; cajeput tree
- Geijera parviflora
Australian Willow
- Ulmus parvifolia
Chinese Elm
- Jacaranda acutifolia
Jacaranda
- Brachychiton populneus
Bottle Tree
- Ginkgo biloba (grafted male only)
Ginkgo
- Bauhinia variegata
Purple Orchid Tree
- Pinus eldarica
Mondale Pine
- Tabebuia impetiginosa
Pink Trumpet Tree

Tree Donations

Members of the public are encouraged to donate funding for tree planting to enhance the Citywide tree stock and improve the community. Donations will be accepted on the following basis:

1. Only 15 gallon trees will be planted.
2. The donating individual may request the location of the tree planting but the City shall select the final planting location.
3. The donating individual may request a particular tree species for planting but the City shall select the tree species which best fits the area tree palette, City maintenance obligations and availability of irrigation systems.
4. The tree planting will occur during normal business hours and the donating individual will be invited to attend the tree planting.
5. The fee donation shall be initially set at \$100 per tree donated. The City Manager may adjust this fee as deemed necessary to equal the City's costs.
6. The City shall maintain the tree.

**City Council Policy
No. 315
Tree Preservation**

7. A letter of acknowledgement of the donation shall be issued to the donating individual.
8. No marker or plaque shall be installed at any tree donation location.

City of Laguna Hills Landscape Donation Program

Members of the public are encouraged to donate funding for tree planting/landscape planting to enhance the Citywide tree stock and/or improve the landscape aesthetics of the community. A minimum donation of \$115 will pay for one 15-gallon tree or a minimum donation of \$100 will pay for ten 1-gallon shrubs or four 5-gallon shrubs. Please indicate your preferences by completing the below form.

Please provide the following information:

Donors Name	
Address	
City and Zip	
Telephone or Email	
Donation is for:	Tree(s) ☐ Landscape ☐

Requested location for Tree Planting/Landscape Improvement:

Please make check payable to: City of Laguna Hills. Mail the form and check to City of Laguna Hills Public Services Department, 24035 El Toro Road, Laguna Hills, CA 92653.

If you have any questions or for more information please contact the Public Services Department at (949) 707-2650.

Donation rules per City Tree Preservation Policy No. 315

1. Only 15-gallon trees, 1-gallon plants or 5-gallon plants will be planted.
2. The donating individual may request the location of the tree planting/landscape planting but the City shall select the final planting location.
3. The donating individual may request a particular tree species/landscape material for planting but the City shall select/approve the tree species/landscape materials which best fits the area, City maintenance obligations and availability of irrigation systems.
4. The tree planting/landscape planting will occur during normal business hours or during special events and the donating individual will be invited to attend the planting.
5. The City shall maintain the landscaping.
6. A letter of acknowledgement of the donation shall be issued to the donating individual.
7. No marker or plaque shall be installed at any tree donation location.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Kenneth H. Rosenfield P.E.
Interim City Manager/Director of Public Services

ISSUE: Review of Development Agreement Negotiator Proposals Received for the Village at Laguna Hills Project

RECOMMENDATION: That the City Council receive and review the Development Agreement Negotiator Services Proposals received regarding the proposed Village at Laguna Hills Project and establish dates for City Council interviews of Council-selected Proposing Firms.

SUMMARY:

In accordance with City Council direction and the City's Procurement Code, a formal competitive Request for Proposals was issued for professional Development Agreement Negotiator Services associated with the proposed Village at Laguna Hills Project, resulting in the receipt of four Proposals by the due date of August 10, 2021. The City Council is requested to receive and review the Proposals and select the firms the City Council desires to interview.

BACKGROUND:

In accordance with prior City Council direction and the City's Procurement Code, a formal competitive Request for Proposals (RFP) was prepared and issued by the City on July 13, 2021, for professional Development Agreement Negotiator Services associated with the proposed Village at Laguna Hills Project. The RFP was posted on the City's website, sent to an RFP posting service and sent to various qualified firms that could fulfill the scope of work for this particular engagement. This included sending the RFP to the negotiators for: 1) the recent City of Lake Forest development agreements (declined

Review of Development Agreement Negotiator Proposals

August 24, 2021

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to respond); and 2) the City of Tustin (declined to respond) and a multitude of others that were identified by other Orange County City Managers based upon their experience. In response to the RFP, the City received four Proposals by the due date of August 10, 2021, as follows:

- Armbruster, Goldsmith & Delvac, LLP (a law firm based in Los Angeles, CA)
- Shute, Mihaly & Weinberger, LLP (a law firm based in San Francisco, CA)
- Stradling, Yocca, Carlson & Rauth, LLP (a law firm based in Newport Beach, CA)
- Keyser Marston Associates (a financial consultant based in Los Angeles, CA)

A Staff team reviewed all proposals and determined, based upon the latest input from the City Council, that all three of the responding law firms are equally qualified and worthy of consideration for this engagement. Each law firm Principal offers slightly different experiences and are all well-regarded. Attached to this Staff Report is the RFP and all three law firm Proposals. The financial consultant, Keyser Marston, however, is not a law firm and does not propose a qualified land use attorney. Consideration of the Keyser Marston proposal would be contrary to the City Council's expectation that the professional development agreement negotiator be a qualified land use attorney going forward.

It is recommended the City Council identify potential dates and times to interview the Principals of each of the three law firms in order to facilitate a selection of the best qualified firm for this engagement. This would then be followed by the preparation of a Professional Services Agreement with the selected firm and scheduled for contract approval at an upcoming City Council meeting.

Interviews for the Development Agreement Negotiator could occur at a Special Meeting to be noticed at a date and time that all Council members and all candidate-Proposers can attend. Staff does not as yet know the availability of the Proposers to attend an interview, pending date selections by the City Council, and recommends dates be identified and offered for a 6:00 pm Special Meeting of the City Council on Tuesday, August 31, 2021, or Thursday, September 2, 2021. The Council-selected candidate-Proposers would be asked to arrive at 6:00 pm, 6:30 pm, and 7:00 pm for their interviews in this public meeting.

Pursuant to Laguna Hills Municipal Code Section 3-08.150, subdivision (C), "... selection by the city for professional services in areas including but not limited to private

Review of Development Agreement Negotiator Proposals

August 24, 2021

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architectural, landscape architectural, engineering, environmental, land surveying, construction project management, management and administration, financial, accounting, auditing, actuarial, economics, and/or development and planning, which involve the exercise of discretion and independent judgment together with an advanced or specialized knowledge, expertise, training, or unique skills gained by formal studies or experience, shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, and shall not be awarded solely on the basis of cost."

FISCAL IMPACT:

The Development Agreement Negotiator Services will be provided on an hourly rate basis with an estimated expenditure of \$100,000. This estimate could vary widely depending upon the time needed to complete the negotiations and revise the Development Agreement.

It is noted that in accordance with the Deposit/Reimbursement Agreement with MGP Fund X LLC Laguna Hills, LLC, (MGP) entered into on November 26, 2019, Section 6, the City is required to provide notice to MGP prior to incurring additional reimbursable costs as follows, "... at least thirty (30) days prior to City retaining any third-party consultant to be paid from Deposit Funds, City shall provide for Developer's review written notice containing such consultant's qualifications, proposed scope of work, and budget estimate. At least thirty (30) days prior to City submitting any request for an Additional Deposit pursuant to Section 5 above, City shall provide for Developer's review written notice containing the scopes of work proposed to be funded by such Additional Deposit and budget estimates for such work. City shall provide any additional information reasonably requested by Developer during its 30-day review period and agrees to consider any changes reasonably requested by Developer to third-party consultants, scopes of work, or budget estimates pursuant to this Section 6. Notwithstanding the foregoing, any decision to retain such third-party consultants shall be at the sole discretion of the City, and City shall exercise its independent judgment in its determination as to which third-party consultants, if any, to retain."

ATTACHMENTS:

- RFP for Development Agreement Negotiation Services July 13, 2021
- Armbruster Proposal
- Shute Proposal
- Stradling Proposal

REQUEST FOR PROPOSALS (RFP)
DEVELOPMENT AGREEMENT NEGOTIATION SERVICES



CITY OF LAGUNA HILLS
24035 El Toro Road
Laguna Hills, CA 92653
(949) 707-2610

RFP Dates

Request for Proposal Issued:	July 13, 2021
Written Question Deadline:	July 20, 2021
Questions Answered/Addenda Issued:	July 27, 2021
Proposal Submittal Deadline 4:00 pm :	August 3, 2021
Interviews to be held on:	TBD
Award of Professional Services Agreement:	August 24, 2021

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

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City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES



CITY OF LAGUNA HILLS

July 13, 2021

SUBJECT: REQUEST FOR PROPOSALS FOR DEVELOPMENT AGREEMENT
NEGOTIATION SERVICES

Dear Proposer:

You are invited to respond to this Request for Proposal (RFP) to provide Development Agreement Negotiation Services to the City of Laguna Hills. The following pages detail the Scope of Services to be provided and the Submission Requirements. The City intends to enter into a Professional Services Agreement with one qualified Professional Services Firm or Individual as deemed necessary to fulfill the City's needs.

To be considered responsive, Proposers must submit a written proposal in accordance with the requirements, specifications, conditions and provisions described in the attached RFP.

PROPOSALS ARE DUE BEFORE
4:00 P.M. on August 3, 2021

If you have any questions regarding this RFP, please contact me at (949) 707-2615 or via email at krosenfield@lagunahillsca.gov. Thank you for your interest.

Sincerely,

Kenneth H. Rosenfield, P.E.
Interim City Manager

24035 El Toro Road • Laguna Hills, California 92653 • (949) 707-2600 • FAX (949) 707-2633
Website: www.lagunahillsca.gov

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

SECTION I

INTRODUCTION AND INSTRUCTIONS TO PROPOSERS

A: Introduction and Overview

The City is soliciting proposals from qualified consultants (firms or individuals) to provide professional consultant services to participate in and lead development agreement negotiation/renegotiation services for the land use development project known as the Village at Laguna Hills (hereinafter Village). The Village is the redevelopment of the 68-acre site of the former Laguna Hills Mall at the intersection of El Toro Road and Interstate 5 in the City of Laguna Hills as proposed by Merlone Geier Partners (MGP, Owner and Applicant) as MGP Fund X Laguna Hills, LLC. The Village is within the City's Urban Village Specific Plan (UVSP) which was adopted in 2002 and is the subject of an ongoing joint Planning Agency/City Council land use entitlement approval process as further and fully described in that certain Staff Report for the first Public Hearing on this matter held on April 27, 2021. The Staff Report and all other related documents, including the proposed Development Agreement, can be accessed here: <https://www.ci.laguna-hills.ca.us/176/Planning-Projects-New-Developments>

The Village is a modification of a previously approved 2016 development known as "Five Lagunas" which, at that time, included 988 apartment units and approximately 860,000 sf of retail. In 2018, the Applicant advised the City that they would not be able to prosecute the approved Five Lagunas project due to market shifts and were redesigning the project into a more complete mixed-use project. The proposed Village consists of modifications to the Five Lagunas Project that will result in the following on the Laguna Hills Mall Property at full build-out:

- Up to a total of 250,000 square feet of Retail space within multiple Retail Buildings.
 - Existing Pad Buildings / Restaurants to remain (+23,095 sq. ft.)
 - Anchor Building with two Anchor tenant spaces and a Theatre (+118,000 sq. ft.)
 - Shops Buildings around Village Park (+18,000 sq. ft.)
 - Three New Perimeter Pad Buildings (+ 22,600 sq. ft.)
 - Retail at Hotel (+10,805 sq. ft.)
 - Retail under Residential Building I (+57,500 sq. ft.)
- Up to 465,000 square feet of Office Space within four Office Buildings
- Two Parking Structures and ancillary surface parking serving the Retail and Office Buildings
- A Hotel, five stories, up to 150 rooms
- Up to 1,500 multifamily residential units within 5 Residential Buildings with internal parking structures within each Building.
 - Residential Building I (358 units / 664 parking stalls) [mixed-use building]
 - Residential Building II (230 units / 444 parking stalls)
 - Residential Building III (300 units / 579 parking stalls)
 - Residential Building IV (337 units / 617 parking stalls)
 - Residential Building V (275 units / 509 parking stalls)
- 200 of the residential units will be "Affordable Units" proportionately distributed between Buildings I, II, III, and V. 100 units will be "lower income" units, 100 units will "moderate income" units

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

- A 2.6-acre Village Park
- Internal private street and landscaping improvements
- Public Art
- Certain Public Improvements (including two potential new traffic signals, new catch basin inserts, enhanced parkway improvements along Avenida de la Carlotta, new bus stops, and update of public sidewalks and ADA ramps)

The land use entitlement pending before the Planning Agency/City Council include adoption of the Fifth Addendum to the City of Laguna Hills General Plan Program Environmental Impact Report as previously addended (State Clearinghouse No. 20080811100) and approval of Site Development Permit, Master Sign Program, Conditional Use Permits, Parking Use Permit, Vesting Tentative Tract Map, Precise Plan, and proposed Development Agreement, collectively USE-0010-2019. The Public Hearing for the proposed Project began on April 27, 2021, which was continued to June 24, 2021, and then further continued thereafter to June 29, 2021. The Public Hearing was closed on June 29, 2021, and returned to the Planning Agency/City Council for deliberations. During the June 29, 2021, meeting, the City Council expressed concern and dissatisfaction of certain terms and conditions set forth in the proposed Development Agreement (see further discussion below). The Planning Agency/City Council voted to further continue the matter to December 14, 2021, and directed that a professional development agreement negotiator be retained by the City for the purpose of engaging the Applicant in continued negotiation/renegotiation of the proposed Development Agreement before this matter is returned to the Planning Agency/City Council for the fourth public meeting on this matter now scheduled for December 14, 2021.

The Laguna Hills Mall was once the sales tax/property tax economic engine of the City but the tax generation from the site has significantly declined over time and more precipitously declined with the closure of Sears, Macy's and JC Penney's in the past five years. The proposed Development Agreement establishes a Phasing Plan for development, and provides the City with the payment of community benefit fees, the payment of public art fees and the acceleration of the payment of public park in-lieu fees. The proposed Development Agreement provides the Applicant with an extended timeframe for development with an initial term of 15 years including the potential of an extension for an additional five years. The Development Agreement provides the following City benefits, which the City could not legally require of the Owner in the absence of a Development Agreement:

- (1) Payment of \$2,227,066 in unrestricted "Community Benefit Payments" to the City's General Fund within the first 15 months post Project approval.
- (2) Assistance to the City in meeting its RHNA obligations by restricting 200 of the residential units as affordable to low and moderate-income families, with rental priority given to seniors, veterans, and City residents.
- (3) Payment of \$350,000 in nonrefundable guaranteed Public Art In-lieu Fees to the City within 90 days post Project approval (years in advance than otherwise due), which City can choose to construct a Military Memorial.
- (4) The actual construction of Public Art within the Project.
- (5) A commitment to complete construction of the Village Park within seven years.
- (6) A commitment to complete construction of at least 140,000sf of space within Retail Buildings (likely the Anchor / Theatre Building) and associated infrastructure within seven years.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

(7) A commitment to complete construction of at least 210,000sf of space within Retail Buildings (likely the Anchor / Theatre Building) and associated infrastructure within 15-20-year Term.

(8) A commitment to complete construction of a Hotel that is “Upscale” in quality. If construction of the Hotel is not completed within eight years, the City is entitled to payment of an additional \$500,000 Community Benefit Fee, and Owner is still required to complete construction of the Hotel within 15-20-year Term.

(9) A commitment to complete construction of at least 2 Residential Buildings and associated infrastructure within seven years.

(10) A commitment to complete construction of at least 4 Residential Buildings and associated infrastructure within 15-20-year Term.

(11) Nonrefundable guaranteed payment of \$12,571,344 in Quimby fees for three Residential Buildings (the first 804 proposed residential units) within the first seven years (even if Owner does not build all three buildings / 804 units all within the first seven years).

(12) Payment of \$5,597,688 in nonrefundable guaranteed Quimby fees to the City for the next 358 proposed residential units (4th Residential Building) by no later than Year 15 (even if Owner does not build all of these residential units all within 15 years).

(13) Payment of an annual administration fee to the City for the first 10 years in the initial amount of \$20,000, with a 3% annual escalator. (>\$200,000/ 10years)

(14) Waiver by Owner of right to challenge conditions or exactions imposed by City.

(15) Waiver by Owner of its rights under the UVSP and State law to build more than 1,500 residential units or five Residential Buildings on the Property.

At the June 29, 2021, meeting, the City Council expressed concerns that the proposed Development Agreement does not provide the City with sufficient unencumbered funds to cover related City costs, does not obligate the timing of the construction of several aspects of the project that are desired by the Community, does not include home ownership opportunities and many other matters described below. The City Council’s stated intent is that the City retain a qualified development agreement negotiator to continue to negotiate the terms and conditions of the proposed Development Agreement consistent with the comments and feedback given by the Council Members during the June 29, 2021 meeting. The City Council has directed that proposed Development Agreement be reopened for negotiations with the Applicant to address the following matters, in no particular order:

1. A portion of the 1,500 housing units should be changed from rental units to ownership units.
2. Additional funding should be provided for current and future public safety needs.
3. The Phasing Plans should obligate the Applicant to construct certain features of the project by a date certain. For example, a) the office buildings are not currently obligated to be constructed; the Applicant is only required to use commercially reasonable efforts to market development opportunities for Office Buildings in Phase One, b) The Hotel is not required to be constructed by the end of the term of the proposed Development Agreement and c) the Retail is not required to be built before other uses.
4. Additional funding should be provided for wear and tear on public facilities that may be used by new residents or otherwise due to traffic attracted to the site.
5. Additional parking, above those required by City Code, should be provided to mitigate potential overflow parking resulting from the 1,500 housing units, office and retail.
6. The private park space should be expanded in size.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

7. Architecture of the site should be modified to better fit the subjective standards described and shown in the Urban Village Specific Plan and otherwise the suburban nature of the City.
8. The Hotel should include larger meeting spaces and have a better definition of an upscale/boutique hotel with 150 or more rooms.
9. The 1,500 housing units should include a higher number of reduced qualifying income units to account for more of the City's Regional Housing Needs Assessment. The 1,500 units currently include 100 low income and 100 moderate income units. Overall, the 1,500 housing units are predicted to address approximately 46% of the City's RHNA requirement of 1,985 units.

Village at Laguna Hills



This engagement will also be subject to the noticing requirements contained in that certain Deposit/Reimbursement Agreement entered into on November 26, 2019, between the City and MGP Fund X Laguna Hills, LLC, which, in Section 6, reads in part, "...at least thirty (30) days prior to City retaining any third-party consultant, to be paid from Deposit Funds, City shall provide for Developer's review written notice containing such consultant's qualifications, proposed scope of work and budget estimate." ... "Notwithstanding the foregoing, any decision to retain such third-party consultants shall be at the sole discretion of the City, and City shall exercise its independent judgment in its determination as to which third-party consultants, if any, to retain." A copy of this Agreement is available upon request.

End of Section, continue to next page

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

B: Proposed Schedule

Request for Proposal Issued:	July 13, 2021
Written Question Deadline:	July 20, 2021
Questions Answered/Addenda Issued:	July 27, 2021
Proposal Submittal Deadline 4:00 pm:	August 3, 2021
Interviews to be held on:	TBD
Effective Date of Professional Services Agreement:	August 24, 2021

C: Instructions to Proposers and Procedures for Submittal

One printed original (marked original), five (5) printed copies (marked copy) and one (1) electronic copy on Flash Drive (will not be returned) and one separate sealed envelope containing the Fee Proposal must be submitted in an envelope or box bearing the name of the Proposer, marked ***RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES*** and submitted only to the following address:

**City of Laguna Hills
Attention: Kenneth Rosenfield
Interim City Manager
24035 El Toro Road
Laguna Hills, CA 92653**

Proposers are solely responsible for ensuring their submitted proposal is received by the City in accordance with the solicitation requirements, before the Submittal Deadline, and at the place specified. Postmarks will not be accepted in lieu of actual delivery. No oral, telegraphic, electronic mail, facsimile, or telephonic proposals or modifications will be considered unless specified. The City shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. All proposals shall become the property of the City. Late proposals will not be accepted and will be returned to the Proposer unopened.

D: General Conditions

ADDITIONAL INFORMATION, RIGHT TO REQUEST. The City reserves the right, where it may serve the City's best interest, to request additional information or clarifications from proposers during its review and evaluation of proposals submitted for consideration.

ADDITIONAL SERVICES. The Scope of Work describes the minimum work to be accomplished. Upon final selection of the firm, the Scope of Work may be modified and refined during negotiations with the City.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

AUTHORIZED SIGNATURES. Every proposal must be signed by the person or persons legally authorized to bind the Proposer to a contract for the execution of the work. Proposer shall provide a current power of attorney, articles of incorporation, or other instrument confirming the agent's authority to bind the Proposer.

AWARD OF PROPOSAL. City reserves the right to negotiate final terms with the selected Proposer, if any. Award of contract, if any, will be made in accordance with Section 3-08.150 (Professional services contracts) of the Laguna Hills Municipal Code (LHMC) which can be found here:
<https://www.codepublishing.com/CA/LagunaHills/#!/LagunaHills03/LagunaHills0308.htm#3-08.150>

An Evaluation Committee will be established by the City per Section III. The City shall not be obligated to accept the lowest priced proposal but, if an award is made, the City will make an award in the best interests of the City after all factors are considered, including but not limited to the demonstrated competence, experience and professional qualifications of the Proposer. Discussions may, at the City's option, be conducted with the most qualified proposers. In conducting discussions, the City will not disclose information derived from proposals submitted by competing proposers.

COMPLIANCE WITH LAWS. All proposals shall comply with current federal, state, and other laws relative thereto.

CANCELLATION OF SOLICITATION. The City may cancel this solicitation for proposals at any time.

CONFLICT OF INTEREST. By signing the Certification of Proposal (**Attachment 3**) and submitting a proposal to the City in response to this Request for Proposals, the Proposer represents and certifies that:

A) No elected or appointed official, officer, or employee of the City has been or shall be compensated, directly or indirectly, in connection with this proposal or for any work connected with this proposal; should any agreement be approved in connection with this Request for Proposals ("Agreement") no elected or appointed official, officer, or employee of the City, during the term of his/her service with the City, shall have any direct or indirect financial interest in the Agreement, or obtain any present, anticipated, or future financial interest or other material benefit arising therefrom;

B) No elected or appointed official, officer, or employee of the City shall have any financial interest, direct or indirect, in the Agreement nor shall any such official, officer, or employee participate in any decision relating to the Agreement which effects his/her personal financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of state law;

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

C) The Proposer and its principals do not have now, nor shall it acquire any financial or business interest that would conflict with the performance of services under the Agreement;

COSTS. The City is not liable for any costs incurred by proposers before entering into a formal contract. Costs of developing the proposals, or any other such expenses incurred by the Proposer in responding to this RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the City. No reimbursable cost may be incurred in anticipation of award.

DISQUALIFICATION OF PROPOSER. If there is reason to believe that collusion exists among the proposers, the City may refuse to consider proposals from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one proposal for the same work unless alternate proposals are called for. Reasonable grounds for believing that any Proposer is interested in more than one proposal for the same work will cause the rejection of all proposals for the work in which a Proposer is interested. If there is reason to believe that collusion exists among Proposers, the City may refuse to consider proposals from participants in such collusion. Proposers shall submit as part of their proposal documents the completed Non-Collusion Affidavit provided as **Attachment 1**.

DOCUMENTS, EXAMINATION OF. It is the responsibility of the Proposer to carefully and thoroughly examine and be familiar with these RFP documents, general conditions, all forms, specifications, drawings, plans, and addenda (if any). Proposer shall satisfy themselves as to the character, quantity, and quality of work to be performed and materials, labor, supervision, necessary to perform the work as specified by these documents. The failure or neglect of the Proposer to examine documents shall in no way relieve them from any obligations with respect to the solicitation and/or subsequent contract that may be awarded. The submission of a proposal shall constitute an acknowledgment upon which the City may rely that the Proposer has thoroughly examined and is familiar with the RFP documents. No claim will be allowed for additional compensation that is based upon a lack of knowledge of any solicitation document.

INTERPRETATION OF RFP DOCUMENTS. City reserves the right to make corrections or clarifications of the information provided in this RFP. If any person is in doubt as to the true meaning of any part of the specifications or other RFP documents, or finds discrepancies or omissions in the specifications, he or she may submit to the City a written request for an interpretation or correction.

Oral statement(s), interpretations or clarifications concerning meaning or intent of the contents of this RFP by any person are unauthorized and invalid. Modifications to the RFP, including, but not limited to, the scope of work, shall be made only by formal written addendum issued by the City. Accordingly, in order to ensure that all proposers have

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

access to the same information, the City will use the following procedure to respond to inquiries:

- All questions or requests for interpretations shall be made in writing and delivered to Kenneth Rosenfield, City of Laguna Hills, 24035 El Toro Road, Laguna Hills, CA 92653, or via email at krosenfield@lagunahillsca.gov by 5:00 p.m. on July 20, 2021.
- Staff will issue, as needed, addenda to the RFP, including a list of all written questions received and responses thereto, on the City's website and via email to the RFP distribution list, and all proposers who have advised the City that they have a set of RFP documents, by July 27, 2021.

The requesting party is responsible for prompt delivery of any requests. All such addenda shall become a part of the RFP document. It is the responsibility of each Proposer to ensure the City has their correct business name and address on file. Any prospective Proposer who obtained a set of RFP documents is responsible for advising the City that they have a set of RFP documents and wish to receive subsequent Addenda.

IRREGULARITIES. Unauthorized conditions, limitations, or provisions attached to a proposal may cause its rejection. The completed proposal shall be without interlineations, alterations or erasures. Alternative proposals will not be considered unless specifically requested. No oral, telegraphic, or telephonic proposal, modification or withdrawal will be considered.

NON-DISCRIMINATION. Proposer shall represent and certify that it does not and will not discriminate against any employee or applicant for employment because of race, religion, gender, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy related conditions, political affiliation or opinion, age or medical condition.

NON-EXCLUSIVE. Should the City make an award, the successful Proposer will enter into a non-exclusive professional services agreement and the City reserves the right to enter into agreements with other firms or consultants for the services listed in this RFP.

NO OBLIGATION. The release of this RFP does not obligate or compel the City to enter into a contract or agreement.

NO PUBLIC PROPOSAL OPENING/PUBLIC RECORDS ACT. Proposals shall be opened and their contents secured by City staff to prevent disclosure during the evaluative process and the process of negotiating with competing proposers. Adequate precautions shall be taken to treat each Proposer fairly and to ensure that information gleaned from competing proposals is not disclosed to other proposers. Prices and other information concerning the proposals shall not be disclosed until finalists are selected to present

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

proposals to the City Council or a recommendation for award is made to the City Council, whichever comes first.

OFFERS OF MORE THAN ONE PRICE. Proposers are not allowed to submit more than one proposal.

OWNERSHIP. All data, documents and other products used or developed during the RFP process become the property of the City upon submission.

PROPRIETARY INFORMATION. All proposals and documents submitted in response to this RFP shall become the property of the City and a matter of public record pursuant to Government Code sections 6250 et seq. It is the responsibility of each Proposer to clearly identify any and all information contained within the proposal that it considers to be confidential and/or proprietary. To the extent that the City agrees with that designation, such information will be held in confidence whenever possible; all other information will be considered public. In the event that a demand for disclosure of information designated as "confidential and/or proprietary" by a Proposer is made, the City will notify the Proposer in writing of such demand and shall furnish a copy of the City's written response to the requestor. Proposer may then pursue, at its sole cost and expense, any and all appropriate legal action necessary to maintain the confidentiality of such information.

REJECTION OF PROPOSAL. The City reserves the right to reject any or all proposals or any part of a proposal. The City reserves the right to reject the proposal of any Proposer who previously failed to perform adequately for the City or any other governmental agency. The City expressly reserves the right to reject the proposal of any Proposer who is in default on the payment of taxes, licenses or other monies due the City.

REPRESENTATIONS. Proposer understands and acknowledges that the representations made in their submitted proposal are material and important, and will be relied on by the City in evaluation of the proposal. Proposer misrepresentation shall be treated as fraudulent concealment from the City of the facts relating to the proposal.

WITHDRAWAL OF PROPOSAL. Proposers' authorized representative may withdraw proposals only by written request received by the City's Interim City Manager before the Proposal Submittal Deadline.

End of Section, continued to next page.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

SECTION II

PROPOSAL RESPONSE REQUIREMENTS

Provide:

- 1 printed original (marked original)
- 5 printed copies (marked copy)
- 1 flash drive of the Proposal
- 1 sealed Fee Proposal envelope

Submission shall be entitled **RFP - DEVELOPMENT AGREEMENT NEGOTIATION SERVICES** and submitted to:

City of Laguna Hills
Attention: Kenneth Rosenfield
Interim City Manager/Public Services Director
24035 El Toro Road
Laguna Hills, CA 92653

All proposals shall be submitted on standard 8.5" by 11" paper and secured in binder clips only (no notebooks or covers to be submitted). Font shall be no less than 10 point. All pages should be numbered and identified sequentially by section matching the format of this RFP. Response items should include:

A. Cover Letter: signed by an individual authorized to bind the proposing entity.

B. Company and/or Individual Information including:

1. Official name and address.
2. Name, address, and telephone number of the Proposer's primary point of contact.
3. Type of entity (corporation, company, joint venture etc).
4. Federal Employer I.D. Number.
5. The address, telephone numbers and email addresses.
6. Ownership status.
7. Number of years in business under the present business name.
8. Number of years of experience the Proposer.
9. Comparable contracts entered into during the last five (5) years
10. Any failures or refusals to complete a contract and explanation.
11. Individuals/Firms who own an interest of 10% or greater in the proposing firm.
12. Financial interests in other lines of business.
13. Litigation/Adverse Judgement History.
14. Termination of Contract "For Cause" History.
15. Any proposed subconsultants and all of their qualification information.

C. Resumes and Qualifications of Personnel: The Proposer shall furnish a personnel staffing plan with sufficient information for judging the quality and competence of the personnel dedicated to the project. The Proposer shall furnish resumes in outline form for the key personnel assigned and committed to this work

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

effort. Proposer shall also include the number and type of additional support personnel who will be providing services.

D: Organizational Chart: If applicable as to a Team/Firm, provide an organizational chart or otherwise indicate one individual shall be responsible for the work effort.

E: References: Proposer must provide three (3) references for whom Proposer has provided similar services of the nature and scope as set forth in the RFP within the last five (5) years, including a one-page summary of the engagement.

F: Project Understanding, Overview and Approach:

- Understanding: Proposer must clearly demonstrate in this section an understanding of the tasks outlined in Section IV of this Request for Proposals.
- Approach: Proposer must include in this section its detailed approach to providing those services described in Section IV of this RFP.
- Proposer must identify the services proposed to be provided in response to the Scope of Services. Proposer must note any services not provided by the Proposer.
- Project Management: The City's Interim City Manager will serve as a dedicated City project manager that will act as the single point of contact and as the contract officer for these services. Proposals should describe the Proposer's approach to project management.
- Proposer shall list any resources, City assistance or other items expected to be provided by City in connection with the delivery of these services.
- Proposer may additionally itemize those services which are further recommended or optionally provided but are not noted in the aforementioned paragraphs as requirements. Proposer will title this section as Additional Services.
- Project Controls: Describe the Proposer's ability to control costs and provide accurate and timely invoices through internal control measures; to monitor and stay within budget; to monitor schedule and review times and describe the techniques used to complete projects within the proposed time frames.

G: Schedule: Proposer shall discuss an anticipated schedule and availability of staff for this engagement. The schedule discussion should include milestones, negotiation timeframe estimates and regular written updates. It is acknowledged this procurement will have a variable timeframe with difficult to define milestones, however, Proposer shall make a best estimate.

H: Certificate of Insurance: Proposer shall demonstrate the willingness and ability to submit proof of the required insurance coverage (Attachment 2) set forth in the *Sample Draft Professional Services Agreement* (Attachment 4) prior to execution of the contract.

I: Certification of Proposal: Proposer is required to sign and submit the Certification of Proposal in Attachment 3.

End of Section, continue to next page.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

SECTION III

PROPOSAL EVALUATION AND SELECTION

An Evaluation Committee will be established by the City. The Committee may be comprised of City staff or other personnel as determined by the Interim City Manager and will evaluate all proposals received in accordance with Section 3-08.150 of the LHMC. The City reserves the right to establish criteria and weight factors. The City shall not be obligated to accept the lowest priced proposal, but the City will make an award in the best interests of the City after all factors are considered, including, but not limited to, the demonstrated competence, experience and professional qualifications of the Proposer.

Selection of qualified proposers will be based on the following criteria as set forth herein. Criteria are listed in random sequence and are not considered in any rank or order of importance.

1. Experience of the firm/individual, particularly of staff assigned to provide the requested services, including demonstrated competence.
2. Demonstrated understanding of the service needs outlined in this RFP
3. Successful delivery of similar services
4. Availability of staff assigned to City
5. Quality of references
6. Content, quality, completeness and form of submitted proposal
7. Interviews
8. Proposed cost of services (considered after selection of best qualified firms).

Following evaluation of written proposals, the Committee and/or the City Council may hold interviews with the most qualified respondents at a date and time to be determined.

End of Section, continue to next page.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

SECTION IV

SCOPE OF SERVICES

Services to be Provided:

Consultant shall provide the following services to the City of Laguna Hills. None of the requested services should be interpreted as requiring any dedicated or continuing on-site staffing by the Consultant.

1. Review all existing City Planning Documents related to the Village as provided for all three previous public hearings.
2. Meet and confer with the Interim City Manager, Planning Staff, Placeworks (planning consultant), Kosmont (fiscal consultant), Kelly and Associates Management Group (Project Manager) and individual City Council members regarding the status of the Village and concerns with the proposed Development Agreement.
3. Meet and confer with the Applicant/Owner as frequently as needed.
4. Initiate negotiations/re negotiations of the proposed Development Agreement with the Applicant/Owner in an effort to reach mutually agreeable terms and conditions consistent with City Council comments as generally described in Section 1, Part A, Introduction and Overview. For a complete understanding of these comments, please review the recording of the June 29, 2021, Planning Agency/City Council meeting here:
<http://lagunahillsca.igm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1453&Format=Agenda>.
 The list of changes requested by the City Council to the proposed Development Agreement discussion is focused at approximately timestamp 6:55:00.
5. Provide regular written progress updates to the Interim City Manager.
6. Provide Development Agreement negotiation and writing services.
7. Seek to complete negotiations and the rewrite of the Development Agreement in time to be presented at the fourth Project public meeting scheduled for December 14, 2021. Be present at this Planning Agency/City Council meeting.

End of Section, continue to next page.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

SECTION V
SCHEDULE OF COMPENSATION/FEES

Compensation will be provided in accordance with Section 2 of the Sample Professional Agreement (Attachment 4). Compensation will be made at the fees and schedule contained in the Proposer's Proposal/Scope of Work and subject to a Maximum Contract Amount as agreed upon by Proposer and City. The Proposer shall list the hourly rate schedule for the services for each task and estimate the total cost for the entire proposal.

The Proposer may choose to only provide an hourly rate schedule with an estimated total engagement cost.

Notwithstanding the above described Compensation submittal, Proposer shall also provide a **Budget Estimate** for this engagement which will be used to notify MGP as is required by the aforementioned Deposit/Reimbursement Agreement (described in Section I).

Proposers are required to include all costs for meeting attendance including travel time. The City will not separately reimburse Proposer for travel time or expenses to and from meetings or presentations.

The Compensation/Fees shall be submitted in a separate sealed envelope.

End of Section, Continue to next page.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 1

NON-COLLUSION AFFIDAVIT

The undersigned represents and certifies that:

1. This Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. This Proposal is genuine and not collusive or sham.
3. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and has not directly or indirectly colluded, conspired, connived, or agreed with any other Proposer or anyone else to put in sham proposal or to refrain from submitting to this RFP.
4. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price or to fix any overhead, profit or cost element of the proposal price or to secure any advantage against the City of Laguna Hills or of anyone interested in the proposed contract.
5. Proposer affirms that all statements contained in the Proposal and related documents are true and correct.
6. Proposer has not directly or indirectly submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay any fee to any person, corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
7. Proposer has not entered into any arrangement or agreement with any City of Laguna Hills public officer in connection with this proposal.
8. Proposer understands that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct. Executed this _____ day of _____, 2021, at _____, California.

Signature of Authorized Representative

Name of Authorized Representative

Title of Authorized Representative

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 2

**CONSULTANT'S ACKNOWLEDGEMENT OF COMPLIANCE
WITH INSURANCE REQUIREMENTS FOR
AGREEMENT FOR PROFESSIONAL SERVICES**

Consultant agrees, acknowledges, understands and is fully aware of the insurance requirements as specified in **Section 5, Insurance Requirements** of the attached sample Agreement for Professional Services (Attachment 4) and hereby accepts all conditions and requirements as contained therein.

Consultant: _____
Name (Please Print or Type)

By: _____
Consultant's Signature & Title

Date: _____

This executed form must be submitted with proposal.

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 3

CERTIFICATION OF PROPOSAL TO THE CITY OF LAGUNA HILLS

The undersigned hereby submits its proposal and agrees to be bound by the terms and conditions of this Request for Proposal (RFP). By signing the Certification of Proposal (**Attachment 3**) and submitting a proposal to the City in response to this Request for Proposals, the Proposer hereby represents and certifies that:

- A) No elected or appointed official, officer, or employee of the City has been or shall be compensated, directly or indirectly, in connection with this proposal or for any work connected with this proposal; should any agreement be approved in connection with this Request for Proposals ("Agreement") no elected or appointed official, officer, or employee of the City, during the term of his/her service with the City, shall have any direct or indirect financial interest in the Agreement, or obtain any present, anticipated, or future financial interest or other material benefit arising therefrom;
- B) No elected or appointed official, officer, or employee of the City shall have any financial interest, direct or indirect, in the Agreement nor shall any such official, officer, or employee participate in any decision relating to the Agreement which effects his/her personal financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of state law;
- C) The Proposer and its principals do not have now, nor shall it acquire any financial or business interest that would conflict with the performance of services under the Agreement;
- D) Proposer does not and will not discriminate against any employee or applicant for employment because of race, religion, gender, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy related conditions, political affiliation or opinion, age or medical condition;
- E) By submitting the response to this request, Proposer agrees, if selected, to furnish services to the City in accordance with this RFP;
- F) Proposer has carefully reviewed its proposal and understands and agrees that the City is not responsible for any errors or omissions on the part of the Proposer and that the Proposer is responsible for them;
- G) It is understood and agreed that the City reserves the right to accept or reject any or all proposals and to waive any informality or irregularity in any proposal received by the City;

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

H) The proposal response includes all of the commentary, figures and data required by this Request for Proposal.

I) The proposal shall be valid for 180 days from August 3, 2021.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct.

Executed this _____ day of _____, 2021, at _____, California.

Name of Proposer: _____

By: _____
(Authorized Signature)

Type Name: _____

Title: _____

Date: _____

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 4

SAMPLE DRAFT PROFESSIONAL SERVICES AGREEMENT

(Subject to Revision by City Upon Final Contract Award)

SAMPLE DRAFT PROFESSIONAL SERVICES AGREEMENT
*****SUBJECT TO CHANGE ON FINAL CONTRACT AWARD*****

PROFESSIONAL SERVICES AGREEMENT
Insert: Name of Corporate Entity, Inc.
(Development Agreement Negotiation Consulting Services)

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter "Agreement") is made and entered into, to be effective this ____ day of _____ 2021 by and between the CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California, (hereinafter referred to as "City") and _____, INC., a California corporation (hereinafter referred to as "Consultant"). City and Consultant are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as the "Parties."

RECITALS

A. City has determined that there is a need to retain the professional services of a qualified consultant to _____ (the "Project").

B. In response to City's Request for Proposals, dated _____, 2021, Consultant has submitted to City a proposal, dated _____, 2021, to provide professional consulting services to _____ pursuant to the terms and conditions of this Agreement.

C. Consultant represents and maintains that it is uniquely qualified by virtue of its experience, training, education, reputation, and expertise to provide these professional services to City for the Project and has agreed to provide such services as provided herein. City does not have the personnel or specialized technical expertise able to perform the work or services contracted for herein.

D. City desires to retain Consultant to provide such professional services for the Project.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. SERVICES OF CONSULTANT

1.1 Scope of Services and Standard of Performance. In compliance with all terms and conditions of this Agreement, Consultant agrees to provide and perform the _____ consulting services for the Project as set forth in the Proposal/Scope of Work, dated _____, 2021, which is

SAMPLE DRAFT PROFESSIONAL SERVICES AGREEMENT
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attached hereto as Exhibit “A” and is incorporated herein by reference (hereinafter referred to as the “Scope of Services,” the “Services” or “Work”). As a material inducement to the City entering into this Agreement, Consultant acknowledges and understands that the Services and Work contracted for under this Agreement require specialized skills and abilities and that, consistent with this understanding, Consultant’s Services and Work shall be performed in a skillful and competent manner and shall be held to a standard of quality and workmanship prevalent in the industry for such Services and Work and with the standards recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and warrants that it is skilled in the professional discipline necessary to perform the Services and Work and that it holds the necessary skills and abilities to satisfy the standard of work as set forth in this Agreement. Consultant represents and warrants that it and all of its employees, subconsultants and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and experience to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the City.

1.2 Contract Documents. The Agreement between the Parties shall consist of the following: (1) this Agreement; and, (2) the Consultant’s signed, original Proposal/Scope of Work dated _____, 2021 (“Consultant’s Proposal”) and submitted to City, which shall both be referred to collectively hereinafter as the “Contract Documents.” The Consultant’s Proposal is attached hereto as Exhibits “A” and is hereby incorporated by reference and made a part of this Agreement. All provisions of this Agreement and the Consultant’s Proposal shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1st) the terms and conditions of this Agreement; and, (2nd) the provisions of the Consultant’s Proposal (Exhibit “A”).

1.3 Compliance with Law. Consultant shall comply at all times during the term of this Agreement with all applicable federal, state, and local laws, statutes, and ordinances and all lawful orders, rules, and regulations promulgated thereunder, including without limitation all applicable fair labor standards and Cal/OSHA requirements. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of the Work and Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with performing the Work and Services. If Consultant performs any Work or Services in violation of such laws, rules, and regulations, Consultant shall be solely responsible for all penalties and costs arising therefrom. Consultant shall defend, indemnify, and hold City, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

1.4 Licenses, Permits, Fees, and Assessments. Prior to performing any Services or Work hereunder Consultant shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Consultant represents and warrants to City that Consultant

SAMPLE DRAFT PROFESSIONAL SERVICES AGREEMENT
*****SUBJECT TO CHANGE ON FINAL CONTRACT AWARD*****

shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for Consultant to perform the Work and Services under this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the City, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

1.5 Familiarity with Work. By executing this Agreement, Consultant represents and warrants that it (a) has thoroughly investigated and considered the Scope of Work or Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where such Services or Work is to be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant represents and maintains that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any Services hereunder. Should the Consultant discover any latent or unknown conditions that will materially affect the performance of the Services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the City.

1.6 Care of Work. Consultant shall adopt reasonable methods during the term of the Agreement to furnish continuous protection to the Work and the equipment, materials, papers, documents, plans, studies, and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Work by the City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties. Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

1.8 Additional Services. City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Consultant's Proposal/Scope of Services (Exhibit "A") or make changes by altering, adding to, or deducting from such Work. No such extra work may be undertaken unless a written order is first given by the City to the Consultant, incorporating therein any adjustment in (i) the Maximum Contract Amount, as defined below, and/or (ii) the time to perform this Agreement, which adjustments are subject to the written approval of the Consultant. It is expressly understood by Consultant that the provisions of this section shall not apply to the Work and Services specifically set forth in the Scope of Services or reasonably contemplated therein, regardless of whether the

SAMPLE DRAFT PROFESSIONAL SERVICES AGREEMENT
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time or materials required to complete any Work or Service identified in the Scope of Services exceeds any time or material amounts or estimates provided therein.

1.9 Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other contractors, consultants, or vendors for services similar to the services that are the subject of this Agreement. Consultant further acknowledges that City may have its own employees perform services similar to the services that are the subject of this Agreement.

2. COMPENSATION

2.1 Maximum Contract Amount. For the Services and Work rendered pursuant to this Agreement, Consultant shall be compensated by City for the services performed, including authorized reimbursements, on a time and materials basis in accordance with the professional hourly rates and charges as set forth in the Schedule of Compensation/Fees, which is attached hereto collectively as Exhibit "A" and is incorporated herein by reference, but not exceeding the maximum contract amount of _____ Dollars (\$_____) (hereinafter referred to as the "Maximum Contract Amount"). The method of compensation shall be as set forth in Exhibit "A". Compensation for necessary expenditures for reproduction costs, telephone expenses, and transportation expenses must be approved in advance by the Contract Officer designated pursuant to Section 4.2 and will only be approved if such expenses are also specified in the Schedule of Compensation/Fees. The maximum amount of City's payment obligation under this Agreement is the amount specified in this section.

The Maximum Contract Amount shall include the attendance of Consultant at all Project meetings reasonably deemed necessary by the City. Consultant shall not be entitled to any increase in the Maximum Contract Amount for attending these meetings. Consultant hereby acknowledges that it accepts the risk that the services identified in the Scope of Services may be more costly and/or time-consuming than Consultant anticipates, that Consultant shall not be entitled to additional compensation therefore, and that the provisions of Section 1.8 shall not be applicable to the services identified in the Scope of Services. The maximum amount of City's payment obligation under this Agreement is the amount specified in this section. If the City's maximum payment obligation is reached before the Consultant's Services under this Agreement are completed, Consultant shall nevertheless complete the Work without liability on the City's part for further payment beyond the Maximum Contract Amount.

2.2. Method of Payment. Unless some other method of payment is specified in the Schedule of Compensation/Fees (Exhibit "A"), in any month in which Consultant wishes to receive payment, no later than the tenth (10th) working day of such month, Consultant shall submit to the City, in a form approved by the City's Finance Director, an invoice for services rendered prior to the date of the invoice. Such requests shall be based upon the amount and value of the services performed by Consultant and accompanied by such reporting data including an itemized breakdown of all costs incurred and tasks performed during the period covered by the invoice, as may be required by the City. City shall use reasonable efforts to make payments to Consultant within forty-five (45) days after receipt of the invoice or a soon thereafter as is reasonably practical.

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2.3 *Intentionally omitted.*

2.4 Changes in Scope. In the event any change or changes in the Scope of Services is requested by the City, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional professional fees. An amendment may be entered into: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product, or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Consultant's profession.

2.5 Appropriations. This Agreement is subject to and contingent upon funds being appropriated therefore by the **Laguna Hills City Council** for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the City.

3. SCHEDULE OF PERFORMANCE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement. The time for completion of the services to be performed by Consultant is an essential condition of this Agreement. Consultant shall prosecute regularly and diligently the Work of this Agreement according to the agreed upon Schedule of Performance.

3.2 Schedule of Performance. Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed, or on each task order, if applicable, and shall perform all Services within the time period(s) established in the Schedule of Performance, which is attached hereto as Exhibit "A" and is incorporated herein by reference. When requested by Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer; however, the City shall not be obligated to grant such an extension.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant (financial inability excepted), including, but not limited to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, pandemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the City, if Consultant, within ten (10) days of the commencement of such delay, notifies the City Manager in writing of the causes of the delay. The City Manager shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the City Manager such delay is justified. The City Manager's determination shall be final and conclusive upon the Parties to this Agreement. In no

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event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this section.

3.4 Term. Unless earlier terminated as provided elsewhere in this Agreement, this Agreement shall commence upon the effective date of this Agreement and shall continue in full force and effect for a period of fifteen (15) months, commencing on _____, 2021 and ending on _____, 2022, unless extended by mutual written agreement of the Parties.

3.5 Task Orders. Consultant hereby agrees and acknowledges that any and all Services or Work performed pursuant to this Agreement shall be based upon the prior issuance of a written project task order by the City. Furthermore, Consultant hereby agrees and acknowledges that execution of this Agreement by the City does not in any way guarantee that a task order will be issued to Consultant. Moreover, execution of this Agreement by the City shall not entitle Consultant to any form of payment or compensation from the City without City first having issued a project task order.

4. COORDINATION OF WORK

4.1 Representative of Consultant. The following principal of Consultant is hereby designated as being the principal and representative of Consultant authorized to act in its behalf with respect to the Services to be performed under this Agreement and to make all decisions in connection therewith: _____ (Name/Corporate Officer Title). It is expressly understood that the experience, knowledge, education, capability, expertise, and reputation of the foregoing principal is a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Work or Services performed hereunder. The foregoing principal may not be changed by Consultant without prior written approval of the Contract Officer.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the City Manager of City, and is subject to change by the City Manager. It shall be the Consultant's responsibility to ensure that the Contract Officer is kept fully informed of the progress of the performance of the Services, and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.3 Prohibition Against Subcontracting or Assignments. The experience, knowledge, capability, expertise, and reputation of Consultant, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written consent of City. Consultant shall not

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contract with any other entity to perform the Services required without prior written consent of City. If Consultant is permitted to subcontract any part of this Agreement by City, Consultant shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City. All persons engaged in the Work will be considered employees of Consultant. City will deal directly with and will make all payments to Consultant. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written consent of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant from any liability hereunder without the express written consent of City.

4.4 Independent Contractor.

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Consultant a City employee. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act as City officers or employees. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as set forth in this Agreement. Consultant, its officers, employees or agents, shall not maintain a permanent office or fixed business location at City's offices. City shall have no voice in the selection, discharge, supervision, or control of Consultant's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Consultant shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of Consultant in its business or otherwise a joint venturer or a member of any joint enterprise with Consultant.

B. Consultant shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

C. No City benefits shall be available to Consultant, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Consultant as provided for in this Agreement, City shall not pay

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salaries, wages, or other compensation to Consultant for the performance of any Work or Services under this Agreement. City shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the City has financial obligations, other than pursuant to Section 2 and Subsection 1.8 herein, of any nature relating to salary, taxes, or benefits of Consultant's officers, employees, representatives, agents, or subconsultants or subcontractors, Consultant shall defend, indemnify, and hold harmless City from and against all such financial obligations.

4.5 PERS Eligibility & Indemnification.

A. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employee Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the City.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

5. INSURANCE

5.1 Compliance with Insurance Requirements. Consultant shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to City, all insurance required under this section. Consultant shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to City that it has secured all insurance required under this section. If Consultant's existing insurance policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

5.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Consultant shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

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A. Commercial General Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

C. Workers' Compensation Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Consultant agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

D. Professional Liability (Errors & Omissions) Insurance. Consultant shall obtain and maintain in full force and effect throughout the term of this Agreement, a policy of Professional Liability or Errors and Omissions Insurance appropriate to Consultant's profession with limits of at least two million dollars (\$2,000,000.00). Covered professional services shall specifically include all Work or Services to be performed under the Agreement and delete any exclusions that may potentially affect the Work or Services to be performed under this Agreement.

1. The policy shall be endorsed to provide the following: Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must "pay on behalf of" the insured and include a provision establishing the insurer's duty to defend.

2. If the policy of insurance is written on a "claims-made" basis, the City may require that the policy be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Work or Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant

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during the course of performing the Work or Services under the terms of this Agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended “tail” coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the City.

3. In the event the policy of insurance is written on an “occurrence” basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Work or Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall immediately be obtained to ensure coverage during the entire course of performing the Work or Services under the terms of this Agreement.

5.3 Acceptability of Insurers. Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Lines Insurers (LASLI), by the latest edition of A.M. Best’s Key Rating Guide, except that the City will accept workers’ compensation insurance from the State Compensation Fund. In the event the City determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City. Consultant shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

5.4 Insurance Endorsements. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

1. Additional Insured: The City, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and

2. Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to “ongoing operations”, (2) exclude “contractual liability”, (3) restrict coverage to “sole” liability of Consultant, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

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3. Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the City. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant's failure to pay the insurance premium, the notice provided to City shall be by ten (10) days prior written notice.

B. For all policies of Commercial General Liability Insurance, Consultant shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

5.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be approved in writing by the City in advance and shall protect the City, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

5.6 Primary and Non-Contributing Insurance. All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

5.7 Waiver of Subrogation. All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the City, its officials, officers, employees, agents and volunteers, or shall specifically allow Consultant or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Consultant hereby agrees to waive its own right of recovery against the City, its officials, officers, employees, agents and volunteers, and Consultant hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

5.8 Evidence of Coverage. Concurrently with the execution of the Agreement, Consultant shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company

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or companies. Consultant shall promptly furnish, at City's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents City requires to verify coverage.

5.9 Requirements Not Limiting. Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

5.10 Enforcement of Agreement (Non-Estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the City to inform Consultant of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the City nor does it waive any rights hereunder.

5.11 Insurance for Subconsultants. Consultant shall either: (1) include all subconsultants or subcontractors engaged in any Work or Services for Consultant relating to this Agreement as additional named insureds under the Consultant's insurance policies, or (2) Consultant shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the City, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Consultant's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers, as additional insureds. Consultant shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has provided evidence satisfactory to City that the subconsultant or subcontractor has secured all insurance required under this section.

5.12 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Consultant pursuant to this Agreement:

A. Consultant shall provide immediate written notice to City if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

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C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is Consultant's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Consultant agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.

F. Consultant agrees to provide immediate written notice to City of any claim, demand or loss against Consultant arising out of the Work or Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

6. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend (at Consultant's sole cost and expense with legal counsel reasonably acceptable to City), indemnify and hold the City, its elected and appointed officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officers, directors, employees, subcontractors, consultants or agents, in connection with Consultant's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Consultant are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Consultant's indemnification obligation or other liability hereunder. **Notwithstanding the foregoing, such obligation to defend, hold harmless, and indemnify the City, its elected and appointed officials, officers, employees, agents and volunteers,**

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shall not apply to the extent that such Claims arise out of, pertain to, or are related to the City's sole negligence, active negligence, or willful misconduct.

7. REPORTS AND RECORDS

7.1 Accounting Records. Consultant shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Consultant shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and to enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

7.2 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of the Work and Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Work or Services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of such fact, circumstance, technique, or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

7.3 Ownership of Documents. All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subconsultants, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be promptly delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials hereunder. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. Consultant shall ensure that all of its subconsultants and subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

7.4 Release of Documents. All drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization.

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7.5 Audit and Inspection of Records. After receipt of reasonable notice and during the regular business hours of City, Consultant shall provide City, or other agents of City, such access to Consultant's books, records, payroll documents, and facilities as City deems necessary to examine, copy, audit, and inspect all accounting books, records, work data, documents, and activities directly related to Consultant's performance under this Agreement. Consultant shall maintain such books, records, data, and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during the term of this Agreement and for a period of three (3) years from the date of final payment by City hereunder.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law and Venue. This Agreement shall be construed and interpreted both as to validity and as to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such County, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

8.3 Termination. City may terminate this Agreement for any reason, with or without cause, upon giving Consultant thirty (30) days written notice. Upon such notice, City shall pay Consultant for Services performed through the date of termination. Upon receipt of such notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. Thereafter, Consultant shall have no further claims against the City under this Agreement. Upon termination of the Agreement pursuant to this section, Consultant shall submit to the City an invoice for work and services performed prior to the date of termination. In addition, Consultant reserves the right to terminate this Agreement at any time upon sixty (60) days written notice to the City, except that where termination is due to material default by the City, the period of notice may be such shorter time as the Consultant may determine.

8.4 Default of Consultant.

A. Consultant's failure to comply with any provision of this Agreement shall constitute a default.

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B. If the City Manager, or City Manager's designee, determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Consultant in writing of such default. Consultant shall have ten (10) days, or such longer period as City may designate, to cure the default by rendering satisfactory performance. In the event Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which City may be entitled at law, in equity, or under this Agreement. Consultant shall be liable for any and all reasonable costs incurred by City as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any City right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit City's right to terminate this Agreement without cause pursuant to Section 8.3.

C. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.4(B), take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated. The withholding or failure to withhold payments to Consultant shall not limit Consultant's liability for completion of the Services as provided herein.

8.5 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

8.6 Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

8.7 Legal Action. In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

8.8 Attorneys' Fees. In the event any dispute between the Parties with respect to this

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Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

9. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

9.1 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor-in-interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

9.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of any state statute or regulation. Consultant represents and warrants that it has not paid or given and will not pay or give any third party any money or other consideration in exchange for obtaining this Agreement.

9.3 Covenant Against Discrimination. In connection with its performance under this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. Consultant shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10. MISCELLANEOUS PROVISIONS

10.1 Patent and Copyright Infringement.

A. To the fullest extent permitted by law, and in lieu of any other warranty by City or Consultant against patent or copyright infringement, statutory or otherwise, it is agreed that Consultant shall defend at its expense any claim or suit against City on account of any allegation that any item furnished under this Agreement, or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters patent or copyright and Consultant shall pay all costs and damages finally awarded in any such suit or claim,

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provided that Consultant is promptly notified in writing of the suit or claim and given authority, information and assistance at Consultant's expense for the defense of same, and provided such suit or claim arises out of, pertains to, or is related to the alleged negligence, recklessness or willful misconduct of Consultant. However, Consultant will not indemnify City if the suit or claim results from: (1) City's alteration of a deliverable, such that City's alteration of such deliverable created the infringement upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by Consultant when it is such use in combination which infringes upon an existing U.S. letters patent or copyright.

B. Consultant shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof, Consultant shall not be obligated to indemnify City under any settlement made without Consultant's consent or in the event City fails to cooperate in the defense of any suit or claim, provided, however, that such defense shall be at Consultant's expense. If the use or sale of such item is enjoined as a result of the suit or claim, Consultant, at no expense to City, shall obtain for City the right to use and sell the item, or shall substitute an equivalent item acceptable to City and extend this patent and copyright indemnity thereto.

10.2 Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Notices or other communications shall be addressed as follows:

<u>To City:</u>	City of Laguna Hills Attention: City Manager 24035 El Toro Road Laguna Hills, California 92653 Telephone: (949) 707-2600 Facsimile: (949) 707-2633
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To Consultant:

10.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

10.4 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision

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of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

10.5 Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

10.6 Third Party Beneficiary. Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

10.7 Recitals. The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

10.8. Corporate Authority. Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

10.9 Labor Code Requirements.

A. **Prevailing Wages.** Consultant is aware of the requirements of California labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Work or Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification, or type of worker needed to execute the Work or Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. It is the intent of the parties to effectuate the requirements of sections 1771, 1774, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code within this Agreement, and Consultant shall therefore comply with such Labor Code sections to the fullest extent required by law. Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of any failure or

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alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

B. DIR Registration. If the Work or Services are being performed as part of an applicable "public works" or "maintenance" project, in addition to the foregoing, then pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Contractor's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

10.10 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

[SIGNATURES ON NEXT PAGE]

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SIGNATURE REQUIREMENTS --

For Consultants that are a corporation, two (2) Corporate Officers must sign and staff may request that a copy of their corporate resolution confirming the names and titles of their authorized signatories be provided to the City in advance for review and approval, and the signature requirements are as follows:

1) One signature by the Chairman of the Board, the President, or the Vice President,

-And-

2) One signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or an Assistant Treasurer.

For Consultants that are not a corporation, signature requirements are as follows: the person who has authority to bind the business entity must sign.

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IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

“CITY”
City of Laguna Hills,
 a California municipal corporation

 ERICA PEZOLD,
 Mayor

ATTEST:

 (SEAL)
 MELISSA AU-YEUNG,
 Deputy City Manager/City Clerk

APPROVED AS TO FORM:

 GREGORY E. SIMONIAN,
 City Attorney

“CONSULTANT”

By: _____
 _____, President

By: _____
 _____, Secretary

EXHIBIT “A”**CONSULTANT’S PROPOSAL/ SCOPE OF WORK****DATED: _____, 2021**

**DEVELOPMENT AGREEMENT NEGOTIATION
CONSULTING SERVICES PROPOSAL****SCOPE OF SERVICES FOR PROJECT****INCLUDING,****SCHEDULE OF PERFORMANCE****AND****SCHEDULE OF COMPENSATION/ FEES**

ARMBRUSTER GOLDSMITH & DELVAC LLP

LAND USE ENTITLEMENTS □ LITIGATION □ MUNICIPAL ADVOCACY

WILLIAM F. DELVAC
DIRECT DIAL: (310) 254-905012100 WILSHIRE BOULEVARD, SUITE 1600
LOS ANGELES, CA 90025Tel: (310) 209-8800
Fax: (310) 209-8801

E-MAIL: Bill@AGD-LandUse.com

WEB: www.AGD-LandUse.com

August 10, 2021

City of Laguna Hills
 Attn: Kenneth Rosenfeld,
 Interim City Manager/Public Services Director
 24035 El Toro Road
 Laguna Hills, CA 92653

RE: Response To Request For Proposals For Development Agreement Negotiation Services

Dear Mr. Rosenfeld:

Thank you for soliciting our interest in providing a proposal to provide legal services to the City of Laguna Hills related to Development Agreement Negotiation Services. We are pleased to submit our firm's qualifications.

We have attached the firm's qualifications for the requested services. We believe, as the attached information demonstrates, we are well-qualified to represent the City of Laguna Hills (City) throughout the Development Agreement Negotiation process. With our decades of experience representing developers in development agreements, community benefits agreements and settlement agreements that have resulted in community and public benefits, we will be able to provide insights to the City of what has worked well and to suggest creative ways to increase benefits.

We believe we can assist the City in the identification of developer obligations and public benefits that the City should seek in exchange for the protection and benefits. We will be able to anticipate what the Applicant could provide in terms of benefits, as well as the types of provisions that would protect the City's interest in such a long-term agreement.

As with any negotiated agreement, success is determined by how thoughtfully the negotiations are handled. In our all agreements regardless of which party we represent, we look for opportunities for developers to provide "value added" benefits where the obligation to the Applicant can be implemented in a manner that is workable for the Applicant. but where the value to the city is very significant.

We have included some preliminary thoughts in our approach to the work ways of maximizing public benefits while minimizing burden and risk to the Applicant. Obviously, if we are selected, all of this would be refined or changed as we learn more detailed information about the project, the background, the challenges and the goals.

Attachment: Armbruster Proposal (2542 : Review of Development Agreement Negotiation Proposals)

ARMBRUSTER GOLDSMITH & DELVAC LLP

City of Laguna Hills
August 10, 2021
Page 2

Our firm's approach is to staff leanly, typically with one partner taking the lead, and with assistance from other attorneys and planners only where their expertise can provide extra value. Every attorney in our firm is a big firm "refugee." Damon Mamalakis and I were partners at Latham & Watkins for a number of years. Not only are our rates lower due to lower overhead, our approach to teaming is to divide up work as beneficial to our clients rather than swarm a project with multiple attorneys on the same task.

If selected, I would be the primary contact and would take the lead during the development agreement negotiations with assistance from Damon Mamalakis with respect to drafting and legal research as well any additional services, if requested such as assistance with CEQA compliance. Given the importance of affordable housing, if helpful, we could draw upon the vast expertise of our partner Dave Rand who is among the state's leading attorneys specializing in private sector affordable housing. Finally, associate Daniel Mandel has significant transactional experience so we could call upon him on an as needed basis if and when appropriate.

Some may wonder why the City would select developer's counsel to represent it. A number of years ago, I was special counsel to the Richmond Redevelopment Agency on a very large redevelopment project. Hence, I do understand the difference in representing the public sector vs. private sector. However, our experience representing developers on large, complex projects is exactly why we believe we are uniquely positioned to assist the City. We can identify measures for public benefits that the City could seek and anticipate things the developer could provide in terms of benefits in a manner that could reduce developer risk and burden. Finally, with the assistance of the City Attorney we can identify the types of provisions that would protect the City's interest in such a long-term agreement.

We appreciate the opportunity to respond to the RFP. As noted above, we are well-qualified to represent the City throughout the Development Agreement Negotiation process based on our extensive experience.

Very truly yours,



William F. Delvac

cc: Damon Mamalakis

B. COMPANY INFORMATION		
1.	Official Name & Address.	ARMBRUSTER GOLDSMITH & DELVAC LLP 12100 Wilshire Blvd., Suite 1600 Los Angeles, CA 90025 310-209-8800 Main 310-254-9050 William Delvac, direct
2.	Name, Address, Phone Number of Primary Point of Contact.	William F. Delvac, Partner ARMBRUSTER GOLDSMITH & DELVAC LLP 12100 Wilshire Blvd., Suite 1600 Los Angeles, CA 90025 310-209-8800 Main 310-254-9050 William Delvac, direct
3.	Type of Entity.	Limited Liability Partnership
4.	Federal ID Number.	20-1068981
5.	Address, Telephone Numbers, and Email Addresses.	12100 Wilshire Blvd., Suite 1600 Los Angeles, CA 90025 William Delvac 310-254-9050 direct 213-500-3251 cell bill@agd-landuse.com Damon Mamalakis 310-254-9026 direct 310-871-2164 cell damon@agd-landuse.com
6.	Ownership Status.	William Delvac, Partner Damon Mamalakis, Partner
7.	Number of Years in Business Under the Present Business Name.	12 years
8.	Number of Years of Experience of Proposer.	Bill Delvac has been practicing law since 1984. Damon Mamalakis has been practicing law since 1996.
9.	Comparable Contracts Entered into During the Last Five (5) Years.	AGD has represent many hundreds of developers in our 12 years, many of which we have negotiated development agreements for. Both Bill and Damon are former Latham and Watkins partners and negotiated numerous development agreements on

B. COMPANY INFORMATION

		behalf of clients while at Latham as well. In the last five years we have been involved with development agreements for L.A. Live and City Market Place. In prior years, we worked on development agreements for STAPLES Center and the Convention and Event Center projects. While some may not think of community benefits agreements (CBAs) negotiated with community groups as analogous, these are directly relevant given the types of issues that are involved and the potential for creative solutions. Bill has led the efforts on such agreements for the expansion of L.A. Live, the Convention Center Expansion, the Fig, which is a mixed use, hotel, housing (market rate, affordable and student components), office and retail project, and 1111 Sunset which is a large mixed -use housing (market rate and affordable), hotel and neighborhood serving retail project. In each of these, we have drawn on our experience in negotiating public benefits for development agreements just as we have drawn our CBA experience in development agreement negotiations. Neither Bill nor Damon have negotiated a development agreement based on an awarded RFP.
10.	Any Failures or Refusals to Complete a Contract and Explanation.	None
11.	Individuals Who Own an interest of 10% or greater in the Proposing Firm.	All of the partners at AGD are equity partners who own have different ownership interests. Bill has over a 10% interest in AGD. No individuals other than firm equity partners have an ownership interest in AGD.
12.	Financial Interests in Other Lines of Business	None
13.	Litigation/Adverse Judgment History.	AGD has not been the subject of any litigation or adverse judgments.
14.	Termination of Contract "For Cause" History.	None
15.	Any Proposed Subconsultants and All of Their Qualification Information.	None

C. RESUMES AND QUALIFICATIONS OF PERSONNEL



WILLIAM F. DELVAC, PARTNER

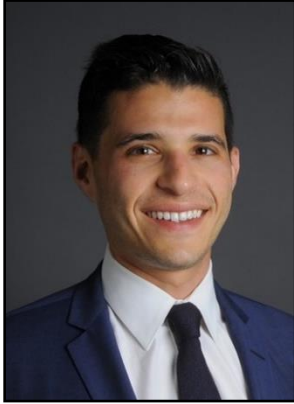
- Bill specializes in all aspects of land use law and is widely recognized for his work with important entertainment and cultural venues, historic preservation law and affordable housing.
- Over the years, Bill has been, and continues to be, involved in some of the most important land use projects in Southern California, including:
 - STAPLES Center, L.A. Live, the Academy Museum of Motion Pictures, and the large mixed-use City Market of LA.
 - Bill's experience also includes projects for educational institutions such as Emerson College, the only university dedicated exclusively to communication arts, on its Hollywood campus designed by Pritzker Prize-winning architect Thom Mayne, and Harvard-Westlake Middle School.
- In the preservation field, Bill knows historic issues thoroughly from all sides through his diverse work with developers, government agencies and community interest groups.
 - His work has included renovation or preservation of scores of important buildings, including the Coliseum, the Rose Bowl, Fox Studios, Union Station, the Greek Theater, old Vibiana Cathedral, Engine Co. No. 28, the Wiltern Theater, and the Century Plaza Hotel.
- As an expert in CEQA and redevelopment, Bill has represented many developers and property owners seeking approval and market rate housing, cultural venues, and economic development and community revitalization projects.
 - One current project is the large mixed-use project that would redevelop the old MWD headquarters sites.
 - He has worked on a large number of hotel projects, including some using hotel tax rebates.
- Given the complexity of some of his projects, Bill has become a leader in seeking development rights for his clients through the use of specific plans and other creative flexible entitlements.
 - Including signage rights for the Academy Museum, the Convention and Event Center project and L.A. Live. In his affordable housing work, Bill has assisted a number of clients in creative tools and entitlements for mixed income projects, including Playa Capital and NBC Universal.

- From his background in working with community organizations, Bill has been acknowledged for successfully resolving many contentious disputes through creative settlement agreements.
 - His work on behalf of Majestic Realty in settling the dispute over the Cornfields project has been the subject of journal articles and seminars.
 - In some instances, Bill has helped avoid opposition and gain support for projects through community benefits agreements, such as with L.A. Live, The Fig, which is a mixed-use project across from Exposition Park the Convention and Event Center project and 1111 Sunset.
 - In addition, Bill has represented developers in the successful negotiation of development agreements which have provided significant and creative public benefits.
 - Projects include, the Convention and Event Center, the Los Angeles Sports and Entertainment District and City Market Place.
- The Daily Journal named Bill one of the Top 50 Development Lawyers in 2014, a Top Land Use Leader in 2011, and one of California's Top Real Estate Attorneys in 2012. In 2007, Bill was named Land Use Lawyer of the Year by California Lawyer Magazine. He was also honored as California Preservationist of the Year in 1996. Throughout his career, Bill has founded or been active in a number of non-profit groups. He was the founding president of two organizations: the Hollywood Community Housing Corporation and Vibiana Arts Project. In 1992, he served as President of the Board of California Preservation Foundation. He has served on the board of Directors of Partners for Sacred Places, Shelter Partnership, LA Community Design Center, Homeless Health Care of Los Angeles and Equality California.
- Bill regularly presents seminars on CEQA, historic preservation, historic and low-income housing tax credits, and other reuse incentives. He is also the author of a number of publications, including a case study guide booklet, "Affordable Housing Through Historic Preservation," published jointly by the National Park Service and the National Trust for Historic Preservation. His journal article, "Low Income and Rehabilitation Tax Credits in An Increasing Tax Rate Environment," was presented at the 1994 USC Federal Tax Institute.
- Bill was a Regent Scholar at the University of California Irvine where he graduated summa cum laude in 1976. He received his J.D. from UCLA in 1984. During his career spanning 35 years, Bill has worked in a variety of roles including general counsel to a developer and founder of a leading historic preservation consulting company. Prior to joining Armbruster Goldsmith & Delvac LLP, Bill was a senior partner at Latham & Watkins LLP.



DAMON P. MAMALAKIS, PARTNER

- Damon Mamalakis practices in all areas of land use and environmental law, focusing on all manners of real estate developments, land use entitlements, and environmental litigation.
- Damon's practice encompasses a wide range of land use and environmental law, including local planning and zoning regulations and related environmental matters; State land use regulations, including the California Environmental Quality Act (CEQA), and the California Coastal Act; the National Environmental Policy Act (NEPA); Clean Air Act and regional air quality regulations; Clean Water Act; *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA); and Proposition 65 (the Safe Drinking Water and Toxic Enforcement Act). Damon has extensive experience working with local jurisdictions and state, regional, and federal agencies to secure regulatory approvals.
- Damon has worked on a variety of major development projects across California, including:
 - The Hollywood Bowl Renovation, Playa Vista (Phase 1 and the Village), Lytle Creek Ranch Specific Plan, World Oil Bakersfield Commons, San Diego Gas & Electric's Sunrise Powerlink Transmission Line, Southern California Edison's Mandalay Peaker Plant, the Academy Museum of Motion Pictures, Costco projects statewide, the Douglas Emmett Landmark residential project, PG&E's Diablo Nuclear Power Plant, the 1111 Sunset Mixed Use project, the Hollywood & Wilcox Environmental Leadership Mixed Use Development project and the Woodridge Northlake mixed use development project. He has extensive experience with controversial projects.
- Damon also has significant courtroom experience in state and federal trial and appellate courts. His expertise includes CEQA writ trials, citizen suits, CERCLA clean-up and cost-recovery actions, Proposition 65 disputes, an eight-week eminent domain jury trial, and NEPA actions. Damon's day-to-day litigation practice focuses on land use disputes, typically involving CEQA.
- Damon advises clients and litigates many matters involving state and local government laws, including the Ralph M. Brown Act and the Public Records Act. He is often called upon to participate in overall strategy development to harmonize business and litigation objectives and to conduct negotiations with government entities.
- Damon was named as a Southern California Super Lawyer for 2013-2021.
- Damon received his J.D. from U.C. Berkeley, Boalt Hall in 1996, earned his M.A. in social psychology from San Francisco State University in 1992, and earned his B.A. in psychology from U.C. Berkeley in 1990. Prior to joining Armbruster Goldsmith & Delvac, Damon was a partner at Latham & Watkins LLP.



DANIEL J. MANDEL, ASSOCIATE

- Daniel Mandel represents developers, property owners, investors, institutions, and municipalities in a wide range of land use and real estate-related legal matters.
- His practice includes advising clients on local entitlements and public agency approvals, the California Environmental Quality Act and other State laws, land use and entitlements due diligence, and public-private transactions (including development agreements, disposition and development agreements, and ground leases).
- Daniel also is an experienced transactional attorney who has represented clients in real property acquisitions and dispositions, joint venture formation and preferred equity financing, commercial mortgage lending, easements and title restrictions, and commercial leasing. He always is focused on bringing an analytical, efficient, and commercial-minded approach to his practice.
- Prior to joining AGD, Daniel was an associate in the land use and real estate department of Gibson, Dunn & Crutcher LLP. He previously served as counsel to the Host Committee for Super Bowl 50, leading numerous contract negotiations and advising on government relations, employment law and intellectual property matters, corporate and nonprofit governance, and the overall risk management strategy for one of the San Francisco Bay Area's largest-ever public events. Daniel also served as chief operating officer and in-house counsel to a Los Angeles-based commercial real estate development company.
- Daniel received his JD, order of the coif, from UC Berkeley School of Law in 2013 and his AB with honors in Government from Harvard University in 2008.

STAFFING PLAN

Bill Delvac would be lead on all development agreement negotiations with Damon Mamalakis assisting as needed with negotiations but primary on legal research and agreement drafting. If appropriate, Danny Mandel, one of AGD's associates with contract drafting experience, may be tapped for certain drafting work. Danny has extensive transactional experience and can provide services at a lower rate. For any detailed issues on affordable housing finance and incentives, we could consult with our partner Dave Rand who is widely regarded as one the state's leading attorneys on private sector affordable housing development.

D. ORGANIZATIONAL CHART

- I. Seven equity partners. Dale Goldsmith, managing partner. Senior partners, Dale Goldsmith, Mark Armbruster, and Bill Delvac.
- II. Three associates, of varying seniority.
- III. Three expert planners, of varying seniority.
- IV. Two staff members, including Laura Awad, office manager.

E. REFERENCES

Ted Fikre

Anschutz Entertainment Group

(213) 742-7115

tfikre@aegworldwide.com

Convention Center Community Benefits Agreement and JW Marriott Development Agreement.

As part of an ongoing services over a 25-year period with development agreements for STAPLES Center, LA Live and the Convention Center AGD recently has provided services to AEG for the expansion of both the Convention Center which is managed by AEG and the JW Marriott Hotel which is part of its LA Live Development. The benefits are focused on jobs, local hiring, and community and business access.

Mark Levy

City Market LA

(310) 486-2469

mark@citymarketla.com

This is a large mixed-use housing, hotel, and retail project with benefits of on-site affordable housing and off-site funding, local area improvements and funds to be used at the City's discretion. This is still in the negotiation phase with benefits focusing on deeper affordable housing, access to on-site amenities, business and retail opportunities for local and small business, jobs and local hiring provisions. Many of the benefits have pay/build as you go mechanisms.

Palisades Capital

David Orenstein

(310) 500-6335

david@palisad.es

This is another large mixed-use housing, hotel, and retail project. This is still in the negotiation phase with benefits focusing on deeper affordable housing, access to on-site amenities, business and retail opportunities for local and small business, jobs and local hiring provisions. Many of the benefits have pay/build as you go mechanisms.

F. PROJECT UNDERSTANDING, OVERVIEW AND APPROACH

UNDERSTANDING AND APPROACH

It is our understanding that the City wishes to renegotiate the current draft development agreement to address the following issues. We start from the view that both parties have the same ultimate goal—a successful project that is feasible and benefits the community. Therefore, in exploring ways to achieve its goals, the City should be mindful of the impact certain requests may have on the developer’s goal of reducing risk and burden to ensure economic viability. The obligations must work for both sides. This is enlightened negotiation to find benefits or means of accomplishing goals that are of high value to the City, but which can be implemented in a manner to which a developer may be amenable.

We start with three fundamental premises. First, both parties want a successful viable project—without that there will be no direct or additional benefits. Generally, cities want certainty. But a development agreement by its very nature is intended to minimize future risk and uncertainty. Finally, often there is more than one way of accomplishing the goal. It is human nature for a party to both suggest a goal and request a specific means to implement the goal. With all of this in mind, we carefully consider the goals but look for ways to accomplish the goal of one party while minimizing risk, burden and cost to the other party. This can result in a proverbial “win-win.”

We have learned these lessons through development agreements for projects such as STAPLES Center, L.A. Live, the Convention and Event Center and City Market Place. These are among some of the most significant projects in Southern California and all had creative benefits that served the public and the city well, including an affordable housing revolving loan, “greening” efforts, a carbon neutrality goal, jobs and local hiring provision, and small business and community access. But these benefits are not one size fits all. Rather each was tailored to the specific needs of the community and the nature of the project.

Some projects have involved community benefits agreements or settlement agreements. These can be very similar to development agreements that address benefits desired by one or more community groups. These require the same approach of consideration of goals and exploration of creative measures to implement the goals.

As for the types of goals, some goals involve funding for currently identified and future needs. In this case, the City has identified the need for future public services and maintenance of infrastructure whether the measure of funding is tied to the potential burden or impact of the project. Other goals may be based on enhanced value to the developer created by the entitlements as a measure of the benefits that should be provided. An example of this could be the City’s goal for an enhanced affordable housing component. Finally, as is the case here, a city often wants to ensure the timing and certainty of some of the land uses, such as the retail component. One option to consider is to tie ongoing build-out of one component, such as residential to phased build out of another component, such as retail. In effect, a pay/build as you go.

Among the City’s stated nine goals, some such as design, parking and open space might be as easy to accomplish through the conditions of approval of the land use entitlements. That said, it may be possible to employ creative finance tools in the development agreement in carrying out the goal.

Here are our very preliminary thoughts some of which may require further research and diligence and/or input from the City Attorney and/or other special counsel such as tax, municipal finance or HOA/condo counsel. If selected, we would provide a more detailed analysis of each goal.

1. A portion of the 1,500 housing units should be changed from rental units to ownership units.

To clarify we assume that the ownership component would be condominium. It may be that the City's primary goal is to simply secure a commitment that a portion of the housing units would be for sale rather than obtaining additional benefits. However, there could be additional public benefits in connection with this primary goal.

2. Additional funding should be provided for current and future public safety needs.

Funding required per unit or square foot in future years is the type of benefit that would require careful structuring to avoid the risk of treatment as a tax. That said, further exploration is warranted.

3. The Phasing Plans should obligate the Applicant to construct certain features of the project by a certain date. For example, a) the office buildings are not currently obligated to be constructed; the Applicant is only required to use commercially reasonable efforts to market development opportunities for Office Buildings in Phase One, b) The Hotel is not required to be constructed by the end of the term of the proposed Development Agreement and c) the Retail is not required to be built before other uses.

From the developer's perspective the very reason to seek a Development Agreement (DA) is the uncertainty of future market conditions. There are a number of approaches that can be explored to achieve the City's goal while minimizing risk to the Applicant.

4. Additional funding should be provided for wear and tear on public facilities that may be used by new residents or otherwise due to traffic attracted to the site.

This presents similar issues and opportunities with Goal No. 2.

5. Additional parking, above those required by City Code, should be provided to mitigate potential overflow parking resulting from the 1,500 housing units, office and retail.

This could simply be a condition of approval especially when viewed in a mitigation context. Many projects use municipal lease revenue bond financing to provide such improvements. Consideration of this and other potential obligations should be discussed with the City's municipal finance counsel and/or the City Attorney.

6. The private park space should be expanded in size.

This goal may be easy to accomplish to the extent that it is a design obligation. However, additional open space may impact density or height. There may be finance tools that could help achieve this goal.

7. Architecture of the site should be modified to better fit the subjective standards described and shown in the Urban Village Specific Plan and otherwise the suburban nature of the City.

As with Goal No. 6, this is a project design obligation which within reason should be easy to include as a DA obligation – or perhaps as a condition of approval for approvals under the Specific Plan without tying it to the DA.

8. The Hotel should include larger meeting spaces and have a better definition of an upscale/boutique hotel with 150 or more rooms.

This is an important drafting issue. The hotel requirements in the Los Angeles Sports and Entertainment District (L.A. Live) approvals may be a useful starting point.

9. The 1,500 housing units should include a higher number of reduced qualifying income units to account for more of the City’s Regional Housing Needs Assessment. The 1,500 units currently include 100 low income and 100 moderate income units. Overall, the 1,500 housing units are predicted to address approximately 46% of the City’s RHNA requirement of 1,985 units.

The City should consider whether it desires an affordable for-sale component. This is usually more complicated than affordable rental housing given the state law on HOA fees. We have experience with some for-sale affordable housing including at Playa Vista and in West Hollywood for both rental housing and condominium projects. We are currently working on a large mixed-use project in West Hollywood that will have both rental and condominium units. However, there are strategies that can be used for affordable for sale housing such as “soft seconds” to aid with loan qualification or even down payments. As for rental housing, we have worked on development agreements where a fee for onsite market rate housing is set on a per square foot basis to provide the City with funding for offsite housing.

SERVICES PROPOSED

Legal services for negotiation and drafting of a development agreement at permitted under the Government Code and caselaw so interpreting.

We would start with a thorough understanding of the City’s goals and consideration of the developer’s stated or anticipated concerns. We would summarize this is a focused negotiations memorandum which would be, in effect a “game plan.”

In our experience, it is likely that there would be few rounds of discussions and negotiations. With an advanced and enlightened game plan, it should be possible to reduce the extent of the back and forth negotiations.

The next work product would be a draft of the public benefits section of the development agreement. It is possible that the first draft of some measures might be best handled by developer’s counsel with review by us and the City Attorney—particularly where the measure involves detailed provisions that are affected by real estate law, such as with the condominium commitment. On other provisions we would propose to be in the lead either on drafting or by providing detailed

templates or examples such as on affordable housing or any pay/build as you go measures. This division of labor would both leverage respective expertise and, as appropriate, minimize cost to the City.

PROJECT MANAGEMENT

Bill Delvac would be the lead negotiator. As needed, he would call upon Damon Mamalakakis for research and drafting. Danny Mandel may assist as needed with detailed transactional provisions. Finally, for sophisticated, extensive affordable housing provisions, we would call upon Dave Rand.

RESOURCES, CITY ASSISTANCE, ITEMS TO BE PROVIDED BY CITY

Items: provide underlying entitlements and CEQA documents for the project and any City exemplar development agreements.

City Assistance: consideration of related tax, municipal finance and real estate issues.

ADDITIONAL SERVICES

Optional services would include CEQA counsel.

PROJECT CONTROLS

As directed by the City Attorney/City Council.

G. SCHEDULE

We can commence preparation and negotiations upon award and anticipate having a negotiated draft development agreement in advance of the December 14, 2021 Planning Agency/City Council scheduled hearing.

H. CERTIFICATE OF INSURANCE

ATTACHED



CERTIFICATE OF INSURANCE

This is to certify that the Professional Liability policy designated below has been issued to the insured attorney or attorney firm named below and is in force at this time. Should the described policy be canceled before the expiration date thereof, the issuing company mail 30 days written notice to the below named certification holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.

1. Certificate holder:		2. Name and address of Insured: Armbruster Goldsmith & Delvac, LLP 12100 Wilshire Boulevard # 1600 Los Angeles, CA 90025	
	4. Limits of Liability \$ 3,000,000 each claim \$ 5,000,000 aggregate \$ 25,000 deductible	5. Policy Number 019360-ST-019	6. Policy Period * 08-11-21 to 08-11-22
Lawyers Professional Liability			
*Policy is effective and expires at 12:01 a.m., standard time at the address of the named insured as stated herein.			
**Retroactive Date: August 11, 2003			

This is a "Claims-Made" policy. The coverage afforded by this policy is limited to Claims arising from the performance of Professional Services which are first made against the Insured and reported in writing to the Company while the policy is in force.

This certificate of insurance neither amends, extends nor alters the insurance afforded by the policy designated above.

The insurance afforded is subject to all of the terms of the policy, including endorsements, applicable thereto.

**As used herein, "Retroactive Date" refers to the dated stated in the Prior Acts Endorsement or Prior Acts

Inclusion Endorsement of the Policy of insurance referred to herein.

Lawyers' Mutual Insurance Company

ANDREW CHICK
President

SECTION V.**SCHEDULE OF COMPENSATION/FEEES**

It is difficult to precisely estimate fees until the scope of work is refined in discussions with the City and to some extent the Applicant. Therefore, we are providing a general fee range estimate. Based on our general experience, the negotiation and documentation of a development agreement with the types of stated goals of the City we estimate that the fees would range from \$50,000 to \$90,000. This estimated is based on the assumption of in person attendance in person at up to two meetings with the balance of negotiations and meetings conducted by Zoom or telephone.

RATE SCHEDULE

William Delvac, \$845 per hour

Damon Mamalakis, \$770 per hour

Dave Rand, \$715 per hour

Daniel Mandel, \$495 per hour

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 1

NON-COLLUSION AFFIDAVIT

The undersigned represents and certifies that:

1. This Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. This Proposal is genuine and not collusive or sham.
3. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and has not directly or indirectly colluded, conspired, connived, or agreed with any other Proposer or anyone else to put in sham proposal or to refrain from submitting to this RFP.
4. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price or to fix any overhead, profit or cost element of the proposal price or to secure any advantage against the City of Laguna Hills or of anyone interested in the proposed contract.
5. Proposer affirms that all statements contained in the Proposal and related documents are true and correct.
6. Proposer has not directly or indirectly submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay any fee to any person, corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
7. Proposer has not entered into any arrangement or agreement with any City of Laguna Hills public officer in connection with this proposal.
8. Proposer understands that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct. Executed this 10th day of August, 2021, at Los Angeles, California.



Signature of Authorized Representative

William F. Delvac

Name of Authorized Representative

Partner

Title of Authorized Representative

Attachment: Armbruster Proposal (2542 : Review of Development Agreement Negotiation Proposals)

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 2

**CONSULTANT'S ACKNOWLEDGEMENT OF COMPLIANCE
WITH INSURANCE REQUIREMENTS FOR
AGREEMENT FOR PROFESSIONAL SERVICES**

Consultant agrees, acknowledges, understands and is fully aware of the insurance requirements as specified in **Section 5, Insurance Requirements** of the attached sample Agreement for Professional Services (Attachment 4) and hereby accepts all conditions and requirements as contained therein.

Consultant: Armbruster Goldsmith & Delvac LLP
Name (Please Print or Type)

By:  Partner
Consultant's Signature & Title

Date: August 10, 2021

This executed form must be submitted with proposal.

CERTIFICATION OF PROPOSAL TO THE CITY OF LAGUNA HILLS

The undersigned hereby submits its proposal and agrees to be bound by the terms and conditions of this Request for Proposal (RFP). By signing the Certification of Proposal (**Attachment 3**) and submitting a proposal to the City in response to this Request for Proposals, the Proposer hereby represents and certifies that:

- A) No elected or appointed official, officer, or employee of the City has been or shall be compensated, directly or indirectly, in connection with this proposal or for any work connected with this proposal; should any agreement be approved in connection with this Request for Proposals ("Agreement") no elected or appointed official, officer, or employee of the City, during the term of his/her service with the City, shall have any direct or indirect financial interest in the Agreement, or obtain any present, anticipated, or future financial interest or other material benefit arising therefrom;
- B) No elected or appointed official, officer, or employee of the City shall have any financial interest, direct or indirect, in the Agreement nor shall any such official, officer, or employee participate in any decision relating to the Agreement which effects his/her personal financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of state law;
- C) The Proposer and its principals do not have now, nor shall it acquire any financial or business interest that would conflict with the performance of services under the Agreement;
- D) Proposer does not and will not discriminate against any employee or applicant for employment because of race, religion, gender, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy related conditions, political affiliation or opinion, age or medical condition;
- E) By submitting the response to this request, Proposer agrees, if selected, to furnish services to the City in accordance with this RFP;
- F) Proposer has carefully reviewed its proposal and understands and agrees that the City is not responsible for any errors or omissions on the part of the Proposer and that the Proposer is responsible for them;
- G) It is understood and agreed that the City reserves the right to accept or reject any or all proposals and to waive any informality or irregularity in any proposal received by the City;
- H) The proposal response includes all of the commentary, figures and data required by this Request for Proposal.
- I) The proposal shall be valid for 180 days from August 3, 2021.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct.

Executed this 10th day of August, 2021, at Los Angeles, California.

Name of Proposer: Armbruster Goldsmith & Delvac LLP

By: 

(Authorized Signature)

Type Name: William F. Delvac

Title: Partner

Date: August 10, 2021

Attachment: Armbruster Proposal (2542 : Review of Development Agreement Negotiation Proposals)

SHUTE MIHALY & WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

WINTER KING
Attorney
King@smwlaw.com

August 9, 2021

Via GSL

Kenneth H. Rosenfield, P.E.
Interim City Manager
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653
krosenfield@lagunahillsca.gov

Re: RFP for Development Agreement Negotiation Services

Dear Mr. Rosenfield:

We are pleased to submit Shute, Mihaly & Weinberger LLP's (SMW) proposal for Development Agreement Negotiation services for the City of Laguna Hills in connection with the land use development project known as the Village at Laguna Hills (Village). Winter King, proposed as the lead attorney, is a highly experienced land use attorney who has represented public agencies, community groups, and non-profits through numerous land use approval processes, subsequent litigation, and settlement negotiations. Attorneys Gabriel Ross, a senior partner with nearly two decades experience advising public agencies on the entitlement process, and Sarah Lucey, an associate with excellent legal research skills and knowledge of state housing law, would assist Ms. King on the Village matter.

SMW is California's preeminent public agency, land use, and environmental law firm. A summary of the firm's history and experience is provided in Section I of our proposal, below. We believe that our mix of public agency and community group clients gives us a unique perspective on the constraints and opportunities faced by cities when negotiating development agreements. We will work to understand the needs of the City, seek creative approaches, and achieve results. As shown in the attached summaries of recent work, SMW attorneys routinely advise our clients in complex negotiations, from development agreements to settlement agreements. We strive to maximize communities benefits, reduce risk, and provide clear, practical advice about options.

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This proposal provides an overview of the firm, summarizes the relevant experience of the proposed team, and offers our proposed rate structure and references. We will of course be happy to work with you to further tailor our proposal to meet the City's needs.

Please do not hesitate to contact me with any questions about this proposal. Thank you for your consideration.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in blue ink, appearing to read 'Winter King', is written over the printed name.

Winter King

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PROPOSAL FOR DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

A. Cover Letter

See above.

B. Firm Information

1. Official name and address:

Shute, Mihaly & Weinberger LLP
 396 Hayes Street
 San Francisco, CA 94102
 (415) 552-7272

2. Name, address, and telephone number of the Proposer's primary point of contact.

Winter King
 Shute, Mihaly & Weinberger LLP
 396 Hayes Street
 San Francisco, CA 94102
 (415) 552-7272 ext. 237
 (415) 596-1056 (cell)

3. Type of entity (corporation, company, joint venture etc).

Partnership (LLP).

4. Federal Employer I.D. Number.

94-2647744

5. Address, telephone numbers and email addresses.

Shute, Mihaly & Weinberger LLP
 396 Hayes Street
 San Francisco, CA 94102
 (415) 552-7272

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king@smwlaw.com
ross@smwlaw.com
slucey@smwlaw.com

6. Ownership status.

Partnership.

7. Number of years in business under the present business name.

41.

8. Number of years of experience the Proposer.

Winter King and Gabriel Ross have practiced law since 2002 (19 years) and has been with the firm since 2004 (17 years). Sarah Lucey has practiced law since 2019 (2 years).

9. Comparable contracts entered into during the last five (5) years

The firm has not entered into a contract solely for the negotiation of a development agreement within the last five years. However, the firm has entered into contracts to provide City Attorney services for Half Moon Bay, Saratoga, Cupertino, and Orinda. Under these contracts, the firm, and Ms. King in particular, has advised cities on state housing law and processing complex development applications (e.g., applications for housing projects subject to the Housing Accountability Act, SB 35, Density Bonus Law, etc.). It was also pursuant to one of these contracts that the firm negotiated and amended a development agreement for the City of Orinda. In addition, the firm, and Ms. King in particular, has represented public agencies in litigation resulting in complex

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settlement agreements to provide community benefits (e.g., City of Berkeley v. The Regents of the University of California, discussed in Section E, below).

10. Any failures or refusals to complete a contract and explanation.

None.

11. Individuals/Firms who own an interest of 10% or greater in the proposing firm.

None.

12. Financial interests in other lines of business.

None.

13. Litigation/Adverse Judgement History.

None.

14. Termination of Contract “For Cause” History.

None.

15. Any proposed subconsultants and all of their qualification information.

None.

C. Resumes and Qualifications.

a. Firm Resume and Qualifications.

Shute, Mihaly & Weinberger LLP is California’s preeminent public agency, land use, environmental law, and renewable energy law firm. The firm was founded in 1980 by three former members of the state Attorney General’s office. Our first case was a unanimous decision from the U.S. Supreme Court in *Agins v. Tiburon*, 447 U.S. 255

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(1980), which upheld the ability of cities and counties to protect open space. Since that time, the firm has achieved an exceptional record of victories in the U.S. and California Supreme Courts, in lower federal and state courts, and before a wide range of state and federal administrative agencies. Outside of court, we have brought our clients success in a variety of complex, and often highly controversial, matters.

This track record, along with our singular focus on providing well-reasoned, clear, and practical advice to our clients, has garnered the firm its well-deserved reputation as the “go to” firm for public agencies, environmental organizations, and community groups alike. We believe that this mix of clients gives us a unique perspective on the constraints and opportunities that environmental laws create for parties on opposite sides of frequently contentious issues. In many situations, it also gives us the experience, contacts, respect, and relationships to develop, negotiate, and implement creative solutions to seemingly insoluble problems. We take pride in the fact that we frequently are able to achieve these solutions without the need for any court proceedings, even where litigation initially was thought to be inevitable. We also take pride in the number of referrals and accolades we receive not only from our current and past clients, but also from our colleagues and opposing counsel.

The firm is majority women-owned, and it is certified as both a green business and a small business enterprise. Our over thirty lawyers provide interdisciplinary and integrated legal representation across the full spectrum of land use, environmental,

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renewable energy, and public agency law. The firm's focus on land use and environmental law has earned our attorneys the prestigious "California Lawyer Attorney of the Year" Awards numerous times. Firm lawyers are also a regular presence on the Northern California list of Super Lawyers. As part of our commitment to providing full-service representation to our clients, the firm has urban planners who work hand-in-hand with our attorneys to cost-effectively address the full range of land use and environmental issues.

Property owners often allege that land use and environmental regulations give rise to an unconstitutional "taking" of their property, requiring the regulating entity to pay monetary compensation. SMW is California's premier firm in defending public entities in regulatory takings litigation. We have successfully litigated dozens of cases involving takings and related challenges, including equal protection and due process challenges. The firm also advises public entities on how to minimize takings exposure in regulatory and permitting decisions, and assists public entities with nexus studies to support proposed regulations and exactions.

SMW serves as general and special counsel to numerous local governments and public agencies, including dozens of cities and counties and other special districts and agencies. Our practice encompasses:

Local Government and Public Agency Law: As city attorney, general counsel, or outside counsel, SMW regularly provides advice on the complex laws

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applicable to public agencies. We solve problems on an array of issues faced by public agencies including compliance with the Brown Act's notice and open meeting requirements; conflict of interest issues under the Political Reform Act, Fair Political Practices Commission regulations, and other laws governing conflicts; record disclosure and privileges under the Public Records Act; and public contracting and procurement.

Public Agency Litigation: The firm has engaged in successful litigation on behalf of public agencies in a range of practice areas in both state and federal courts. The firm defends agencies in complex land-use cases and is known for cutting-edge litigation to implement critical public policy objectives.

Land Use Planning: SMW helps local governments draft and defend general plans, specific plans, development agreements, and zoning ordinances, including incorporation of appropriate renewable energy provisions. The firm also prepares and evaluates the legal adequacy of environmental documents, manages teams of technical consultants, and engages in collaborative planning. Our team includes in-house urban planners, who provide expert and cost-effective planning support.

Real Estate Transactions and Eminent Domain: SMW has widely recognized expertise in counseling public agencies on all phases of real property acquisition, sale, and leasing, including transactions involving renewable energy installations. The firm specializes in assembling property for large, complex infrastructure projects in both urban and rural settings. SMW has also represented public

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agencies in a variety of eminent domain actions to conserve natural areas; create parks; acquire rights-of-way for public transit, transit-oriented development, and public utilities; and redevelop blighted urban areas and brownfields.

Municipal Finance: Fees, Taxes, and Assessments: SMW advises public agencies on mechanisms for bridging the public-funding gap resulting from the loss of redevelopment financing; Propositions 26, 13, and 218; and the sharp decline in federal and state financial assistance to local agencies. The firm has broad expertise in designing and defending impact studies to demonstrate the need for development-impact fees and regulatory fees, drafting fee and tax legislation, and establishing assessment and Mello-Roos Community Facilities Districts.

California Environmental Quality Act (CEQA) Advice: For more than three decades, SMW has been involved in major updates to and litigation under CEQA, enabling the firm to provide in-depth advice regarding CEQA compliance and litigation. SMW assists public agencies in all aspects of the administrative process, including determining the proper scope of environmental review, reviewing drafts of CEQA documents, preparing and reviewing responses to comments, and advising agencies on the approval process. The firm also regularly engages in CEQA litigation on behalf of public agencies, including CEQA defense and prosecution.

The firm also has extensive experience negotiating Development Agreements (DAs) and Development and Disposition Agreements (DDAs). SMW attorneys have

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negotiated these agreements, or assisted clients in negotiating them, for a number of public agency clients, including the City of Orinda (discussed below), the City of Cupertino, the City of Alameda, the City and County of San Francisco, the Transbay Joint Powers Authority, and the San Francisco Redevelopment Agency (now Office of Community Investment and Infrastructure).

For example, attorneys Andrew Schwartz, Deborah Miller, and Bill White have participated in the drafting and negotiations of DDAs on behalf of the Transbay Joint Powers Authority for the Salesforce Tower, the Park Tower at 250 Howard Street (currently leased to Facebook), the Parcel F Tower at 524-550 Howard Street (not yet constructed), a condominium tower at 41 Tehama, a mixed use high-rise at 555 Howard, and three residential towers on Folsom Street.

In 2019-2020, Andrew Schwartz drafted and negotiated a Development Agreement for the City of Cupertino with the developer of the De Anza Hotel project, a mid-rise 155-room hotel. In April 2020, the Cupertino City Council approved the Development Agreement. In that Agreement, the Developer agreed to provide amenities to the City, including transportation impact fees, shuttle services for City residents, a rooftop restaurant-bar open to the public, public meeting facilities, and a \$500,000 public amenity payment.

Prior to joining SMW, during his tenure in the San Francisco City Attorneys' Office as head of Environmental and Land Use Litigation, SMW attorney Andrew

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Schwartz also participated in the drafting and negotiations for Development and Disposition Agreements (DDAs) between the San Francisco Redevelopment Agency and multiple developers; e.g., Mission Bay and the Bloomingdales Project on Market Street, and Development Agreements for other public-private partnerships, including the Giants Ballpark and the Ferry Building Project.

b. Individual Resumes and Qualifications.

i. Winter King

Winter King would be the primary attorney working on the development agreement negotiations for the Villages matter. Ms. King has represented the City of Laguna Hills in the past, in connection with the City's comments on a proposed Caltrans project (the Interstate 5 / El Toro Road Interchange Project) that would have impacted the area encompassing the Village. As a result of that work, Ms. King is familiar with the history of the Village site and has worked with some City staff.

Ms. King is qualified to provide these services. She has practiced environmental and land use law for public agencies, community groups, and non-profits since joining the firm in 2004. Her practice includes a mix of litigation and public agency advice. She has been lead attorney in numerous cases under the California Environmental Quality Act, state Planning and Zoning Law, and the Subdivision Map Act, including: *Mission Peak Conservancy, et al. v. County of Alameda*, Alameda County Superior Court Case No. RG18905553 (representing lead agency in CEQA case challenging issuance of

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building permits); *San Geronimo Heritage Alliance v. County of Marin et al.*, Marin County Superior Court Case No. CIV 2001569 (representing The Trust for Public Land in nuisance action challenging conversion of golf course to public park); *City of Berkeley v. The Regents of the University of California*, Alameda County Superior Court Case No. RG18902751 (representing City of Berkeley in CEQA action challenging analysis of enrollment increases at UC Berkeley); *San Geronimo Advocates, et al. v. County of Marin, et al.*, Marin County Superior Court Case No. CIV 1704467 (representing real party in interest, The Trust for Public Land, in CEQA and state Planning and Zoning Law challenge to acquisition of private golf course for use as public park); *Bertsch-Oceanview Community Services District v. Del Norte Local Agency Formation Commission, et al.*, County of Del Norte Case No. CVPT-2016-1124 (representing Real Party in Interest in challenge to water supply agreements); *Save Laurel Way v. City of Redwood City*, 14 Cal App. 5th 1005 (2017) (representing community group opposed to hillside development); *Save Mount Diablo v. Contra Costa County, et al.* 240 Cal.App.4th 1368 (2015) (representing non-profit conservation organization in challenge to determination under the Subdivision Map Act); *Silverado Modjeska Recreation & Parks District v. County of Orange*, 197 Cal.App.4th 282 (2011) (representing District in appeal of contractual attorney fee award); *Montara Sanitary and Water District v. County of San Mateo, et al.*, San Mateo Superior Court, Consolidated Case No. CIV505205 (representing petitioner

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Committee for Green Foothills in consolidated case raising CEQA and Planning & Zoning Law claims).

Ms. King also advises public agency clients on processing development applications and other community development issues. For example, Ms. King sits with the Half Moon Bay Planning Commission and advised the Community Development Department on the City's recent update to its Local Coastal Program (which serves as part of the City's General Plan). Ms. King recently advised the City of Cupertino on processing a large mixed-use project that qualified for concessions and incentives under the state Density Bonus Law. Last year, Ms. King also advised the City of Saratoga on processing an SB 35 application to redevelop of local shopping center.

Ms. King regularly provides training and advice to her public agency clients on recent state housing law changes and other government law issues (e.g., Brown Act, Public Records Act, conflicts of interest). In the last two years, Ms. King has provided trainings to City staff on SB 35, State Density Bonus Law, the Housing Accountability Act, SB 330, the Permit Streamlining Act, and other state laws.

In the course of her litigation work, Ms. King frequently advises clients in settlement negotiations. Most recently, Ms. King advised the City of Berkeley in a complex and highly publicized settlement negotiation with the University of California, Berkeley. In that matter, Ms. King represented the City of Berkeley in a lawsuit challenging development actions approved by the University that impacted the City,

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including by increasing the demand for City services. After nearly two years of litigation, the City and University reached a comprehensive settlement agreement providing more than \$4 million annually, over fifteen years, to offset the cost of City services. In addition, the agreement contained numerous terms requiring the University to work cooperatively with the City on future planning efforts. Ms. King advised the City during negotiations, including a multi-day mediation effort, and assisted in drafting the final terms.

Ms. King would be supported by her law partner, Gabriel Ross, and associate Sarah Lucey.

ii. Gabriel Ross

Gabriel Ross is a partner in the firm. He specializes in assisting public agencies throughout the development of complex housing and mixed-use projects. Mr. Ross begins this work in many cases before entitlement, negotiating complex land swap agreements with multiple public and private parties and difficult title history.

Mr. Ross then advises agencies on obtaining and approving entitlements under a variety of statutes, including the Subdivision Map Act. In this stage of the process, Mr. Ross leads extensive, often challenging, negotiations over dedications of land and property rights, developers' affordable housing commitments, and their responsibility for the construction and maintenance of major public infrastructure.

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After initial entitlements, Mr. Ross works with agencies implementing project approvals. This practice has given him broad experience implementing Development & Disposition Agreements and Development Agreements, negotiating agreements to obtain and grant access rights necessary for development such as easements, leases, and licenses, and solving the myriad problems that arise over decade-long development timelines.

Representative clients and projects in various phases of the land assembly, entitlement, and implementation process include:

- the Successor Agency to the San Francisco Redevelopment Agency, for the 10,500-unit (32% BMR) Candlestick Point/Hunters Point Shipyard Phase 2 project;
- the Treasure Island Development Authority, for the 8,000-unit (27% BMR) Treasure Island/Yerba Buena Island Project;
- the City of Cupertino, for the 2,402-unit (50% BMR) Vallco Project approved under SB 35, and the 267-unit (18% BMR) Westport project;
- the City of Saratoga, for the 90-unit (10% BMR) Quito Village project approved under SB 35.

iii. Sarah Lucey

Sarah Lucey has been with the firm since 2019. During that time, she has worked on a number of complex housing and land use projects. For example, in 2020, Ms. Lucey assisted Ms. King in advising the City of Cupertino on a complex, mixed-use

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development project that qualified under the state Density Bonus law and Housing Accountability Act. Ms. Lucey analyzed the application of these statutes to the project, including analysis of the project's consistency with the City's objective development standards and whether "waivers" and "concessions" requested by the applicant were justified.

Ms. Lucey is currently assisting in the firm's defense of the City of Las Vegas against regulatory takings claims brought by a developer proposing to build residential housing on the site of a former golf course. In connection with this work, Ms. Lucey has extensively researched and briefed multiple aspects of federal regulatory takings law.

On behalf of the firm's land trust clients, Ms. Lucey has extensive experience drafting mitigation and conservation easements and related documents, including habitat management plans and endowment agreements. This work also includes negotiations with developers as to funding and land management responsibilities.

iv. Other Personnel

Ms. King would rely on her secretary, Jennifer Miao, and SMW's paralegal, Maureen Ryan, as necessary. Ms. King may also utilize the firm's urban planners and law clerks, depending on the demands of the negotiations. The firm has additional clerical and support staff that may provide assistance as well.

Resumes for Ms. King, Mr. Ross, and Ms. Lucey are attached to this proposal as Exhibits 1, 2, and 3.

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D. Organizational Chart

As described above, Ms. King would take the lead in negotiations with assistance from Mr. Ross and Ms. Lucey.

E. References.

a. City of Berkeley

Contact: Farimah Brown, City Attorney

Contact Information: FBrown@cityofberkeley.info, (510) 981-6950

Over the last two years, Winter King has worked with the City of Berkeley to negotiate an agreement with the University of California, Berkeley, that would provide the City additional funding for City services to the campus and improve coordination between the two entities related to the University's development and enrollment decisions. This work began in 2018, when the University published an environmental impact report analyzing the environmental impacts of the campus's increased enrollment over what was projected in its "Long Range Development Plan." Ms. King advised the City on preparing comments on this document, working with planners, consultants, and City staff to draft and submit these comments to the University. When the University certified the environmental impact report, the City pursued litigation. Ms. King represented the City in the resulting California Environmental Quality Act suit against the University.

While litigating the case, Ms. King also assisted the City in settlement negotiations. These negotiations included a multi-day mediation effort, regular

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communications with City staff and counsel for the University, as well as closed session meetings with the Berkeley City Council. Once the main deal points had been agreed upon, Ms. King assisted the City in drafting and finalizing the agreement.

The end result was an agreement in which the University agreed to pay the City more than \$4 million dollars annually and to work cooperatively with the City to resolve issues related to University development and enrollment decisions. Read more about the settlement here: <https://www.sfchronicle.com/bayarea/article/Berkeley-drops-objections-to-UC-construction-16315426.php>.

b. City of Orinda

Contact: Amy Worth, Mayor

Contact Information: atworth@comcast.net, (925) 212-4511

SMW, City Attorney for the City of Orinda, negotiated and drafted a Development Agreement with developer Orinda Gateway LLC for the 985 acre Wilder Project, located in a semi-rural area of Orinda. Working with two City Council members, City staff, and consultants, SMW participated in meetings with the developer, federal and state resource agencies, utility, fire, and park districts, environmental groups and neighbors of the property to reach agreement on the terms of the Development Agreement for this complex project. The firm worked with City staff and the consultant team to prepare the environmental documents, staff reports and analyses for multiple City

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workshops and public hearings on the proposed Development Agreement (DA) prior to the City Council's 2005 approval.

The DA allows for the development of 245 homes, most of which have been constructed or are in construction, and a private swim/tennis recreational facility. A network of pedestrian, equestrian and bicycle trails, and paths and trailheads link the development to the greater Orinda community and to the regional trail network. Surrounding the development area are multiple regional preserve areas totaling approximately 567 acres that Orinda Gateway LLC will dedicate to various public entities.

As required by the 2005 DA, Orinda Gateway LLC designed, constructed and dedicated to the City five community baseball and soccer playfields, restrooms, a City maintenance facility, and an Art & Garden Center. The developer contributed \$1.5 million to the City to fund the operation and maintenance of these Community Facilities. To satisfy the affordable housing requirement for the project, Orinda Gateway LLC paid an additional \$2.5 million to the City which led to the construction of a senior affordable housing project on the site of the former City Library.

Since 2005, SMW has worked with City staff in negotiations with Orinda Gateway LLC to amend the Development Agreement seven times as the project evolved, some involving minor changes and others more substantial. For example, one amendment permitted the developer to extend the time for delivery of three of the Community

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Playfields in exchange for paying \$200,000 to the City to be used by the City to maintain and improve the City's outdoor park amenities. The public participated actively in the City's consideration and approval of the DA in 2005 and in the City's approval of the multiple DA amendments over the past 16 years; the City's approvals have never been challenged.

c. Peninsula Open Space Trust (POST)

Contact: Walter Moore, President
Contact Information: (650) 854-7696

SMW represented the Peninsula Open Space Trust (POST) in negotiating a series of historic agreements resulting in the acquisition and conservation of 937 acres of undeveloped land within the City of San Jose known as Coyote Valley. The \$93 Million acquisition marked the attainment of what for decades has been one of the top conservation priorities in all of Northern California. The Daily Journal awarded SMW partners Bill White, Tamara Galanter, and Sara Clark a 2020 California Lawyer of the Year ("CLAY") award for the achievement.

Coyote Valley is one of the last remaining undeveloped valley floor habitats in Northern California and provides irreplaceable "natural infrastructure" services for the tenth-largest city in the nation, including flood control, water supply, wildfire mitigation, and climate change resiliency. The property involved in the transaction had been slated for development as an industrial park since the 1980s, and at one point was fully entitled

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for 6 million square feet of development. The property was never developed, but development pressure began growing again following the recession.

The proposed conservation deal required an innovative public and private partnership among POST, Santa Clara Valley Open Space Authority (the Authority) and the City of San José. The transaction involved land purchases from two willing sellers, Sobrato Corporation (335 acres) and Brandenburg Properties (572 acres), and the contribution of an additional 30 acres owned by POST. The deal was funded in part by \$46.3 million from Measure T (an infrastructure bond approved by San José voters in November 2018), \$42.16 million from POST, and \$5 million from the Authority.

On behalf of POST, SMW was the lead in negotiating and implementing the enormously complex real estate transaction at the center of the deal. The transaction was complicated by a number of factors, including the need to (1) prepare purchase agreements for and coordinate three separate property transactions with two different private sellers, (2) unwind numerous agreements and property restrictions encumbering the subject properties arising from the former proposed development, including mutual deeds of trust securing over \$100 million in proposed infrastructure improvements, (3) redeem over \$12 million in outstanding bond debt secured by special taxes on the properties; and (4) coordinate funding, ownership, and management responsibilities among POST, the City, and the Authority.

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SMW conceived the transaction structure; negotiated three purchase and sale agreements with the private sellers, a conservation easement, and a master agreement between POST, the City and the Authority; and oversaw closing of the transaction, which involved five interrelated escrows. The effort required a deep understanding of the prior entitlements and a complex web of prior agreements, restrictions and special tax liens encumbering the properties, and resolving difficult issues among the parties pertaining to allocation of responsibility for management, restoration, public access, and liability, and regarding the use of pre-existing groundwater rights.

The Coyote Valley deal is considered one of the largest natural infrastructure transactions in the country and a national model for how strategic investments in natural infrastructure are a cost-effective and environmentally sound way to provide needed services while adapting to climate change.

F. Project Understanding, Overview and Approach.

We understand that, if selected to provide these services, we would be entering into a negotiation that already has extensive history. As a result, our approach would begin with a review of relevant materials about the proposed project and prior negotiations, as well as conversations with City staff familiar with this history. We would then seek to obtain a better understanding of the changes the City Council wishes to make to the current proposal and provide the City with an assessment of the existing proposal and desired changes. This assessment would be based on our review of the relevant

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project materials, state housing law, and our experience negotiating similar agreements.

We understand that we would need to get up to speed quickly, as a hearing on the project has been scheduled for December 2021.

Once we have a complete understanding of the project history and client goals, we would work with the Interim City Manager to re-engage in negotiations with the developer. It will also be important to advise the applicant that outside counsel has been retained for these negotiations, and to provide a clear timeline for moving forward with negotiations.

During negotiations, we would provide regular updates to the City Council about progress and developments. We would also work closely with the Interim City manager to ensure we are aware of any specific City needs or preferences.

We are also more than capable of keeping our work within an agreed-upon budget. We frequently operate with small, streamlined teams to keep costs low while providing excellent results. Here, we are proposing two partners with complementary skill sets and an associate to assist with legal research and drafting. Our firm has billing software that allows us to track expenditures accurately over time. We provide monthly invoices and are able to provide updates in between invoices as needed.

G. Schedule.

If SMW is selected to provide these services, our team would begin reviewing project materials and communicating with staff right away. We would propose a kick-off

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meeting with the Interim City Manager and any other staff familiar with the negotiations immediately. We would also propose an introductory call with the applicant's counsel as soon as possible to let them know we have been retained.

To get up to speed on the history of the negotiations, we would likely need two weeks. At that time, we would likely wish to schedule a meeting with the City Council to hear from the Council the changes they wish to see in the agreement.

Once this initial phase is complete, we would engage with the developer to discuss the requested changes. We understand that time is of the essence to these negotiations, as the City has scheduled a hearing for December. We can provide updates to the City Council and Interim City Manager as frequently as is desired. These updates can be in person or via memorandum.

Exhibits:

1. Winter King Resume
2. Gabriel Ross Resume
3. Sarah Lucey Resume

1401798.2

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EXHIBIT 1



E-mail: king@smwlaw.com

Phone: (415) 552-7272

WINTER KING

Winter King joined Shute, Mihaly & Weinberger LLP in 2004 and has been a partner since 2011. Ms. King represents a wide array of public agency and non-profit clients across the state, advising them on the California Environmental Quality Act (CEQA), State Planning and Zoning Law, and other land use, real property, and environmental issues.

Public Agency Advice

- Advises public agencies on compliance with state laws applicable to processing development applications, including:
 - CEQA
 - State Housing Laws (including the Housing Accountability Act, SB 35, AB 330, Density Bonus Law, Permit Streamlining Act)
 - Subdivision Map Act
 - Planning and Zoning Law
- Provides training to City and County staff on state housing laws and recent changes.
- Reviews and advises on staff reports, resolutions, mitigation monitoring and reporting programs, and conditions of approval.
- Assists with updates to planning documents, including general plans and zoning ordinances.
- Advises re litigation risk and represents public agencies in litigation (see below).
- Clients include the Cities of Half Moon Bay, Saratoga, Orinda, Cupertino, Berkeley; County of Alameda; South Coast Air Quality Management District.

Negotiations

- Supports and advises clients in complex negotiations, including settlement negotiations.
- Successfully resolves litigation and threatened litigation through settlement agreements.
- Represent clients in mediation processes and settlement negotiations, including:
 - Assisted City of Berkeley in obtaining multi-million dollar agreement with University of California (see reference);
 - Represented Indian tribe in mediation regarding termination of lease for new waste handling facility;
 - Represented City of Long Beach in multiparty negotiations regarding impacts of new railyard at the Port of Los Angeles;

- Represents community group in negotiations for additional mitigation from Caltrans for freeway expansion project;
- Represents Indian tribe and cultural resource non-profit in negotiations with CSU Long Beach to protect tribal and historic resources.

Litigation

- Regularly represents public agencies and petitioners in litigation under CEQA, state Planning and Zoning Law, and other land use, government code, and development statutes.
- Successfully challenged large-scale developments in San Diego County (Elfin Forest Harmony Grove Town Council, et al. v. County of San Diego, San Diego County Superior Court Case No. 37-2018-00042927-CU-TT-CTL; representing community and environmental groups) and Los Angeles (City of Long Beach v. City of Los Angeles, First Appellate District, Division 3, Case No. A148993; representing City of Long Beach).
- Successfully challenged University of California project on behalf of City of Berkeley (City of Berkeley v. The Regents of the University of Berkeley, et al., Alameda County Superior Court Case No. RG19023058; ultimately resolved by settlement)
- Defends public agencies (including City of Richmond and County of Alameda) in challenges to land use decisions.

EXHIBIT 2



E-mail: ross@smwlaw.com

Phone: (415) 552-7272

GABRIEL M.B. ROSS

Gabriel M.B. Ross joined Shute, Mihaly & Weinberger LLP in 2004 and is a partner with the firm. His practice is centered on guiding urban public agencies through complex land assembly and entitlement processes.

Land Assembly And Entitlement

- Negotiates and implements land-swap agreements with multiple public agencies and private parties
- Advises public agencies acquiring land for major housing and mixed-use projects
- Assists clients obtaining and approving entitlements under a variety of statutes, including:
 - Subdivision Map Act
 - SB 35
 - Housing Accountability Act
 - CEQA
- Implements Disposition & Development Agreements, Development Agreements and other rights-vesting instruments
- Resolves title exceptions and closes real estate transactions required for development
- Negotiates and implements development access agreements including leases, easements, licenses.
- Negotiates and implements infrastructure agreements such as subdivision improvement agreements, utility operating agreements, interagency cooperation agreements.
- Negotiates settlement of enforcement action
- Clients include the Successor Agency to the Redevelopment Agency of San Francisco, the Treasure Island Development Authority, the City of Alameda, the City of Cupertino, the City of Half Moon Bay, the City of Saratoga, the Richardson's Bay Regional Agency

CEQA

- Advises, drafts, and defends environmental impact reports and negative declarations for major development and regulatory projects, particularly large-scale water policy efforts.
- Represent community groups of all sizes challenging environmental review of residential and resort projects.
- Past and current clients include the Delta Stewardship Council; the State Water Resources Control Board; the University of California, Santa Barbara; and the University of California, Santa Cruz.

Litigation

- On behalf of public agencies, defend EIRs for development plans and water-policy decisions.
- Lead teams in trial and appellate courts, representing community groups in land use challenges to projects statewide. Challenged actions include: an illegal subdivision in San Diego County, a specific plan approved with insufficient CEQA analysis in San Bernardino County, a series of sales of surplus land in the City of Santa Ana, a luxury subdivision in fire-prone canyon in the City of Brea.
- Manage the pretrial phase, including discovery and motion practice, for 13 eminent domain actions on behalf of the Transbay Joint Powers Authority in San Francisco (twelve of which settled before trial)
- Handle quiet title actions for public agencies.

Education and Clerkships

- J.D. *magna cum laude*, NYU 2002
- B.A. with high honors in biology and art history, Swarthmore College, 1996.
- Clerk for Hon. M. Blaine Michael, United States Court of Appeals for the Fourth Circuit and Hon. Dana Fabe, Alaska Supreme Court.
- Prior to law school, worked as journalist for National Public Radio and the High Country News, and as a wildland firefighter for the BLM and the National Park Service.

EXHIBIT 3



E-mail: slucey@smwlaw.com

Phone: (415) 552-7272

SARAH M. LUCEY

Sarah joined Shute, Mihaly & Weinberger LLP in 2019 and is an attorney with the firm.

Housing, Municipal & Election Law

- Assisting in processing a complicated density bonus development project through city council approval
- Drafting ordinances for local governments, including mobile vendor and short-term rental regulations
- Drafting "Urban Growth Boundary" initiatives
- Drafting city sales tax ballot measure

Transactional Work

- Drafting and negotiating conservation and mitigation easements for land trust clients
- Drafting and editing organizing documents for nonprofit corporations

Litigation

- Assisting in defense of city against regulatory takings claims
- Assisting in action to quiet title to portions of 1,380 land preserve on behalf of land trust client

Education

- J.D., UC Berkeley School of Law, May 2019
- M.A., English Literature, University of Colorado, Boulder, 2007
- B.A., English, University of Colorado, Boulder, 2002

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

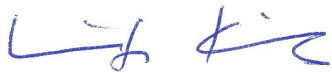
ATTACHMENT 1

NON-COLLUSION AFFIDAVIT

The undersigned represents and certifies that:

1. This Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. This Proposal is genuine and not collusive or sham.
3. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and has not directly or indirectly colluded, conspired, connived, or agreed with any other Proposer or anyone else to put in sham proposal or to refrain from submitting to this RFP.
4. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price or to fix any overhead, profit or cost element of the proposal price or to secure any advantage against the City of Laguna Hills or of anyone interested in the proposed contract.
5. Proposer affirms that all statements contained in the Proposal and related documents are true and correct.
6. Proposer has not directly or indirectly submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay any fee to any person, corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
7. Proposer has not entered into any arrangement or agreement with any City of Laguna Hills public officer in connection with this proposal.
8. Proposer understands that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct. Executed this 9th day of Aug., 2021, at Oakland, California.



Signature of Authorized Representative
Winter King

Name of Authorized Representative

Partner

Title of Authorized Representative

Attachment: Shute Proposal (2542 : Review of Development Agreement Negotiator Proposals)

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 2

**CONSULTANT'S ACKNOWLEDGEMENT OF COMPLIANCE
WITH INSURANCE REQUIREMENTS FOR
AGREEMENT FOR PROFESSIONAL SERVICES**

Consultant agrees, acknowledges, understands and is fully aware of the insurance requirements as specified in **Section 5, Insurance Requirements** of the attached sample Agreement for Professional Services (Attachment 4) and hereby accepts all conditions and requirements as contained therein.

Consultant: Winter King
Name (Please Print or Type)

By: , Partner
Consultant's Signature & Title

Date: August 9, 2021

This executed form must be submitted with proposal.

Attachment: Shute Proposal (2542 : Review of Development Agreement Negotiator Proposals)

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 3

CERTIFICATION OF PROPOSAL TO THE CITY OF LAGUNA HILLS

The undersigned hereby submits its proposal and agrees to be bound by the terms and conditions of this Request for Proposal (RFP). By signing the Certification of Proposal (**Attachment 3**) and submitting a proposal to the City in response to this Request for Proposals, the Proposer hereby represents and certifies that:

- A) No elected or appointed official, officer, or employee of the City has been or shall be compensated, directly or indirectly, in connection with this proposal or for any work connected with this proposal; should any agreement be approved in connection with this Request for Proposals ("Agreement") no elected or appointed official, officer, or employee of the City, during the term of his/her service with the City, shall have any direct or indirect financial interest in the Agreement, or obtain any present, anticipated, or future financial interest or other material benefit arising therefrom;
- B) No elected or appointed official, officer, or employee of the City shall have any financial interest, direct or indirect, in the Agreement nor shall any such official, officer, or employee participate in any decision relating to the Agreement which effects his/her personal financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of state law;
- C) The Proposer and its principals do not have now, nor shall it acquire any financial or business interest that would conflict with the performance of services under the Agreement;
- D) Proposer does not and will not discriminate against any employee or applicant for employment because of race, religion, gender, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy related conditions, political affiliation or opinion, age or medical condition;
- E) By submitting the response to this request, Proposer agrees, if selected, to furnish services to the City in accordance with this RFP;
- F) Proposer has carefully reviewed its proposal and understands and agrees that the City is not responsible for any errors or omissions on the part of the Proposer and that the Proposer is responsible for them;
- G) It is understood and agreed that the City reserves the right to accept or reject any or all proposals and to waive any informality or irregularity in any proposal received by the City;

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

H) The proposal response includes all of the commentary, figures and data required by this Request for Proposal.

I) The proposal shall be valid for 180 days from August 3, 2021.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct.

Executed this 9th day of Aug., 2021, at Oakland, California.

Name of Proposer: _____

By: 
(Authorized Signature)

Type Name: Winter King

Title: Partner

Date: Aug. 9, 2021



Stradling Yocca Carlson & Rauth
A Professional Corporation
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660-6422
949 725 4000
stradlinglaw.com

Thomas P. Clark, Jr.
949 725 4140
tclark@stradlinglaw.com

August 10, 2021

VIA EMAIL AND MAIL:

Kenneth H. Rosenfield, P.E.
Interim City Manager
24035 El Toro Road
Laguna Hills, California 92653

Re: Negotiation Agreement Negotiation Series

Dear Mr. Rosenfield:

Stradling Yocca Carlson & Rauth, a Professional Corporation ("Stradling" or the "Firm"), is pleased to present this proposal to provide legal services to the City of Laguna Hills (the "City") in connection with the negotiation/renegotiation of a development agreement for the Village at Laguna Hills (the "Project").

Stradling is extremely well suited to provide legal services to the City in connection with the Project. We have assisted numerous public agencies, including cities, housing authorities, school districts, universities and redevelopment agencies with a wide variety of mixed-use and commercial development projects.

Firm Background

Stradling was formed by eight attorneys in 1978, (one of which was the undersigned as the most junior partner), and has grown to approximately 125 attorneys in 11 offices, about 80 of whom are based in Newport Beach. Stradling handles matters in substantially all aspects of the law, except family law/dissolution and criminal law. Our primary areas of specialization are (i) public law, public finance, land use, development, including economic development and affordable housing development through public private partnerships, and litigation, (ii) real estate, (iii) federal and state tax laws, (iv) general corporate law, (v) corporate securities, (vi) employment law, (vii) bankruptcy, and (viii) entertainment law. Please visit the Stradling website at <http://www.sycr.com> for a complete listing of all attorneys and their areas of expertise and experience. The firm has offices Austin, Denver, Las Vegas, Los Angeles, Newport Beach, Reno, Sacramento, San Diego, San Francisco, Santa Barbara, Seattle, and Westlake Village.

Thirty-one members of the Firm practice in the areas of public finance and general public law, making us one of the larger firms in the state in the public law field. Our public law attorneys

Kenneth H. Rosenfield, P.E.
 Interim City Manager
City of Laguna Hills
 August 10, 2021
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devote their time overwhelmingly to the representation of the interests of public agency clients and to the supplying of legal services in connection with the financings of such agencies.

We believe that the Firm's size offers an advantage to our clients. First, the Firm has expertise in many areas, such as real estate, corporate securities, litigation, bankruptcy and general public law, which can be useful in analyzing all relevant issues for major projects. Second, our size provides stability and assurance to the client that the Firm will be in practice to follow up on matters related to the services it renders.

For more than 35 years prior to redevelopment dissolution, the Firm enjoyed an active practice representing redevelopment agencies in all phases of community and economic development, from creation of agencies, plan adoptions, plan amendments, public financing (as bond counsel), negotiation and preparation of virtually all kinds of transaction documents (such as disposition and development agreements, owner participation agreements, affordable housing agreements) for commercial, retail, entertainment, auto, industrial, manufacturing, market housing, affordable housing, mixed use, and other development projects, both new construction and rehabilitation, litigation as lead counsel and as counsel working cooperatively with other counsel, relating to redevelopment agencies' activities (generally on behalf of redevelopment agencies, housing authorities and cities, but occasionally, concerning matters of contract, on behalf of other governmental agencies adverse to particular redevelopment agencies). Prior to the Supreme Court's decision affirming the dissolution of redevelopment, the Firm's redevelopment clients included agencies in Anaheim, Berkeley, Buena Park, Burbank, Calexico, California City, Ceres, Chula Vista, Claremont, Coronado, Costa Mesa, Cotati, Dinuba, El Cajon, El Centro, Escondido, Fontana, Fountain Valley, Garden Grove, Glendora, Grand Terrace, Highland, Lancaster, Lemoore, Lindsay, Loma Linda, Los Banos, Laguna Hills, Mission Viejo, Monrovia, Montclair, Moreno Valley, Oceanside, Ontario, Pico Rivera, Porterville, Rialto, Ridgecrest, Ripon, Riverside (City), Riverside (County), Rohnert Park, San Bernardino (County), San Juan Capistrano, Santa Ana, Simi Valley, Soledad, Tustin, Upland, Vista and Yucaipa.

Stradling's approach to the practice of public law is based upon providing quality work and maintaining relationships. In keeping with that, we believe that we have a sound record of working collaboratively with elected and appointed officials, senior administrators, department heads and staffs. We operate within the rule of law and seek to provide useful advisement and counselling and, where feasible, provide options in order to assist public agency clients in resolving issues and moving toward their objectives. We would invite you to contact our references listed in **Item E** under the attached required items if you desire to obtain client perspectives on various attributes of the Firm and the individuals who are proposed to provide the Project Legal Services under this proposal. Additional references are available upon request.

Kenneth H. Rosenfield, P.E.
 Interim City Manager
City of Laguna Hills
 August 10, 2021
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Individuals Proposed to Provide Legal Services to University

We propose that the undersigned, Thomas P. Clark, Jr., and Mark J. Huebsch would serve as the primary attorneys representing the City in connection with the Project. It should be noted that Mr. Clark and Mr. Huebsch have devoted their respective law practices to transactions precisely like the Project.

Thomas P. Clark, Jr. is a founding member of Stradling and has specialized in economic development for more than 40 years. He specialized in urban legal studies at the University of Missouri Kansas City School of Law, graduated with highest honors in 1973 and was the student Editor in Chief of The Urban Lawyer, the official publication of the Local Government Section of the American Bar Association. Mr. Clark was admitted to the State Bar of California in 1973.

Currently, Mr. Clark represents the cities of Anaheim, Burbank, Claremont, Escondido, Garden Grove, Glendale, Monrovia, Poway, Rialto, San Bernardino, San Juan Capistrano, Santa Ana, and Vista, as well as numerous private clients, in connection with development and land use matters. Mr. Clark's activities in connection with public/private development projects and economic development projects includes negotiating and preparing Acquisition Agreements, Development Agreements, Leases, License Agreements, Operations and Maintenance Agreements, Property Management Agreements, Disposition and Development Agreements, Owner Participation Agreements and other types of agreements unique to economic development projects. Mr. Clark is an "AV"¹ rated attorney and a frequent guest speaker at land use, development and public finance conferences.

Mr. Clark has been the lead negotiator for countless development projects much like the Village at Laguna Hills. Some of these developments include the University Glen Phase 1 and Phase 2 at California State University Channel Islands, Anaheim Regional Transit Intermodal Center, Anaheim Koll Center, Anaheim GardenWalk, Anaheim Plaza, Disney Goals/Third Gate, Honda Center, Anaheim Stadium, Burbank Media Center Mall, the Glendale Disney Campus (a \$2 Billion project), the Americana at Brand in Glendale, the Glendale Town Square, the North County Fair in Escondido, Vista Village, the South Poway Industrial Park, the Monrovia P3 Transit Center project, and Pasadena P3 Transit Center projects and the development of seven high rise hotels in Garden Grove.

Mark J. Huebsch of Stradling Yocca Carlson & Rauth, after joining the firm in 1983. Mr. Huebsch has specialized in public law his entire legal career, with particular emphasis on economic development and housing since 1981, following graduation from the UCLA Law School in 1975, and obtaining an A.B. degree (major in history) from the University of Southern California (magna cum laude) in 1972. Mr. Huebsch has an "AV" rating in the Martindale-Hubbell Law

¹ Registered certification mark of Reed Elsevier Properties, Inc., used in accordance with the Martindale Hubbell certification procedure standards and policies.

Kenneth H. Rosenfield, P.E.
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Directory. His prior employment has included service as Deputy City Attorney, and then Assistant City Attorney with the City of Costa Mesa, as well as Deputy County Counsel of the County of Kern.

Mark J. Huebsch was lead counsel for affordable rental housing projects for the cities or redevelopment agencies of Bellflower, Highland, Loma Linda (5 projects), Los Banos (2 projects), Moreno Valley (3 projects), Vista (3 projects) and Yucaipa. He was also lead counsel on affordable housing transactions, both new construction and rehabilitation, structured as ownership transactions. Housing transactions have involved a variety of financing techniques and resources including multifamily housing bonds, tax credits, redevelopment funding, and federal funds (such as HOME and NSP [neighborhood stabilization program]). Mr. Huebsch has experience in connection with over fifty affordable ownership units developed or rehabilitated in various jurisdictions (Highland, Loma Linda, and Moreno Valley). In addition, Mr. Huebsch was an active participant in six transactions for Garden Grove concerning the financing and development of high rise hotels.

Mr. Huebsch advises the cities or housing authorities of Anaheim, Highland, Loma Linda, Montclair, Moreno Valley, Ridgecrest, San Bernardino and Vista in connection with real estate and other transactional matters.

Qualifications; Representative Projects

Numerous attorneys in the Public Law Department at Stradling, including Mr. Clark and Mr. Huebsch, have extensive experience assisting our public entity clients with all aspects of major and complex development projects. These services include land use entitlement work, CEQA work, negotiation and preparation of development agreement, development, low and moderate income housing, density bonus, capital facilities, operation and maintenance, and property management agreements, and other implementing documents, along with all aspects of financing such projects.

Representative Economic Projects and Housing and Mixed-Use Developments. Mr. Clark served as lead special counsel to the City of Anaheim for the Anaheim Regional Transportation Intermodal Center ("ARTIC"). Mr. Clark has also recently served as legal counsel and legal negotiator in the City of Rialto Airport project pursuant to which the former Rialto Airport was closed and converted into as mixed use, residential, industrial, rental projects. Mr. Clark has been the lead negotiator for countless commercial and retail developments including, the Anaheim Koll Center, Anaheim GardenWalk, Anaheim Plaza, Disney Goals/Third Gate, Honda Center, Anaheim Stadium, Burbank Media Center Mall, the Glendale Disney Campus (a \$2 Billion project), the Glendale Town Square, the North County Fair in Escondido, Vista Village, the South Poway Industrial Park, the Monrovia P3 Transit Center project, and Pasadena P3 Transit Center projects.

Large-Scale Housing Developments. Mr. Clark and Mr. Huebsch have represented the City of Anaheim and the Anaheim Housing Authority in connection with numerous market-rate and affordable housing developments, both new construction and acquisition/rehabilitation, constructed and operated through public-private partnerships utilizing a variety of federal, state and local funding sources, including, recently, Lincoln Avenue Apartments, Cherry Orchard, St. Anton, Vintage

Kenneth H. Rosenfield, P.E.
 Interim City Manager
City of Laguna Hills
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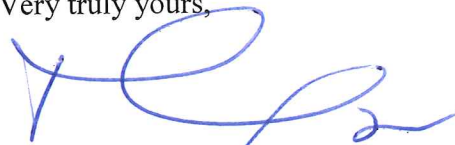
Crossings, Pradera Apartments, Colette's Children's Home, Avon/Dakota, Paseo Village, all phases of Hermosa Village (formerly called the Jeffrey-Lynne project), and many others.

Mr. Clark and Mr. Huebsch have each served as lead counsel with respect to other large affordable housing projects, including new construction, acquisition-rehabilitation projects and mixed-use projects. Examples include numerous projects in the cities of Anaheim, Costa Mesa, Fountain Valley, Garden Grove, Highland, Loma Linda, Los Banos, Mission Viejo, Moreno Valley, Porterville, Rialto, Ridgecrest, Santa Ana and South Gate. Many of the projects serve special needs populations; examples include, the Lincoln Apartments now under construction in Anaheim that will provide permanent, supportive housing to "motel" and homeless families, and the United Methodist Church project in Garden Grove that will provide affordable housing to both senior citizen and large family households.

Other significant commercial transactions handled by Mr. Clark and Mr. Huebsch include: downtown developments, such as the reuse of multiple impacted sites in Garden Grove with seven modern, high-rise hotels with restaurants and other resort uses along Harbor Boulevard; power centers, such as The Lakes at West Covina and the Freeway Center in west Mission Viejo; and regional mall developments, including the new Burbank mall and redevelopment and expansion of The Shops at Mission Viejo.

Thank you for taking the time to consider our proposal to provide legal services to the University in connection with the Project. Should you have any questions or wish to discuss this proposal please do not hesitate to contact the undersigned at (949) 725-4140 tclark@stradlinglaw.com or Mr. Huebsch at (949) 725-4167 mhuebsch@stradlinglaw.com.

Very truly yours,



Thomas P. Clark, Jr.
 STRADLING YOCCA CARLSON & RAUTH, P.C.

Attachments

Attachment: Stradling Proposal (2542 : Review of Development Agreement Negotiator Proposals)

INDEX OF DOCUMENTS

Cover letter

Responses to Items B 1 through 15

Responses to Items C through I

Attachment A - Thomas P. Clark, Jr. resume

Attachment B - Mark J. Huebsch resume Responses to Items C through I

Attachment 2- Consultants Acknowledgment of Compliance with Insurance Requirements for Agreement for Professional Services

Attachment 3-Certificate of Proposal to the City of Laguna Hills

RFP Development Agreement Negotiation Services

Attachment 1-Non-Collusion Affidavit

Authority to enter into legal services Agreement

Fee Proposal (included separately in envelope)

Responses to Item B 1 through 15

RESPONSES TO ITEMS B - 1 THROUGH 15

B. Company and/or Individual Information.

1. Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
2. Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
3. Stradling Yocca Carlson & Rauth ("Stradling") is a Professional Corporation.
4. Stradling's Federal Employee ID 95-347-002
5. Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, CA 92660
tclark@stradlinglaw.com
949-725-4140 Office
949-584-2640 Cell
6. Mr. Clark is a Shareholder; Mr. Huebsch has been a Shareholder and is now of counsel.
7. Stradling has been in business for 45 years.
8. Mr. Clark has been practicing economic development law for 48 years. Mr. Huebsch has been practicing economic development for 41 years.
9. The primary Proposer has engaged in one (1) contract in the last five years compared to this engagement but has numerous ongoing contracts with cities with respect to the same or similar subject matter.
10. No failure or refusals to complete a Contract.
11. No one owns 10% or greater share of Stradling.
12. The firm, and Mr. Clark and Mr. Huebsch practice law only and have no financial interest in any other line of business.
13. Neither Mr. Clark nor Mr. Huebsch have any litigation or adverse judgment history.
14. Neither Mr. Clark nor Mr. Huebsch have any contracts that were terminated "for cause."
15. No proposed sales consultants are currently anticipated; however, in the judgment of the Proposer, an economic consultant will need to be engaged to assess the economics of the proposed development.

Responses to Items C through I

RESPONSES TO ITEMS C THROUGH I

C. Resumes and Qualifications of Personnel. Resumes of Tom Clark and Mark J. Huebsch (See Attachment A).

D. Organization Chart. Thomas P. Clark will be primarily responsible for the work to be done with primary assistance, particularly within the area of subsidized housing for Mark J. Huebsch. Other lawyers and paralegals will be consulted, as necessary for specialty items, if any.

E. References. References attached for Thomas P. Clark, Jr and Mark J. Huebsch. (See Attachment B).

F. Project Understanding, Overview and Approach. Having performed the scope of services described in section IV countless times over 40+ years of being the lead negotiator on behalf of cities, redevelopment agencies, and other public entities, I can say, with certainty, that I understand the process.

First and foremost the lead negotiator must understand the underlying development proposal and the viewpoint of each Council member with respect to the Proposal. At this point, it is important to recognize that while majority of the council will control the direction of the negotiations, divergent (as opposed to opposing) views can be accommodated. Establishing a negotiating direction will require initial, extensive discussion with the Council and staff, both jointly and one on one. Once clear direction and boundaries are established, meetings with the developer can commence.

Based on my review of the RFP and the substance of the June 29, 2021 Council meeting, it appears that among the fundamental problems among others, are concerns about the amount of retail, the need for additional funds for public needs, and the lack of for-sale housing. One solution is to simply exact an additional fund from the developer based on the current proposal. Another is to modify the development project so as to create different economic generators that will warrant additional exactions. For example, in light of the current demand with respect to for-sale market, creating additional and/or alternative for-sale housing might be the trigger needed to generate additional cash exactions for public needs. Or, perhaps, we need to explore other economic engines such as sale tax and transient occupancy tax in a larger quantity, earlier in the project development. With a development agreement, since vested rights are being provided to a developer, there is not a requirement for a nexus or proportionality of benefits to the host jurisdiction. This creates a wide area for negotiation to pursue potential capital improvements or other matters desired by the City.

Although a deadline has been set for December, 2021 we should keep an open mind in scheduling. It may be more important to modify land use and/or phasing in effort to generate additional funds for public needs.

G. Schedule. Both Thomas P. Clark, Jr. and Mark J. Huebsch will be available to the City of Laguna Hills on a priority basis, with Thomas P. Clark, Jr. acting as lead.

H. Certificate of Insurance. Attachment 2

I. Certification of Proposal. See Attachment 3

Attachment A - Thomas P. Clark, Jr. resume

ATTACHMENT A**RESUMES****THOMAS P. CLARK, JR.¹****EDUCATION:****Legal**

University of Missouri-Kansas City School of Law (1973 with highest honors; specializing in urban legal studies under Professor Robert H. Freilich)

Undergraduate

University of Notre Dame (A.B. 1965)

MUNICIPAL LAW:**PROFESSIONAL**

<i>Current Public Agency Clients</i>	<i>Year Commenced</i>
Anaheim	1989
Burbank	1988
Claremont	1981
Escondido	1985
Garden Grove	1976
Glendale	1998
Monrovia	1978
Porterville	1990
Poway	1978
San Bernardino	2012
San Juan Capistrano	1983
Santa Ana	2010
Vista	1996

Major Cases

Golden v. Town of Ramapo, principal author of reply brief to the United States Supreme Court supporting a local government's right to time and sequentially control residential growth.

Building Industry Association v. City of Petaluma, drafted Amicus Curiae brief on behalf of some 30 California cities supporting the right of a California city to manage residential growth.

HFH v. Superior Court, drafted Amicus Curiae brief on behalf of Southern California cities to regulate the use of land without the payment of compensation.

San Diego v. Holodnak, actions validating the City's infrastructure financing program.

¹ Mr. Clark is AV rated Martindale-Hubbell Law Directory. Registered certification mark of Reed Elsevier Properties, Inc., used in accordance with the Martindale-Hubbell certification procedure standards and policies.

Areas of Additional Special Interest

Land-Use Planning

City of Irvine - developed and drafted the City's timing and sequential development control ordinance.

City of Riverside - developed the City's Growth Management Program, including timing and sequential controls and rural/semi-rural development standards; also drafted enabling legislation and a local model ordinance to implement the concept of transfer of development rights.

City of San Diego - developed financing implementation for the City's growth management plan.

City of City of Fresno - developed financing plan for capital improvements to accommodate growth management.

County of Orange - assisted in the fee program for regional transportation corridor (toll roads), land-use litigation in connection with subdivision approval and right-of-way dedication.

Municipal Finance

Extensive work in the area of tax-exempt municipal financing (tax allocation housing and Industrial Development Bonds) and the development of other municipal finance techniques for the acquisition, construction, and maintenance of municipal services and facilities.

Redevelopment Dissolution and Economic Development

Currently represents the redevelopment successor agencies and cities of Anaheim, Burbank, Claremont, Escondido, Garden Grove, Glendale, Monrovia, Porterville, Poway, San Juan Capistrano, Santa Ana and Vista.

MUNICIPAL LAW:

ACADEMIC

Editor-in-Chief - The Urban Lawyer, the publication of the American Bar Association Section of Local Government Law.

Author

The Relationship of Just Compensation to the Land Use Regulatory Power: An Analysis and Proposal, 2 Pepperdine Law Review Symposium S79.

Growth Control in California: Prospects for Local Implementation of Timing and Sequential Control of Residential Development, 5 Pacific Law Journal 570 1974.

Strategies for Metropolitan Stabilization, University of Missouri at Kansas City Law Review, Vol. 41, 1972.

First Amendment: Congressional Investigation and the Speech or Debate Clause, University of Missouri at Kansas City Law Review, Vol. 40, 1971.

LECTURER-INSTRUCTOR:

The Bond Buyer California Public Finance Conference
Latest Developments in Chapter 9

University of California Irvine
Instructor-Planning and Zoning Law
Guest Lecturer-Zoning and Municipal Law Symposium
Speaker-Redevelopment Law

Pepperdine School of Law
Guest Lecturer-Zoning
Symposium Speaker-Inverse Condemnation

Orange County Bar Association
Guest Speaker-Growth Management

Orange County Planning Directors
Guest Speaker-Growth Management
Los Angeles County Bar Association
Guest Speaker-Growth Management

Community Redevelopment Association
Guest Speaker-Redevelopment

University of California Irvine
Guest Speaker-Redevelopment
League of California Cities, The City Attorneys Department
Guest Speaker-Facilities Benefit Assessments:
The San Diego Approach To Infrastructure Financing

CRA Professional Development Workshop
Training Team – Redevelopment Negotiation
Critical Elements of the Disposition and Development
Agreement

California Association for Local Economic Development
Guest Speaker – Redevelopment

REFERENCES FOR THOMAS P. CLARK, JR.**CITY OF ANAHEIM:**

Cindy Nelson, Director (714) 402-1852

cjnc54@gmail.com

Sergio Ramirez, Director (714) 765-4318

CITY OF ESCONDIDO:

Jeffrey Epp, City Manager

Jepp@ci.escondido.ca.us

(760) 839-4897

CITY OF GARDEN GROVE:

Scott Stiles, City Manager

sstiles@ci.garden-grove.ca.us

(714) 741-5000

Lisa Kim, Assistant City Manager and
Community and Economic Development Director

lisak@ggcity.org

CITY OF GLENDALE:

Scott Ochoa, City Manager

sochoa@ci.glendale.ca.us

(818) 548-4844

Philip Lanzafame, Director of Development Services

PLanzafame@ci.glendale.ca.us

(818) 548-2005

Gillian van Muyden, Assistant City Attorney

GVanMuyden@ci.glendale.ca.us

(818) 548-2174

CITY OF SANTA ANA

Susan Gorospe, Senior Management Analyst

SGorospe@santa-ana.org

(714) 647-5376

Attachment B - Mark J. Huebsch resume

ATTACHMENT B**MARK J. HUEBSCH¹****EDUCATION**

University of Southern California
(AB, Magna Cum Laude, 1972)
Phi Beta Kappa

University of California at Los Angeles
(JD, 1975)

ADMITTED TO BAR

1975 – California; 1977 - U.S. District Court Central
District of California

EMPLOYMENT

1975-1978 Deputy City Counsel
City of Kern

1978 - 1981 Deputy/Assistant City Attorney
City of Costa Mesa

1981 - 1983 Attorney
McDonough, Holland & Allen

1983 – Present Attorney
Stradling, Yocca, Carlson & Rauth
(Shareholder since 1986)

SPEAKER

CSMFO² Conference, Monrovia, 2016

CSMFO Conference, Irvine, 2016

CSMFO Conference, Monrovia, 2012

CSMFO Conference, Tustin, 2012

Redevelopment as Tool for Change
(League of California Cities: 2000)

Basic Redevelopment Tools; Advanced Redevelopment
(MMASC: 2000)

Structuring Business Grant & Loan Programs
(CRA: 7 presentations)

Introduction to Redevelopment
(CRA: 4 presentations)

¹ Mr. Huebsch is AV rated Martindale-Hubbell Law Directory. Registered certification mark of Reed Elsevier Properties, Inc., used in accordance with the Martindale-Hubbell certification procedure standards and policies.

² California Society of Municipal Finance Officers.

REFERENCES FOR MARK J. HUEBSCH***CITY OF HIGHLAND***

Kim Stater, Planning and Economic Development (909) 864 8732
kstater@cityofhighland.org

CITY OF LOMA LINDA

Konrad Bolowich, Assistant City Manager (909) 799-2841
kbolowich@lomalinda-ca.gov

CITY OF MORENO VALLEY

Dena Heald, Deputy Finance Director (951) 413-3063
denah@moval.org

CITY OF VISTA

Amanda Lee, Assistant to City Manager (760) 643-5208
alee@cityofvista.com

Attachment 2- Consultants Acknowledgment of
Compliance with Insurance Requirements for
Agreement for Professional Services

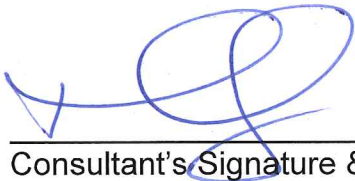
City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 2

**CONSULTANT'S ACKNOWLEDGEMENT OF COMPLIANCE
WITH INSURANCE REQUIREMENTS FOR
AGREEMENT FOR PROFESSIONAL SERVICES**

Consultant agrees, acknowledges, understands and is fully aware of the insurance requirements as specified in **Section 5, Insurance Requirements** of the attached sample Agreement for Professional Services (Attachment 4) and hereby accepts all conditions and requirements as contained therein.

Consultant: Stradling, Noce, Carlson & Ruth
Name (Please Print or Type)

By: 
Consultant's Signature & Title

Date: August 5, 2021

This executed form must be submitted with proposal.

Attachment 3-Certificate of Proposal to the City of Laguna Hills

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 3

CERTIFICATION OF PROPOSAL TO THE CITY OF LAGUNA HILLS

The undersigned hereby submits its proposal and agrees to be bound by the terms and conditions of this Request for Proposal (RFP). By signing the Certification of Proposal (**Attachment 3**) and submitting a proposal to the City in response to this Request for Proposals, the Proposer hereby represents and certifies that:

- A) No elected or appointed official, officer, or employee of the City has been or shall be compensated, directly or indirectly, in connection with this proposal or for any work connected with this proposal; should any agreement be approved in connection with this Request for Proposals ("Agreement") no elected or appointed official, officer, or employee of the City, during the term of his/her service with the City, shall have any direct or indirect financial interest in the Agreement, or obtain any present, anticipated, or future financial interest or other material benefit arising therefrom;
- B) No elected or appointed official, officer, or employee of the City shall have any financial interest, direct or indirect, in the Agreement nor shall any such official, officer, or employee participate in any decision relating to the Agreement which effects his/her personal financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of state law;
- C) The Proposer and its principals do not have now, nor shall it acquire any financial or business interest that would conflict with the performance of services under the Agreement;
- D) Proposer does not and will not discriminate against any employee or applicant for employment because of race, religion, gender, color, national origin, sexual orientation, ancestry, marital status, physical condition, pregnancy or pregnancy related conditions, political affiliation or opinion, age or medical condition;
- E) By submitting the response to this request, Proposer agrees, if selected, to furnish services to the City in accordance with this RFP;
- F) Proposer has carefully reviewed its proposal and understands and agrees that the City is not responsible for any errors or omissions on the part of the Proposer and that the Proposer is responsible for them;
- G) It is understood and agreed that the City reserves the right to accept or reject any or all proposals and to waive any informality or irregularity in any proposal received by the City;

RFP Development Agreement Negotiation Services

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

H) The proposal response includes all of the commentary, figures and data required by this Request for Proposal.

I) The proposal shall be valid for 180 days from August 3, 2021.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct.

Executed this 5th day of August, 2021, at Agua Dulce, California.

Name of Proposer: Thomas P. Clark Jr

By: [Signature]

(Authorized Signature)

Type Name: THOMAS P. CLARK JR.

Title: _____

Date: August 5, 2021

Attachment 1-Non-Collusion Affidavit

City of Laguna Hills
RFP DEVELOPMENT AGREEMENT NEGOTIATION SERVICES

ATTACHMENT 1

NON-COLLUSION AFFIDAVIT

The undersigned represents and certifies that:

1. This Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. This Proposal is genuine and not collusive or sham.
3. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal and has not directly or indirectly colluded, conspired, connived, or agreed with any other Proposer or anyone else to put in sham proposal or to refrain from submitting to this RFP.
4. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price or to fix any overhead, profit or cost element of the proposal price or to secure any advantage against the City of Laguna Hills or of anyone interested in the proposed contract.
5. Proposer affirms that all statements contained in the Proposal and related documents are true and correct.
6. Proposer has not directly or indirectly submitted the proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay any fee to any person, corporation, partnership, company, association, organization, RFP depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
7. Proposer has not entered into any arrangement or agreement with any City of Laguna Hills public officer in connection with this proposal.
8. Proposer understands that collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.

I declare under penalty of perjury pursuant to the laws of the State of California and the United States that the foregoing facts are true and correct. Executed this 5th day of August, 2021, at Napa Beach, California.

Signature of Authorized Representative

Thomas P. Clark, Sr.

Name of Authorized Representative

Vice President

Title of Authorized Representative

Attachment: Stradling Proposal (2542 : Review of Development Agreement Negotiation Proposals)

Authority to enter into legal services Agreement

**ACTION BY UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS
OF
STRADLING Yocca CARLSON & RAUTH,
A PROFESSIONAL CORPORATION,
a California corporation**

The undersigned, constituting all of the members of the Board of Directors of Stradling Yocca Carlson & Rauth, a Professional Corporation, a professional corporation organized under the laws of the State of California (the "Corporation"), in accordance with the authority contained in Section 307(b) of the California Corporations Code and the Bylaws of this Corporation, hereby consent to the adoption of the following recitals and resolutions:

DELEGATION OF SIGNING AUTHORITY TO SHAREHOLDERS

WHEREAS, the shareholders of the Corporation routinely enter into engagement letters, service bids, vendor registrations, requests for proposal, requests for qualification, or similar contracts (collectively, "Engagement Agreements") with existing, new or prospective clients (collectively, the "Clients"), pursuant to which the Corporation undertakes to provide certain professional legal services to its Clients;

WHEREAS, the Clients of the Corporation may be individuals, partnerships, limited liability companies, corporations, municipal, county and other public agencies and elected or appointed officials, or other forms of non-natural persons; and

WHEREAS, Article V, Section 5 of the Bylaws of this Corporation provides that the Board of Directors may delegate signing authority, on behalf of and in the name of the Corporation, to its officers and agents, either generally or specifically; and

WHEREAS, it is deemed to be in the best interests of this Corporation and its shareholders to confirm that the shareholders of the Corporation are deemed to be, for the purpose of entering into Engagement Agreements with Clients, Vice Presidents of the Corporation and to affirmatively direct that, each of the President, Secretary or any Vice President of the Corporation be authorized and directed to sign Engagement Agreements of the Corporation with the Clients, including such certificates, verifications or other instruments required to carry out the purpose and intent of the Engagement Agreements.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of this Corporation hereby affirmatively delegates to each of the President, Secretary and any Vice President, pursuant to Article V, Section 5 of the Bylaws of the Corporation, the authority to enter into Engagement Agreements with Clients of the Corporation;

RESOLVED FURTHER, that each of the President, Secretary and any Vice President of the Corporation be, and each of them hereby is, authorized and directed, on behalf of the Corporation and in its name, to take all such other actions as such President, Secretary and any Vice President shall determine to be necessary or advisable in order to carry out the purposes and intents of the foregoing resolutions, and to execute and deliver any such forms, applications or other documents or instruments (collectively, the “Related Documents”) as may become necessary to complete the execution, delivery and performance of Engagement Agreements with the Clients, with such determination to be conclusively evidenced by the execution and delivery of such Related Documents by the shareholders of the Corporation; and

RESOLVED FURTHER, that the past actions of the President, Secretary and any Vice President of the Corporation in connection with the execution, delivery and performance of Engagement Agreements and Related Documents with the Clients of the Corporation be, and they hereby are, ratified and confirmed in all respects.

GENERAL AUTHORITY

BE IT RESOLVED, that the officers of this Corporation be, and each of them hereby is, authorized at any time and from time to time to do and perform any and all acts or things, including, without limitation, the execution and delivery of any and all further agreements, documents, instruments or papers of whatever kind or nature, which such officers or any of them may consider necessary or desirable to effect the intent of any and all of the foregoing resolutions pursuant to and in conformance with any then-existing policies of the Corporation and/or any department, to the extent applicable; and the performance of such other acts and things by any of such officers pursuant to and in conformance with any then-existing policies of the Corporation and/or any department, to the extent applicable shall evidence conclusively and for all purposes that such officer or officers considered the same to be necessary or desirable as aforesaid and that such act or thing so done or performed was hereby authorized; and that all such acts or things heretofore performed by the officers of this Corporation are hereby ratified and approved; and

RESOLVED FURTHER, that these resolutions adopted by the Board of Directors may be executed in two or more counterparts, and by telefax transmission, and each such counterpart shall be deemed an original, and all of which, when taken together, shall constitute but one and the same instrument.

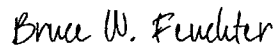
[Signature page follows]

IN WITNESS WHEREOF, the undersigned have executed this Action by Unanimous Written Consent as of the date set forth opposite their signatures below.

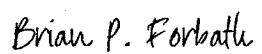
Date: October ³⁰____, 2020


DOUGLAS S. BROWN

Date: October ³⁰____, 2020


BRUCE W. FEUCHTER

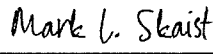
Date: October ³⁰____, 2020


BRIAN P. FORBATH

Date: October ³⁰____, 2020


KATHLEEN MARCUS

Date: October ³⁰____, 2020


MARK L. SKAIST

Attachment: Stradling Proposal (2542 : Review of Development Agreement Negotiation Proposals)



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: Dan Meehan
Community Services Superintendent

ISSUE: 2021 Memorial Day Post Event Report and Resolution Authorizing Community Assistance Funding for the 3/5 Marine Support Committee

RECOMMENDATION: That the City Council: 1) Receive and file the report; and 2) Adopt a Resolution entitled: "A Resolution of the City Council of the City of Laguna Hills, California, authorizing community assistance funding for the 3rd Battalion, 5th Marines, 1st Division Support Committee, a California non-profit corporation.

SUMMARY:

The 22nd annual City of Laguna Hills Memorial Day 10K and 5K, honoring the USMC Dark Horse Battalion took place on Monday, May 31, 2021. Twelve hundred and fifty runners (1,250) participated in the modified race event, with 130 runners choosing to participate virtually. Total 2021 event expenditures were \$100,258 and event revenues totaled \$56,483.

At its November 22, 2011, meeting, the City Council selected a pledge formula of \$3.00 per paid 5K, 10K, and half marathon participant for the continued funding assistance to the 3rd Battalion, 5th Marines, 1st Division Support Committee (3/5 Marine Support Committee). Based on this pledge formula, \$3,750 may be provided to the 3/5 Marine Support Committee by the adoption of the attached community assistance funding Resolution as a result of the 2021 race event.

Plans for the next year's race, which is expected to return to in-person with all race types and event activities, needs to begin in early fall of this year and Staff will be initiating a procurement process for an event management firm. Staff recommends

2021 Memorial Day Post Event Report

August 24, 2021

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contracting with an event management firm for a three-year contract to complete the current “finisher’s medal series.” In accordance with the City’s Procurement Code, an informal procurement process will be followed for this engagement.

BACKGROUND:

2021 Post Race Event Report:

The 22nd annual City of Laguna Hills Memorial Day 10K and 5K, honoring the USMC Dark Horse Battalion took place on Monday, May 31, 2021. Twelve hundred and fifty runners (1,250) participated in the modified race event, with 130 runners choosing to participate virtually. Table 1 below lists registration numbers by local City.

Table 1: Registration totals by Local Cities

City	Total Registrations
Laguna Hills	88
Aliso Viejo	67
Laguna Niguel	34
Mission Viejo	32
Irvine	29

The City of Laguna Hills and South County Outreach again partnered in a food drive over the Memorial Day Weekend. Race participants and spectators were encouraged to bring canned goods and non-perishable food items to benefit South County Outreach. Collection stations were only available at the race start line for 2021, as the pre-race packet pick-up was cancelled due to Covid-19 protocols. Approximately one hundred and twenty pounds of food was collected.

Aiyanna Coleman, an Army veteran, current Navy reservist and wife of prior Grand Marshal Jorge Ortiz was chosen to serve as the Grand Marshall for the 2021 event. After completing the 5K, Ms. Coleman helped pass out finisher medals to participants. The races were successfully completed and all participants were happy with the event.

Resolution for Community Assistance:

At its November 22, 2011, meeting, the City Council selected the option of a pledge formula based on the Memorial Day Race registration revenues for the purpose of

2021 Memorial Day Post Event Report

August 24, 2021

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providing future financial assistance to the 3/5 Marine Support Committee. The pledge formula approved by the City Council was \$3.00 per paid 5K, 10K, and half marathon race participant and this pledge formula has been carried forward in all race events after it was first approved in 2011. Applying this pledge formula to the total of 1,250 paid race participants at the 2021 race, the available community assistance funding for the 3/5 Marine Support Committee is \$3,750. Direction from the City Council at the November 22, 2011, meeting was to also require the 3/5 Marine Support Committee to provide a report to the City Council on the anticipated use of the funds. Attached to this staff report is a letter from the 3/5 Marine Support Committee stating its intentions on the use of the \$3,750 in community assistance.

A proposed Resolution is also attached to this staff report for the City Council's consideration and approval to authorize community assistance funding in the amount of \$3,750 for the 3/5 Marine Support Committee.

Event Management Services for 2022-2024 Events

In preparation the 2022 race event, Staff intends to solicit proposals from event management firms. Renegade Enterprises was the event management firm for this year's race event but their contract has expired. It is recommended that a three-year event management contract be secured with an event management firm to complete the popular "finisher medal series" designed by Staff and Renegade Enterprises. A three-year event management agreement is estimated to cost approximately \$135,000. In accordance with the City's Procurement Code and procedures, as set forth in Sections 3-08.070, 3-08.080, 3-08.090 and 3-08.150 of the Laguna Hills Municipal Code (LHMC), the Procurement Code need not be followed, may be dispensed with, and is not applicable, irrespective of the estimated value for the following procurements or contracts:

1. Contracts for community support and/or recreation services (Laguna Hills Municipal Code (LHMC) Section 3-.08.110 L 11).

It is Staff's intention, however, to still elicit proposals from event management vendors through an informal process, per Section 3-08.080 of the LHMC. This proposed procurement will be returned to the City Council at a future meeting for approval of the Vendor Agreement.

2021 Memorial Day Post Event Report

August 24, 2021

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FISCAL IMPACT:

The 2021 Memorial Day Race event budget for direct expenditures is \$102,750 with a budget forecast for event sponsorships and registration revenue totaling \$82,500. Provided in Table 2 on the following page are the actual direct expenses of the event at \$100,258 with the actual revenue at \$56,483.

Table 2: 2021 Event Expense and Revenue Summary	
	\$ Amount
A) Event Revenue:	
Race Registrations	53,983
Sponsors	2,500
Expo Vendors	0
Total Revenue	56,483
B) Event Direct Expenses:	
Permits	375
Advertising	3,777
Graphics	1,198
Miscellaneous (<i>Truck rentals, Scaffolding</i>)	10,314
Race Shirts/Awards/Bibs/Food	15,023
Services	55,440
Expo (Balloons, tables, etc)	3,191
Police Services	10,940
Total Event Direct Expenses	100,258
C) Direct Expenses (over)/under Revenue	(43,775)

2021 Memorial Day Post Event Report

August 24, 2021

Page 5

If the City Council approves the community assistance resolution, \$3,750 will be provided to the 3/5 Marine Support Committee from the City's General Fund for Community Assistance funding. As a result, the 2021 Total Event Expenses would be revised to \$104,008.

For the 2022 event, Staff will also be working to improve the net revenue for this event.

ATTACHMENTS:

- Proposed Resolution
- Letter of Intent for Use of 2021 Funds

RESOLUTION NO. 2021-08-24-X

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA HILLS, CALIFORNIA, AUTHORIZING
COMMUNITY ASSISTANCE FUNDING FOR THE 3RD
BATTALION, 5TH MARINES, 1ST DIVISION SUPPORT
COMMITTEE, A CALIFORNIA NONPROFIT
CORPORATION

The City Council of the City of Laguna Hills, California, hereby finds, determines, declares, and resolves as follows:

WHEREAS, at the discretion of the City Council, the City may provide community assistance funding to certain community groups and nonprofit organizations that provide community service, support, and/or programming efforts intended to enhance the quality of life of the City's residents, provided the City Council finds and determines that the expenditure of such community assistance funding fulfills a public purpose and provides a direct public benefit within the City of Laguna Hills; and

WHEREAS, at the November 22, 2011, City Council meeting, the City Council directed staff to prepare an authorizing resolution for community assistance funding for the 3rd Battalion, 5th Marines, 1st Division Support Committee, a California nonprofit corporation, based on a \$3.00 per paid 5K, 10K, and half marathon event participant after the conclusion of each Laguna Hills Memorial Half Marathon 10K & 5K Honoring the United States Marine Corps Dark Horse Battalion event; and

WHEREAS, applying the foregoing community assistance funding formula to the total of 1,250 paid runners that participated in the 2021 Laguna Hills Memorial 10K & 5K Honoring the United States Marine Corps Dark Horse Battalion event brings the proposed community assistance funding total to \$3,750; and

WHEREAS, through the adoption of this Resolution, a majority of the City Council desires to make public purpose findings in order to authorize the expenditure of community assistance funding to the 3rd Battalion, 5th Marines, 1st Division Support Committee in consideration of the work and services the Support Committee provided to enhance the quality of the 2021 Laguna Hills Memorial 10K & 5K Honoring the United States Marine Corps Dark Horse Battalion event.

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

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby authorizes and directs that the City provide community assistance funding in the amount of \$3,750 to the 3rd Battalion, 5th Marines, 1st Division Support Committee, a California nonprofit corporation.

SECTION 3. The City Council hereby finds and determines that the expenditure of community assistance funding in the Fiscal Year 2020-2021 Operating Budget to the 3rd Battalion, 5th Marines, 1st Division Support Committee as authorized herein fulfills a public purpose and provides a direct public benefit to the residents of the City of Laguna and surrounding community.

PASSED, APPROVED, AND ADOPTED this 24th day of August 2021.

ERICA PEZOLD, MAYOR

ATTEST:

MELISSA AU-YEUNG, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Melissa Au-Yeung, City Clerk of the City of Laguna Hills, California, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution No. 2021-08-24-X adopted by the City Council of the City of Laguna Hills, California, at a Regular Meeting thereof held on the 24th day of August 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(SEAL)

MELISSA AU-YEUNG, CITY CLERK

**From: 3rd Battalion, 5th Marines, 1st Division Support Committee
dba Laguna Hills Team Darkhorse**

To: Laguna Hills City Council Members and Staff

**Subject: Discussion of the Mission and Accomplishments of TEAM
DARKHORSE and use of funds donated by the City of Laguna Hills from the
Memorial Day Races on May 31, 2021**

A BRIEF HISTORY AND UPDATE: The current 501 (C) (3) Support Committee for 3rd Battalion, 5th Marines was incorporated in 2010, the city named the Memorial Day Half Marathon Race in honor of the Battalion in 2011. The Committee first located and sponsored a wounded 3/5 Combat Marine to serve as Grand Marshal in 2013; raised funds for, contacted Gold Star families for their approval and then created 25 Tribute Banners to be displayed along the race route in 2014. With the exception of the cancelled race in 2020, each of the past 9 races the Committee collaborated with the city and Renegade Racing to sponsor race registrations for Marines, to arrange a Marine Corps Static Display and presence of Marines at the EXPO. This relationship built strong bonds between our community and the Battalion.

Over the last several years, Team Darkhorse built upon the strong foundation proffered by the city race; and our outreach has brought us into contact and interaction with local Girl and Boy Scout troops; local churches; the Stroller Warrior Running Club of Marine Wives; the local Rotary Club; Nellie Gail HOA, Laguna Hills High School Football Team, and other individuals so that our name recognition and reputation among the Marine Corps and veterans stretched beyond our city and even beyond our state.

As we are all aware, Covid restrictions in 2020 halted all in person activities and events, severely limiting our fundraising and outreach abilities. Covid restrictions did impact these activities as well. The Battalion has a change of command every other year, usually following a workup and deployment, and when this occurs, our leadership meets in person with the new Commanding Officer and staff, to introduce ourselves and to create an action plan for support. In addition, each Commanding Officer over the last 10 years has paid an annual visit to the City Council, to discuss the Battalion's status and to thank and present the City Council and Laguna Hills both verbally and with a plaque. Again, Covid restrictions disallowed these events, but we have made all efforts to maintain communication with the Battalion and Command team otherwise. In addition, we succeeded in keeping our support programs alive; and to meet needs when and where we learned of them.

MEMORIAL DAY 2021 -- As we are all aware, Covid restrictions severely curtailed the race, numbers of runners and any in person EXPO Static Display or active duty Marine presence. Although each prior year pre-Covid, we sponsored Gold Star families' race registrations, as well

as hotels for those coming out of town; this year we had only one small group we sponsored — the family of Silver Star recipient LCpl Irvin Cencieros, a family which has travelled from out of town and Mexico every year to be present to run the race. Our selection of Grand Marshal Aiyanna Coleman was made based upon this year's race theme and medal honoring Women in Service. Aiyanna is an Army veteran who was deployed with combat zones as a female searcher; and also the wife of 3/5 combat veteran LCpl Jorge Ortiz — a double amputee who served as Grand Marshal in 2016. Aiyanna walked the 5K pushing their son in a stroller, and represented Team Darkhorse and all veterans as best she could with the restrictions in place. TDH gifts a grant check to the Grand Marshal each year — both to cover any travel or personal expenses incurred during the weekend, as well as a gift in recognition of combat service and frequent post combat challenges.

In addition, the organization PBAbbate which was founded by Major Thomas Schueman in spring 2020, publicized the race on social media had some registered virtual runners across the country.

We are grateful (as were the Ceniceros family and other Gold Star families who saw the post race photos) for the Tribute banners set up once again along the race route. We have witnessed the importance and meaning of these multiple times by multiple families, runners, and veterans. Once again, we owe our thanks and gratitude to Dan Meehan and his staff and the city for this effort.

THE USE OF ANTICIPATED FUNDS -- Because the race was curtailed this year, the numbers of runners and therefore the amount donated by the City to Team Darkhorse is also curtailed. With a total of just 1500 runners allowed, the maximum funds at \$3.00 per runner we anticipated would have been \$4500.00. However, an initial report we received indicated just under 1300 runners, which predicts a total donation of not more than \$3,900.00. If this amount is accurate, it will cover our annual Administrative Costs, the Grant Check to our Grand Marshal, as well as the portion of the race registration donations we intend to direct toward PBAbbate.

Our annual administration costs are below:

Annual Indemnity Insurance Premium	\$.	908.00
Storage Unit Fees @\$120/month	\$1,440.00	
Website Domain/security/internet fees	400.00	
TOTAL ADMINISTRATIVE COSTS		\$2,708.00

Although other costs are incurred, postage, printing, materials etc, those are for the most part borne by our volunteers and Board members.

Race Grand Marshal Grant Check	\$1,500.00
--------------------------------	------------

Other costs historically associated with the race and historically covered by the funds received from the city following the race were either not incurred in 2020 or much reduced in 2021 because of the cancellations and restrictions. Those smaller costs we did have (rooms for the Cenicerros family at LH Lodge the night before the race) were covered by other sources and donations.

It should be noted that in addition to the funds provided by the city, Team Darkhorse makes effort to raise funds on our own, through outreach, publicity, personal contacts and events. These efforts are dependent upon the available time, schedules and numbers of participants on our committee, and will vary each year. As mentioned above, events were curtailed due to Covid, nevertheless our outreach efforts did enable us to continue our support programs throughout 2020 and 2021 to date.

How we support the junior Marines and their families is decided through close communication with the Command and the Family Readiness Officer. The Command itself has protocol to follow regarding the funds and support we give. These rules ensure that our donations go to Marines on the lowest pay grade levels, so that support is accepted by those who need it most. How much we can do is, again, dependent upon our efforts and success at securing other monetary and in kind donations.

These Other Support Programs include:

- Defraying ticket cost to MC Ball for junior enlisted Marines (was cancelled in 2020)
- Providing drinks and goodies to Marines and families on various field and family days held on base.
- Providing gifts at the annual Holiday Party held on base with restrictions this year.
- Assistance when possible to Marines or veterans experiencing a life trauma or emergency.
- Supported an initiative by the CO of 5th Regiment to improve severely worn interior of the hall/rec room used by all 5thRegiment units including 3/5. We donated a water cooler dedicated to 3/5 and with acknowledgement on the cooler to Laguna Hills Team Darkhorse.
- Grant check of \$150.00 each to Marines of the Quarter and NonCommissioned Officer of the Quarter (NCOQ) who are selected by the Command for superior performance.

We stand by as always with our “lifeline fund” intended for emergency support and assistance when we learn of a need.

With the City’s help, we look forward to another year of fulfilling the implied promise of the City’s adoption of 3rdBattalion,5thMarines.

Not everyone can witness living proof of “Making a difference” but we in our city see that every time we talk with or read writings by the Gold Star parents and siblings, Marines, families and veterans of 3rdBattalion, 5th Marines.

Respectfully submitted,

Karen L. Robbins
President , TEAM DARKHORSE



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Dan Meehan
Community Services Superintendent
ISSUE: Renovation of the "LH" on the Hill Monument

RECOMMENDATION: That the City Council approve Option A for the renovation of the LH on the hill monument and direct Staff to prepare plans and specifications and a budget to implement the project.

SUMMARY:

In response to the significantly deteriorated large "LH" letter display monument, on the hillside southerly of Alicia Parkway and opposite the Laguna Hills Community Center & Sports Complex, this report is provided as a summary of recent proposals and study activities to renovate the display into a community monument which will have a much longer lifespan. On August 4, 2021, this item was presented to the Parks and Recreation Commission to present the LH ideas as submitted by the public in response to a City call for suggestions, to review recommendations of a Professional Landscape Architect and to solicit input from Commission members. The Commission recommended two options for the renovation of the LH on the hill monument be forwarded to the City Council for review and selection.

BACKGROUND:

In the Spring of 2015, Eagle Scout candidate, Daniel Green, completed his "LH" project of installing these two letters on the open space hillside on the southerly side of Alicia Parkway and opposite the Community Center. The installation provided the letter layout measuring 58 feet in height and a total width of 36 feet. The letters were constructed of white gravel infill surrounded by wood borders to stabilize the gravel material. The LH

Renovation of the "LH" on the Hill Display

August 24, 2021

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was visible from the Laguna Hills High School (LHHS) campus. This project became a source of pride in the community. Now, six years later, this display has deteriorated beyond recognition or repair.

The City recently initiated a process of community input for design ideas, combined with a professional review and collaboration, to seek a more permanent solution to the letter display which could become once again visible from the Community Center and Sports Complex, from Laguna Hills High School, and from passers-by.

In response to the call for "LH on the Hill" monument suggestions, the City received seven (7) submittals; six from local city residents and one from a professional sign company. Attached to this staff report is a spreadsheet which briefly summarizes the individuals' proposed materials and suggestions for this project to replace the current deteriorated LH letters. These submittals varied from relatively simple installations (very similar to the original project), to elaborate electronic lighted letters, and to large vertical wood letters similar to the "Hollywood Sign".

Half of the proposed design concepts would require a significant financial commitment by the City for the respective installations. Several installations would require the inclusion of some form of a security system to protect the elaborate equipment from vandalism, as this site is well-removed from routine observation, particularly at night. A very creative suggestion would include a significant complex of highly-developed trails, water features, entry steps, botanical garden, and a parking lot to support this contributor's anticipated traffic of interested public members visiting this site. Several of the suggestions would require electrical services, some would also require recycling water systems, and most would require regularly-scheduled landscape maintenance.

Utilizing the practical criteria of an LH monument project that would have a low initial cost and limited ongoing maintenance requirements, the City retained Professional Landscape Architect Richard Fisher Associates to evaluate and rate each community member provided design concept. Although creative and interesting, the subsequent evaluation of the seven submittals all fell short of meeting the two criteria (low initial cost and limited ongoing maintenance). As a part of the presentation of this item to the City Council, the Richard Fisher will be prepared to respond more specifically to any questions which City Council members may have relative to this evaluation of community submittals.

The review by Mr. Fisher, including consultation with a contractor, led him to develop two recommendations as follows: 1) Option A, using 24"X24" concrete stepping pads;

Renovation of the "LH" on the Hill Display

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and 2) Option B, using 4'X8' sheets of marine plywood. Please see the attached graphic renderings of these two options.

These options were presented to the Parks & Recreation Commission. The subsequent Commission action was to bring forth Option A but with two different methodologies for renovation of the Hillside Display and an Option B. Option A is further described as follows:

- Option A: Following site clearing and fine grading of the original site, install an underlying aggregate base, followed by installing tightly-joined 24"X24" pre-cast concrete pads to create four feet wide letter widths throughout the LH monument display.
 - This recommended Option would include the uniform use of a series of light grey "Linen" colored 24" X 24" concrete pads, which, following the installation of the concrete modules, would be painted with a reflective white paint, to optimize the visibility of the lettering beyond sunset hours. In the event of graffiti painting of the letters over the life of the display, the concrete pads would simply be repainted to cover any graffiti vandalism. Option A methodology will be intact for a significant number of years, with little or no maintenance.
- Option A-1: In addition to the installation of the concrete pad letters, the Parks & Recreation Commission's recommendation is that the City Council consider whether to illuminate the Hillside Display. The addition of lighting would significantly increase the evening readability of the "LH" from the LHHS campus but at an additional cost.

From a very preliminary evaluation, it appears that the installation of an underground electrical service-based illumination system would be in the range of \$200,000 or more. Another approach could be to design and install a solar-powered illumination system, which appears to be in the cost range of \$15,000-\$20,000, but will likely provide less illumination levels.

The Parks & Recreation Commission also recommended for City Council consideration, the following Option B:

Renovation of the "LH" on the Hill Display

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- Option B: The second alternative methodology for City Council consideration is to instead approve the option of the proposing Eagle Scout, Josh Hayden, where he proposes to construct the lettering display of artificial field turf. For his Eagle Scout project, his proposal is to use black artificial turf for the letters, with white artificial field turf borders.
- Mr. Fisher has expressed a concern that this approach will have a similar lifespan as the original installation, and contracted staff will be required to provide maintenance services on this display on a reoccurring basis.

Following direction to Staff, this project will be returned to the City Council, at a future date, for approval of the Construction Plans and authorization to go to bid. Once approved for rehabilitation, the project re-construction is anticipated to take a period of 30 days, if no illumination system is included. With the addition of lighting, a longer period will be required due to the ordering and manufacturing of the lighting system.

FISCAL IMPACT:

This Renovation Project is currently unfunded. It is anticipated that costs will be approximately \$15,000 for Option A and minimal funding and/or staff support needed for Option B. In addition, the inclusion of an illumination system will cost between \$20,000 (solar-powered) and \$200,000 (for underground electrical-powered) service.

ATTACHMENTS:

- Attachment 1 - Proposals from Community Members
- Attachment 2 - Design Consultant's Concept Images and Site Plans

Attachment 1 - HILLSIDE DISPLAY - CITY OF LAGUNA HILLS
PROPOSALS FROM COMMUNITY MEMBERS

Submittal	From	Date	Proposed Design
1	Debbie Lenkowski	6/7/2021	Elevated Letters (like Hollywood Sign), of white painted wood. Paint wood once each year.
2	Lia Peters	6/16/2021	Stones that glow in the dark, after absorbing sunlight during the day. Surround with new wood borders
3	Patrice Mills*		Light up sign with solar-powered lights
4	Poly Bocchino*		Use white tiles held in place. Use the school logo.
5	Josh Hayden	6/24/2021	(As Eagle Scout Project) Create letters using artificial field turf. Letter body in black; with white border. Secure with landscape spikes.
6	Neal Patel	6/2021	Letters of painted wood planks. Lettering Display would be one component in a complex of parking lot, hiking trail, water fountain, botanic garden.
7	Kevin Kondrot, Day One Services	7/6/2021	Black Solar Panels (black during daylight; changing colors at night). Letters elevated 30" above grade. 90' diameter gravel bed of white quartz rock below lettering, secured with geo stabilizing grid over geo fabric to prevent weed growth.

* These project comments were listed on the City's Facebook page. No proposal was provided.

Proposals Received



Debbie Lenkowski

Dan Meehan

From: Rec Dept
Sent: Tuesday, June 22, 2021 8:41 AM
To: David Reynolds
Cc: Dan Meehan
Subject: FW: Laguna Hills - LH

From: Debbie Lenkowski <debbie.lenkowski@yahoo.com>
Sent: Monday, June 7, 2021 4:06 PM
To: Rec Dept <recdept@lagunahillsca.gov>
Subject: Laguna Hills - LH

To Who it may concern:

I believe the letters LH should be elevated similiar to the Hollywood sign in LA. Big white letters made of wood, painted white to stand up.

Better to maintain than on the ground where weeds can grow over the letters. Low maintenance too. Just spray white once a year! They can stand high above the weeds!

Sincerely,
Debbie Lenkowski
Laguna Hills Resident

[Sent from Yahoo Mail on Android](#)

[[[External E-mail]]]

ATTENTION: THIS EMAIL ORIGINATED FROM OUTSIDE THE CITY OF LAGUNA HILLS. USE CAUTION WHEN OPENING ATTACHMENTS OR LINKS.

Attachment: Attachment 1 - Proposals from Community Members (2545 : Renovation of the "LH" on the Hill Display)

Lia Peters

Dan Meehan

From: Rec Dept
Sent: Tuesday, June 22, 2021 8:41 AM
To: David Reynolds
Cc: Dan Meehan
Subject: FW: LH On The Hill
Attachments: Screenshot 2021-06-16 1:25.27 PM.png

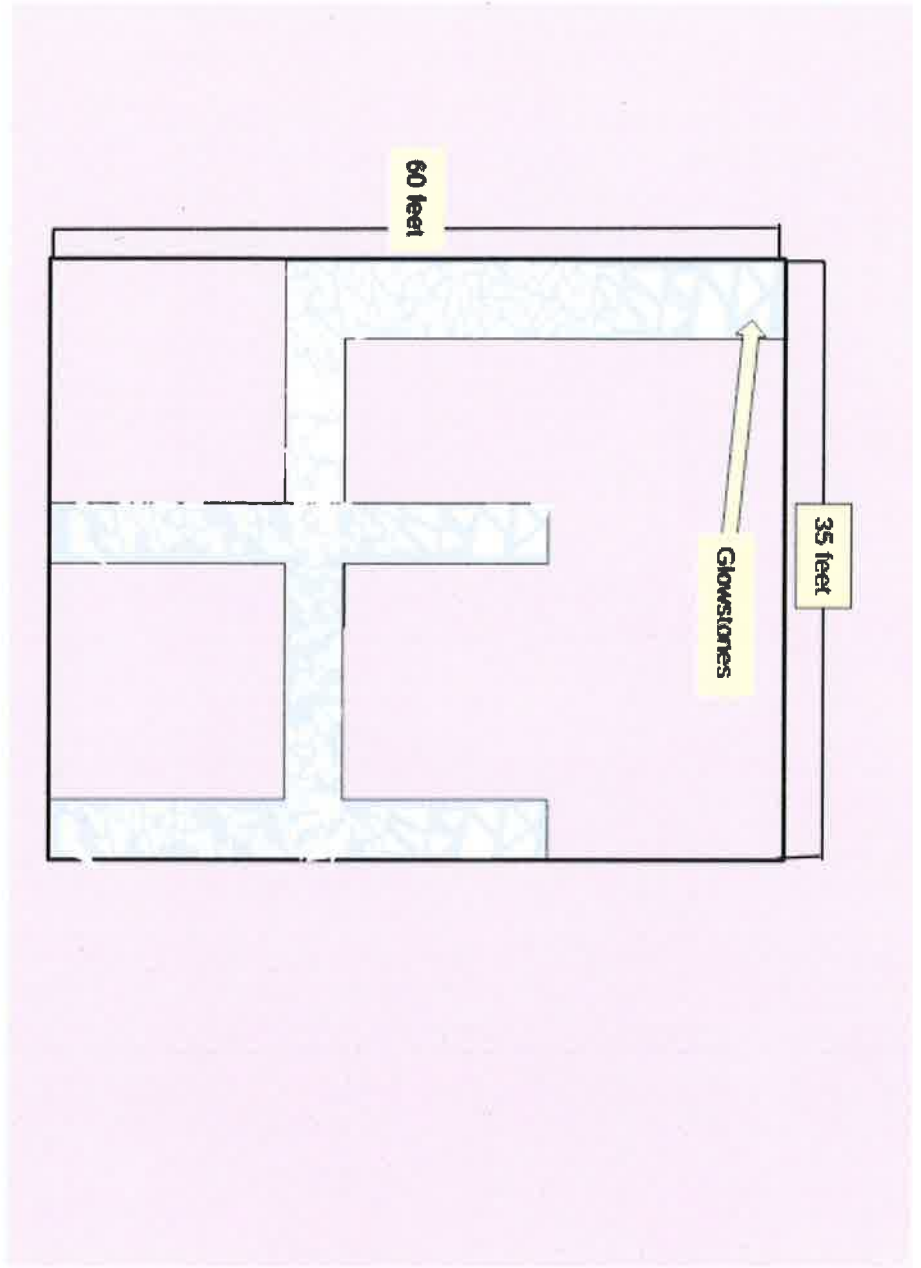
From: Lia Peters <wolfhowler808@gmail.com>
Sent: Wednesday, June 16, 2021 1:40 PM
To: Rec Dept <recdept@lagunahillsca.gov>
Subject: LH On The Hill

My idea is to replace the wood borders with new ones, take out the old stones and fill the wood borders with stones that glow in the dark. That way people can see the stones in the daytime and at night. The stones will receive sunlight so at night they will be bright enough to see. The color of the stones (when glowing at night) should be a light color whether it is white, yellow, or light blue. Since the brightness of the stones at night will depend on the sun, no utilities will be needed. The dimensions can be the same-35x60; the model is attached. For any questions, please contact me via email at wolfhowler808@gmail.com
 Thank You

[[[External E-mail]]]

ATTENTION: THIS EMAIL ORIGINATED FROM OUTSIDE THE CITY OF LAGUNA HILLS. USE CAUTION WHEN OPENING ATTACHMENTS OR LINKS.

Attachment: Attachment 1 - Proposals from Community Members (2545 : Renovation of the "LH" on the Hill Display)



Josh Hayden

“LH” on the Hill - Proposal

**Josh Hayden
Boy Scout Troop 773
Laguna Niguel, CA**

**Contact:
3 Coralwind
Aliso Viejo, CA
jrhayden444@gmail.com**

June 24, 2021

Note: I will be on a Boy Scout backpacking trip (Philmont) from June 25 returning July 3. I will not have access to email or phone during this trip. Please send any communication or questions to my email contact and I will reply immediately upon my return.

Section 1: Abstract and Background

In the Spring of 2015, Eagle Scout candidate Daniel Green completed his “LH” project on Alicia Hill, with letters on the hillside measuring 60 feet in height and 35 feet in width. The letters were constructed using white decorative rocks with a wood border. After nearly six years, the borders surrounding the rocks have deteriorated and the letters have shifted on the hillside. We are looking for the next vision of the “LH” on the Hill and are requesting your input on a new design for the “LH” on the Hill to promote Laguna Hills community pride.

The project location is on the hill behind Ralph’s in the Alicia Town Center on the corner of Alicia Pkwy and Paseo de Valencia. There is currently no access to electricity or water at this location.

The original LH sign integrated the horizontal part of the letter “L” into the horizontal part of the letter “H.” (See Fig. 1)



Fig 1. Picture of the original “LH” sign from OC Register article dated July 8, 2015

Section 2. Introduction

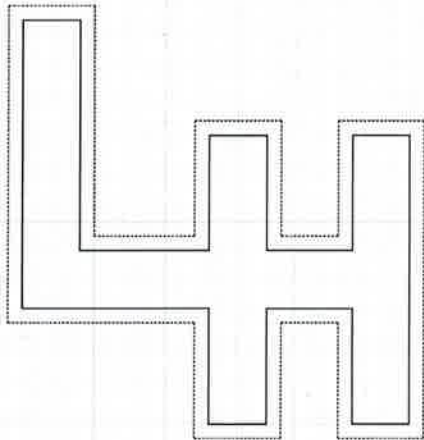
This proposal will also be my Eagle Scout project, keeping this sign a Scout tradition.

The original "LH" letters were composed of perishable borders surrounding decorative rocks. Natural elements have deteriorated the borders and the letters have shifted on the hillside. The key goals are to a) determine a desired design for the "LH" letters, and b) determine materials that will best withstand natural elements and be cost effective.

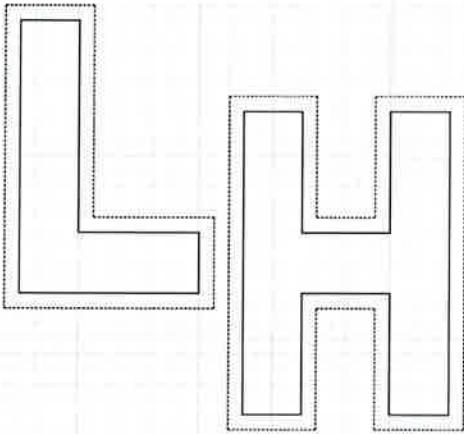
Section 3. "LH" Design and Materials

Three design options are presented in this proposal for selection by the Commission and City Staff. Each design encompasses nearly the same amount of space and material requirements, meaning impact to planning, cost, and labor does not differ from one another.

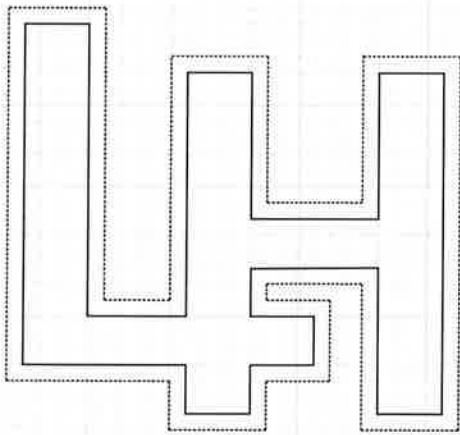
Design 1. Original "LH" (similar to football field logo)
(each grid square is 2 square feet)



Design 2. Distinct “LH” Letters
 (each grid square is 2 square feet)



Design 3. Laguna Hills High School logo “LH”
 (each grid square is 2 square feet)



Once a design is selected I will stake out the measurements on the hillside and take photos to make sure the size and spacing of the letters is visible and that it looks like an “LH.”

Materials: I propose to create the letters using artificial field turf. Using turf will handle the weather elements better and be resistant to erosion and weed growth. Black and white letters will create good contrast against the gold background of the hillside. Example turf materials can be found at :<https://www.atxturf.com/copy-of-colored-turf>



Section 4. Scope of Work

Removal of existing materials: Before starting the project I would need to take a couple hours to dig out the plastic barriers that are currently there and dispose of them. The old rock should not need to be removed. Disposal would involve carrying the plastic barriers up the hill to a rented dumpster located in the subdivision. A local resident would agree to have the dumpster located in front of their house for a weekend.

New Materials and Installation

Purchase and delivery of black and white field turf and landscaping spikes would be arranged through fundraising and donation. Delivery of materials would be at the base of the hill and then carried up the hill to the installation location. I would lay out black turf to show the letters and then put a white turf border around the black letters as shown in the images above.

All labor would be volunteer from fellow boy scouts and friends/family. No water or electricity will be needed for installation or ongoing maintenance of the project.

Neel Patel

Laguna Hills "LH" Sign Contest Entry

Neel Patel, June 2021

General Description:

This contest entry consists of various proposed future elements in addition to the LH Sign component at the site. The plan is to develop the site as a future destination for both residents and non-residents of Laguna Hills with amenities unique to the South County region. Details follow, but a Proposed Site Plan has been provided on Page 4 as well as possible funding sources afterwards.

Initial Compulsory Components:

Shopping Center Connection: Pictured on Page 4 below is the proposed site plan of the area. Starting from top of the graphic, I propose a series of steps leading from the Alicia Town Shopping Center (Ralphs) to the existing hiking trail (depicted as a dark green line). This provides visitors easy access to coffee shops, bubble tea, dining options, etc. in the area. Furthermore, the connection provides an opportunity for economic development in the immediate area which could result in a *better* retail mix at the center in the future and marginal sales tax benefits to the city. Due to economic benefits for the shopping center, perhaps costs of constructing this aspect of the plan can be shared or borne by the shopping center owner and Ralphs. Finally, I'd suggest a security camera in the area to discourage vandalism of the area.

Hiking Trail (new additions): Pictured on Page 4 below in an orange line, is a proposed hiking trail path that will connect the existing trail, Alicia Town Shopping Center, LH Sign, and the various other elements proposed in this contest entry. The chosen path roughly follows the topography (Page 5) of the hillside with gentler climbing and descending to avoid user fatigue. I propose initially constructing the hiking trail addition as a dirt path to save on initial costs with the option of converting to a gravel or wood chip path in the future. Furthermore, trees can be planted in certain parts of the trail to provide shade and relief in the summer months.

LH Sign: The new LH Sign will be situated at roughly the same location as the existing LH Sign. See "LH" in white depicted in the proposed site plan (Page 4). The sign would be constructed of wooden planks embedded in the hillside in block lettering format to allow residents and high school students an easy medium to re-paint in various themes/colors. With the signage being a considerable distance from the street, motorists wouldn't be concerned with the exact material of the LH Sign.

Additional Future Components:

Water Fountain and Steps: Just below the LH Sign and right above the hiking trail (in orange), I'm proposing a water fountain feature that can serve as the "heart" and meeting point of this overall plan. It would mimic the water features in the Community Center and City Hall.

Furthermore, it would add a unique amenity not found in our neighboring cities. I've attached a few examples of what I envision the fountain and surrounding steps to look like. In addition, the stonework on the steps and fountain would reflect the colors, tones, and textures of the Community Center Complex. The fountain head and steps would have nighttime lighting to showcase the area when the sun sets. Finally, motion activated spotlights and security cameras could be installed to discourage certain activities afterhours.

Examples:



← Bunker Hill Steps in Los Angeles, CA



← Philadelphia Art Museum Steps Fountain



← Fullerton, CA Hillcrest Park (This was my main inspiration for this part of proposal)



← A simpler fountain style such as this could be used

Moulton Niguel Water District (MNWD) Botanical Garden: Proposed in the purple shaded area of the graphic is a community botanical garden with drought-tolerant plantings from around the world. The garden would operate as a venture between a suitable future non-profit organization, the City of Laguna Hills, and the Moulton Niguel Water District to serve as both a recreational destination and educational tool for residents (on water wise landscaping). Inspiration for this component came from the Niguel Botanical Preserve. Hopefully with drought tolerant plantings, MNWD could supply some of the monies needed for recycled water infrastructure and some of the plantings in the area. The Botanical Garden can operate as a volunteer led initiative to defray costs to the city after an initial investment.

Existing Trail Enhancement: Pictured as a dark green line in the site plan, the existing uphill trail in the area could be enhanced. Inspiration was taken from the Torii Gates in Kyoto, Japan to create a "similar" aesthetic on the hillside following along the existing uphill path on the site.



← Construct these archways every 6-7 feet up the hillside on the existing pathway and then plant Star Jasmine or Red/Pink Bougainvillea to encase the gates in foliage.



← Torii Gates in Kyoto, Japan

Paid Metered/Free Parking on the Site: Over time, if most/all of the above elements of this plan are implemented, there will be measurable parking demand in the area. I've proposed a parking lot that is either metered-paid parking or free to use depending on maintenance costs to the city. The newly constructed trail could end/start at the parking depicted in light green on the site plan. Finally, a security camera can enhance safety in the area. There could be a board posted at the trailhead entrance with information about the history and creation of this site along with names of potential sponsors/donors.

Proposed Site Plan Pictured:



Possible Funding Mechanisms for the Various Elements Proposed:

- 1) **Orange County Community Foundation: Partnership for the Care of our Environment Grant**
 Amount: \$5000-\$10000
 Applications Due Around October 2021
 Contact: Austin Muckenthaler at amuckenthaler@oc-cf.org
- 2) **Recreational Trails Program (State Grant)**
 Amount: Match Requirement: The maximum amount of RTP funds allowed for each project is 88% of the total project cost. The applicant is responsible for obtaining a match amount that is at least 12% of the total project cost.
 Due February 2022
 Website: http://www.parks.ca.gov/?page_id=24324
- 3) **Future: Possible Round 5 of Statewide Park Program**

The City of Fullerton used this grant to construct the Hillcrest Park Fountain and surrounding area. This was a tremendous opportunity for that city given fiscal issues similar to Laguna Hills.

- 4) Future City Capital Improvement Project Funding
- 5) Private Individual or Corporate Donors

Topographic Map of the Area used for the New Trail Path Determination:



Kevin Kondrot



Proposal Laguna Hills City Sign

Project	"LH" on the Hill City of Laguna Hills 25555 Alicia Pkwy Laguna Hills CA 92653 Art installation on hill behind Ralph's in the Alicia Town Center
Proposal	Design / Build and Install art installation Installation to consist of the letters "L" and "H" in a staggered connected design Letter construction shall be Aluminum frame proximity 5 feet in width and 8 inches thick Overall height of letters is 60 feet, width is 60 feet Surface shall appear black in the day time and illuminated at night, black solar panels and special acrylic that is black during day and light passing at night allows the letters to illuminate and change colors at night. Letters shall be supported 30 inches above the ground on posts, to create a natural shadow during the day and back lighting at night. Underside of the letters shall have down lighting to illuminate the gravel below. Ground material shall be A 2+ inch deep layer of crushed rock shall be applied to hill to form 90 foot diameter circle under the letters. Rock shall be white quartz quarried from Northern California. Rock shall be held in place using geo stabilizing grid to anchor rock in place on hill side. Geo fabric shall be installed under the rock to prevent any plant growth or dirt migration.



Proposal Laguna Hills City Sign

Concept

Design Concept

The gravel base in the shape of a circle represents the "O" in One Town, and is the support for the Letters , representing the support of the town.

The white surface provides a reflecting surface for day light and LED lighting at night.

The letters are raised to allow shadows to be cast during the day, changing shape and location during day and seasons. During the night the elevation allows for lighting on the underside of the letters to illuminate the rock below.

The surface of the letters is black in appearance during day and is comprised of solar panels and a unique lighting element.

The solar panels charge integrated batteries during the day, making this a self contained installation that does not require site power.

The lighting allows for visibility at night, color changing lighting on both the face and underside of the letters provide adjustable lighting options.

An integrated controller pulls in weather data to calculate dynamic lighting displays each night, seasons / holidays each have unique lighting as well, example for Christmas red and white to match community center, for July 4th red,white and blue.

On the fly remote changes can also be made for special occasions or events.

Install

The installation can be single sourced by Day 1

A mini excavator accessing the site from the fire road will provide brush clearing, hole augering and transport of the letter elements and approximately 62 tons of rock.

No other resources would be required.

Life span

the design life of the install would be 10+ years



Proposal Laguna Hills City Sign

quarterly maintenance being cleaning of letter surface / solar panels
every 5 years or so batteries would need replaced
rock base will need refreshed / replaced at or around 10yr mark
letters should last longer

Site View

To scale view of proposed install on site location





Proposal Laguna Hills City Sign

Rock Example

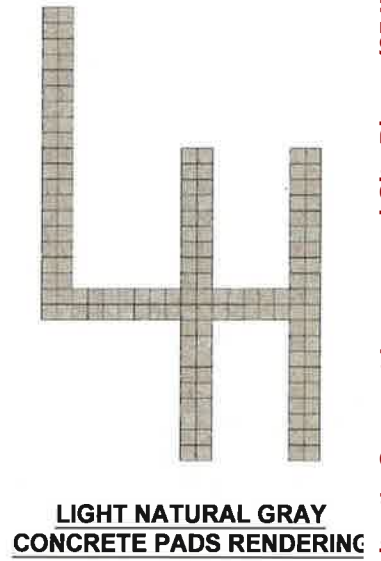
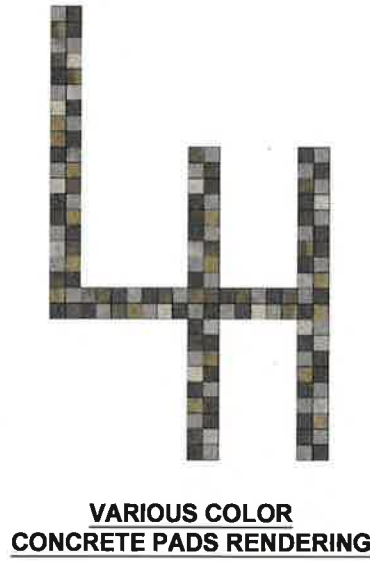
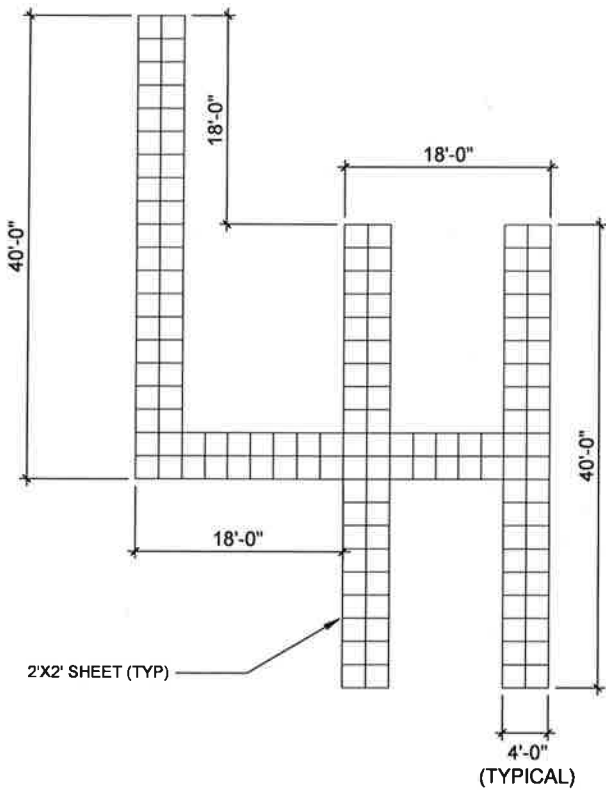


Contact Info

Kevin Kondrot
Day 1 Services
27071 Cabot Road Suite 132
Laguna Hills CA 92653
949-493-1701
kevin@day1s.com

Attachment 2

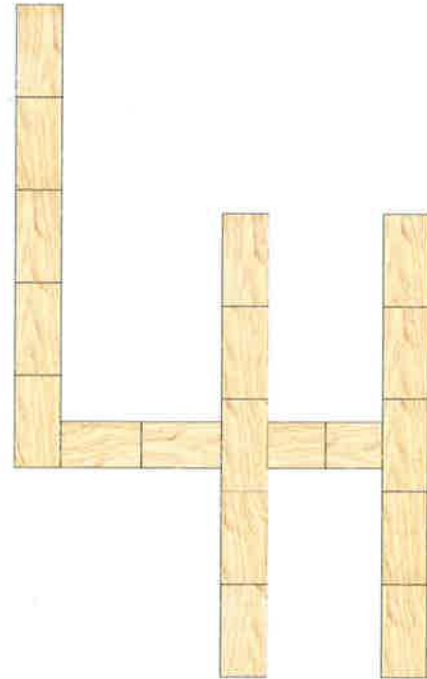
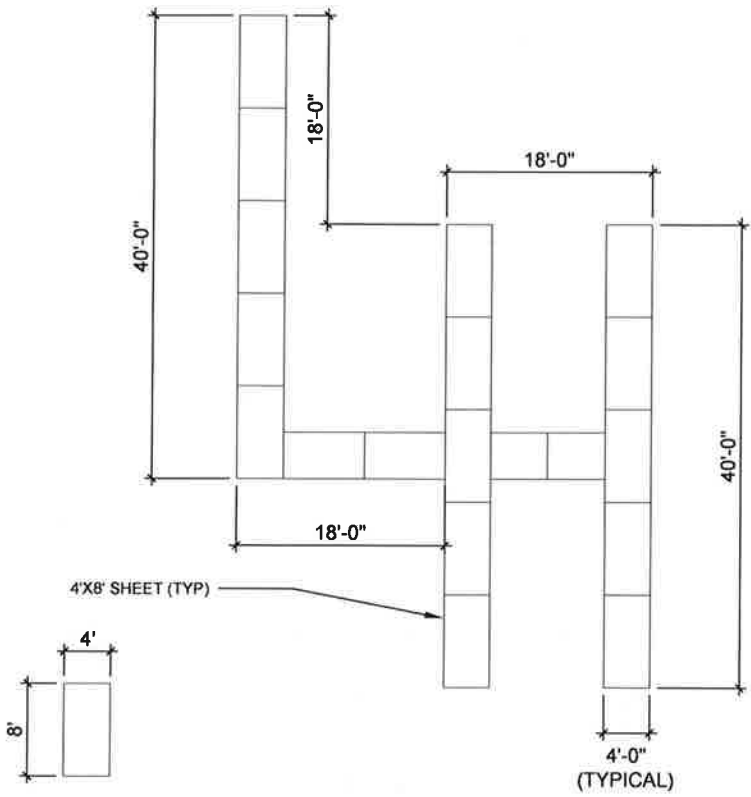
Design Consultant's Concept Images and Site Plans



LAGUNA HILLS HILLSIDE DISPLAY | OPTION A

LAGUNA HILLS, CA

SCALE: 1/8" = 1'-0"



LAGUNA HILLS HILLSIDE DISPLAY | OPTION B

LAGUNA HILLS, CA

SCALE: 1/8" = 1'-0"



**LIGHT NATURAL GRAY
CONCRETE PADS RENDERING**

**VARIOUS COLOR
CONCRETE PADS RENDERING**

PLY WOOD SHEET RENDERING

LAGUNA HILLS HILLSIDE DISPLAY | RENDERINGS

LAGUNA HILLS, CA



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021

TO: Mayor and Council Members

FROM: David Reynolds
Deputy City Manager/Community Services Director

ISSUE: Celebration of the City's 30TH Year of Incorporation

RECOMMENDATION: That the City Council approve of recommended events and activities proposed to recognize the City's 30th Anniversary of Incorporation and provide further direction on additional events and activities desired.

SUMMARY:

Residents approved the incorporation of the City of Laguna Hills, with an overwhelming vote of 86%, on March 5, 1991. The City of Laguna Hills was formerly incorporated on December 20, 1991. The upcoming December 20, 2021, date marks the City's 30th year of incorporation. The Parks and Recreation Commission was presented with a staff report on April 7, 2021, to discuss and provide suggestions on how to celebrate the City's 30th Anniversary. The Commission's recommendations are included in this staff report. In addition, information on how the City celebrated its 20-year and 25-year incorporation recognition is included in this report for reference, as well as recommendations from Staff on how to celebrate the City's 30th Anniversary. Staff is requesting direction from the City Council on how the City should celebrate its 30th year of incorporation. Based on the City Council's direction, Staff will bring a report back to the City Council to finalize the budget and plans for the promotion and celebration of the City's 30th Anniversary.

BACKGROUND:

The City's 30th year of incorporation falls on December 20, 2021, and its celebration is included in the City's current Budget as a Major Plan work effort. A total of \$40,000 is

30TH Anniversary

August 24, 2021

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established in the Budget for the City's 30th Anniversary and Staff is requesting direction from the City Council on its plans on celebrating and promoting the City's anniversary celebration. Provided below for reference is information on how the City celebrated past anniversary events and recommendations from the Parks and Recreation Commission and Staff on how to celebrate the City's 30th Anniversary.

Past City Anniversary Celebrations

The 20-year anniversary celebration included the following: a timeline display of major milestones in the history of the City was developed and posted in the Civic Center Lobby; a City calendar featuring photos throughout the City was produced; trinkets such as magnets were created to pass out at City events, coasters were made; and a cake reception was held at a City Council meeting.

The City celebrated its 25-year anniversary by hosting a cake reception at a City Council meeting and hosting a dinner for City Council members, including former City Council members, and Staff. Memorabilia such as shirts and blankets with the City Logo and 25 years of incorporation printed on them were also purchased.

Parks and Recreation Commission Recommendations

Staff brought a report on the 30th Anniversary of the City of Laguna Hills to the Parks and Recreation Commission at its April 7, 2021, meeting for the purpose of eliciting ideas from the Commission on how to promote and celebrate the City of Laguna Hills 30 years of incorporation. The Parks and Recreation Commission had a healthy conversation on this topic and discussed the possibility of hosting one large celebration or hosting several events throughout the year. Although there wasn't a consensus by the Parks and Recreation Commission on the number of events that should be hosted to celebrate the City's 30th Year of Incorporation, the Commission provided the following recommendations for the City Council's consideration.

1. Celebrate during the 4th of July event in 2022.
2. Picnic Lunch during the day of the 4th of July.
3. Celebrate during a Laguna Hills High School game such as the homecoming game or at any other Laguna Hills High School home game.
4. Encourage residents that have lived in Laguna Hills for a while (30 years or more) to celebrate during an event we offer by participating in the establishment of a time capsule.

30TH Anniversary

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5. Honor and invite original City Council members to celebrate at a 30th Anniversary event
6. Gala at the Community Center, with food, a band, etc.
6. Encourage partnership with the Chamber of Commerce to support small businesses such as a tree lighting Ceremony—which could be one of many small events celebrating our 30th Anniversary throughout the year.
7. Pancake Breakfast at the Park.
8. Have residents donate trees and celebrate our 30th at Rooted Campaign event with a plaque to honor our Anniversary.
9. Install banners at the light poles by City entry monuments and keep up during 2022.
10. Offer glasses/mugs/coasters/ pins to promote our 30th Anniversary. Seek donations or have people pay for them.

Recommendations

Staff recommends the following ways to celebrate and promote the City's 30th Anniversary:

1. Designate 2022 as the year of the 30th Anniversary. Recognize the City's 30th Anniversary by hosting celebrations and promoting the anniversary throughout the year including on the City's website and social media channels. Kickoff the year celebration with a City Council Resolution recognizing this milestone, receiving proclamations from the State Senate and State Assembly and having a cake reception to recognize the City's 30th Anniversary at the City Council meeting of December 14, 2021.
2. Develop marketing material to promote the City's 30th Anniversary such as banners to hang at the corners where the City advertises recreation programs and poster boards to present during the City's 2022 public events. Create a "30 Year Anniversary" logo or image to include in Staff and City Council email salutations, in written correspondence, on the City's website, and social media posts.
3. Purchase trinkets and memorabilia to recognize the City's 30 years of incorporation. This material can be passed out during City events and when City

30TH Anniversary

August 24, 2021

Page 4

Council members interact with the public. Purchase 30th Anniversary Polo Shirts for City Council and Staff and offer them for sale to the Public.

4. Already planned for the City's anniversary recognition, The Christmas Kings will use a customized gobo to project the lettering "Celebrating 30 Years, City of Laguna Hills" on the side of the Community Center building during the Holiday Decoration display this December.
5. Establish the City's fourth of July event as the premiere celebration event of the City's 30th Anniversary Celebration. An increase in activities during the 2022 4th of July event is recommended to include an expansion of the carnival rides and booths. An increase in the number of fireworks and the duration of the show is already accounted for in the City's Budget.
6. Hold 30th Anniversary branded "movies in the park" in 2022 and invite the Public to participate in coincident food drive collection efforts for Second Harvest Food Bank and/or a blood drive to aid the American Red Cross.
7. Create a short 30th Anniversary video for the City Website and social media channels providing a brief history of the City along with interviews of community members.

Based on the City Council's direction, Staff will bring back another report to the City Council for the purposes of finalizing the City Council's plans for the celebration and promotion of the City's 30th Anniversary and how the planned costs match the budget.

FISCAL IMPACT:

A total of \$40,000 is budgeted in the current budget for celebration of the City's 30th anniversary. A budget allocation of \$10,000 is established in fiscal year 2021-2022, and \$30,000 in fiscal year 2022-2023.

In addition, an additional \$5,000 is included in the 4th of July budget to increase the duration of the fireworks display.



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: David Reynolds
Deputy City Manager/Community Services Director
ISSUE: City Website/Social Media Presence Update and City YouTube Channel

RECOMMENDATION: That the City Council receive and file this report regarding the City website and Social Media Channel update and further determine if it is desirable to establish a City YouTube Channel with the services of a Public Relations Firm to establish YouTube content that promotes the City of Laguna Hills.

SUMMARY:

This City's website redesign project is well underway and is currently in the "Engineering Phase" of the Project schedule. In this phase, CivicPlus is coding the site based on all the features, tools, and functionality agreed upon in the "Design Phase" of the project including the input provided by the City Council. Some of the website tools currently available and others that are in the process of implementation are highlighted in this report. The City maintains a Social Media Presence on Facebook, Instagram and Twitter. Attached to this report are two policies that the City uses for its social media tools. Recently, it was suggested the City is not represented on YouTube raising the question as to whether or not the City should have a dedicated YouTube Channel. If having a dedicated YouTube Channel is desired by the City Council, it is recommended the City seek the services of a Public Relations firm to develop marketing content for this social media channel.

Social Media and YouTube

August 24, 2021

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BACKGROUND:City Website Project Update

The City website re-design Project was initiated in September 2020 and it is currently in the “Engineering Phase” of the Project schedule, with the phase 1 and phase 2 completed. In this current phase, Civicplus, the Website designer/operator, is coding the site based on all the features, tools, and functionality agreed upon in the “Design Phase” of the project, including the input previously provided by the City Council.

This website upgrade project also provides Staff the opportunity to evaluate website tools that have not yet been implemented.

City Website Statistics

Below are statistics on use of the City of Laguna Hills current website from January 1, 2021, through July 31, 2021. These statistics provide a good snapshot on what type of information the public is accessing on the City’s website.

Table 1. Top Ten Pageviews		Unique	
		Pageviews ¹	%
1. Parks and Facilities		5,706	18.0%
2. Jobs		3,933	12.4%
3. Building and Safety Division		3,914	12.3%
4. Bids		3,615	11.4%
5. Planning Projects and New Developments		2,771	8.7%
6. Calendar		2,645	8.3%
7. Form Center (sign up/register—not Active.net)		2,599	8.2%
8. Classes/Activities		2,520	7.9%
9. Village at Laguna Hills Update		2,374	7.5%
10. City Council		1,702	5.4%
		31,779	100%
1. Unique pageviews account for only one IP address visit to a webpage and not multiple visits from same IP address. Used to represent how many individuals are accessing the City's website.			

Social Media and YouTube

August 24, 2021

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Table 2. Top Ten Keyword Searches		
	Searches¹	%
1. Dinosaur Park	191	25.3%
2. Daily inspection run list	71	9.4%
3. Jobs	69	9.2%
4. Permits	67	8.9%
5. Business license	66	8.8%
6. Build a fort	65	8.6%
7. Inspection	60	8.0%
8. permit	59	7.8%
9. Fireworks	55	7.3%
10. Pickleball	51	6.8%
	754	100%
1. The number of visits that searched for this Keyword on City website search engine excluding OC City Clerk services such as marriage, birth certificate, wedding, passport, and marriage license.		

Website Tools

1. **Community Portal.** The City website also includes a Community Portal (or electronic Community Bulletin Board), modeled after the Saddleback Unified School District's "Flyer's / Links" webpage, for the posting of noncommercial messages that promote educational, philanthropic, civic, charitable, cultural, recreational activities, and community fundraisers. For reference purposes, the policy that establishes the City's limited public forum Community Portal is attached to this report. This policy is called the "Community Portal Policy."
2. **Notify Me.** The Notify Me module allows web users to subscribe to email and/or text message notifications from the city's website. There are currently 1,866 subscribers to this service. Users also have the option to subscribe to specific topics such as the Calendar, News Flash, Job Postings, and Bid Postings, to insure they are receiving the content they prefer. The Notify Me module, also allows the City to send notifications to its subscribers through a customized message.
3. **CivicSend.** CivicSend is a newly purchased add-on tool to our CivicPlus website software. CivicSend, once operational, will serve as our communication creation and distribution module. Working in tandem with our Notify Me subscription tool (already in use on our website), CivicSend will enable the City with the ability to send multi-channel communications (Website, Text message, Email, and Social Media) from one platform. CivicSend also provides tools to create custom newsletters that can be sent across all platforms which may function as our electronic "City Views" newsletter. It is planned to implement this tool by the

end of this year, if not sooner.

4. **CP Mobile.** CP Mobile is the mobile application that integrates with the City's website. CP Mobile offers optimized, mobile-specific experience, capturing all that the city's website has to offer through a mobile app. It is designed exclusively for local government as another tool to enhance public services and citizen engagement. CP Mobile's integration with the City's website allows for updates to occurs all in one place, so when updates are made on the website, the application updates as well. CP Mobile is available in the iTunes App Store and Google Play Marketplace and will be interfaced with the City's website once the website update project is complete.

Video Outreach

1. **Vimeo.** City staff uses the Vimeo service that enables Staff the ability to create, manage, and share videos. Its particularly helpful when embedding a video on our website since the City's website vendor, CivicPlus, doesn't support storage of video. Video files need to be stored on a third-party platform with a link to it on The City's website. Vimeo also assists with formatting the video, so that it can easily be added to the website, as well as providing templates and stock photos, videos, and music that can be used without worry of copyright infringement.
2. **Mayor's Video Message.** On February 9, 2021, the City Council approved a policy establishing a video messaging program entitled, "Mayor's Message." The purpose of this program is to produce recurring short videos for the Mayor to highlight important City information, such as public service announcements, scheduled public meetings, City programs and events, and holiday greetings, and that the segments be produced on an as-needed basis. One Mayor video message has been completed and is on the website.

City Social Media Tools

The following is a list of social media tools that they City uses in addition to its website and other public outreach tools. A social media policy entitled, "Public Use Social Media Policy" was established on February 21, 2017, to create a limited public forum of postings and comments on any of the City's social media tools. This policy, which is attached for reference, provides the guidelines on types of information can be posted and what comments can be omitted in accordance to the policy. Currently, the City's Facebook page allows for public comments but the City's Instagram and Twitter

Social Media and YouTube

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accounts do not currently allow for public comments to City posts. Information provided to these social media channels consists of City information about upcoming meetings, events and public safety and service information.

1. **Facebook** (1,904 followers). The City's Facebook is "Laguna Hills Community Center – City of Laguna Hills."
2. **Instagram** (168 followers)
3. **Twitter** (958 followers)

YouTube Channel

Recently, it was suggested the City is not represented on YouTube, raising the question as to whether or not the City should have a dedicated YouTube Channel. If having a dedicated YouTube Channel is desired by the City Council, it is recommended the City seek the services of a Public Relations firm to develop marketing content for this social media channel before the Channel is established. While we have some City video content, it is limited. The available video content is not necessarily geared to marketing the positive aspects of the City. It would be expected the content for a City YouTube Channel would include presenting the positive aspects of living, raising children, recreating, educating students, medical facilities and a good business operating environment in the City.

FISCAL IMPACT:

The fiscal impact of the implementation of the YouTube Channel will depend upon the City Council direction and will be the subject of a future report. Other current work efforts identified in this Staff report are already accounted for in the City's Budget.

ATTACHMENTS:

- Administrative Order No. 26 - Public Use Social Media Policy
- Administrative Order No. 21 - Community Portal Policy

CITY OF LAGUNA HILLS**ADMINISTRATIVE ORDER NO. 26
EFFECTIVE DATE: FEBRUARY 21, 2017****General Subject: Miscellaneous Policies****Specific Subject: Public Use Social Media Policy**

Purpose:

This Policy governs the use of the City's social media sites as a means of furthering communication between the City and members of the public. The purpose of this Policy is to establish a limited public forum and to set forth viewpoint neutral and reasonable standards for the posting of comments by members of the public on the City's social media sites.

Statement of Policy:

This Policy applies to all users and visitors to the City's social media sites. This Policy must be readily accessible to users and visitors to the City's social media sites and made available by display on each individual site or by a prominently displayed hyperlink on each site. By interacting with the City through any and all of the City's social media sites, all users and visitors agree to the terms and conditions set forth in this Policy. The City reserves the right to remove any content that is posted on a City social media site in violation of this Policy, the terms of use of the social media site's host, or any applicable law. A posting or any other submission on a City social media site constitutes acceptance of these terms.

Postings Prohibited: Content submitted on any and all City social media sites that contain any of the following is prohibited:

- a) Content not typically related to the purpose of the particular social media site or article commented on;
- b) Content that defames, abuses, harasses, stalks, threatens or violates the legal rights of others;
- c) Content that includes sexual content, profanity, vulgarity, obscenity, racism, hatred, slander, threats and/or violence;
- d) Content that promotes, fosters, or perpetuates discrimination or personal attacks on the basis of race, creed, color, age, religion, gender, marital status, status with

regard to public assistance, national origin, physical or mental disability or sexual orientation;

- e) Content that contains personal information about another person or that violates a person's privacy;
- f) Content that contains sexual content or links to sexual content;
- g) Content that promotes specific commercial entities, causes, products, candidates for office, ballot measures or political organizations;
- h) Content that contains spam or advertisements;
- i) Content that promotes, advocates, or encourages illegal activity or encouragement of illegal activity;
- j) Content that contains information that may compromise the safety or security of the public or public systems; or
- k) Content that violates a legal ownership interest of any other party.

The City will apply these restrictions in a manner that is viewpoint neutral and is consistent over time. Any content removed based on these requirements must be retained including the time, date, and identity of the poster when available.

Records Management and Privacy:

Any comment or other content posted on a City social media site may be subject to disclosure pursuant to the California Public Records Act (Cal. Gov't Code Section 6250 *et seq.*). Commenters are urged to protect their privacy and should consider refraining from posting personal identifying information including but not limited to: last name, address, age, and phone number.

Responsibility for Content:

A comment posted by a member of the public on any City social media site expresses the views of the commenter only and publication of a comment does not imply endorsement of, or agreement by, the City, nor do such comments necessarily reflect the opinions or policies of the City.

Disclaimer of Notice:

Communications made through any City social media site shall in no way be deemed to constitute legal notice to the City or any of its departments, officers, employees, agents, or representatives with respect to any existing or potential claim or cause of action against the City or any of its departments, officers, employees, agents, or

representatives where notice to the City is required by any federal, state or local law, rule, or regulation.

Terms of Service of Social Media Networking Sites:

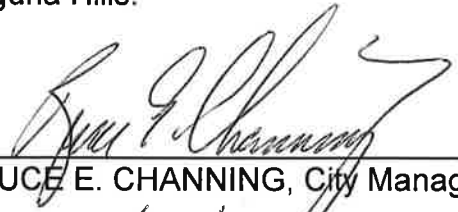
Each social networking source used by the City maintains a Terms of Service ("Terms") Agreement. In addition to being bound by the provisions of this policy, all users of any City social media site are bound by these Terms, and the City reserves the right to report any user violation.

Interpretation of Policy and Revisions:

The City Manager or designee is responsible for interpreting and enforcing this Policy, monitoring its implementation, and recommending changes to this Policy. The City reserves the right to modify this Policy at any time.

Approval:

Administrative Order No. 26 shall be effective on the date set forth above for the City of Laguna Hills.



BRUCE E. CHANNING, City Manager

3/13/17

Date of Issue

Approved as to Form:



GREGORY E. SIMONIAN, City Attorney

3/8/17

Date of Issue

CITY OF LAGUNA HILLS

ADMINISTRATIVE ORDER NO. 21
EFFECTIVE DATE: NOVEMBER 12, 2012
REVISED: FEBRUARY 21, 2017

General Subject: Miscellaneous Policies
Specific Subject: Community Portal Policy

Purpose:

The City desires to develop a "Community Portal" section of the City's website to help publicize local community events and activities that are of general and current interest.

The purpose of this Administrative Order is to establish a limited public forum and to set forth viewpoint neutral and reasonable standards for the posting of noncommercial messages on the Community Portal. All commercial messages and advertisements, regardless of content, shall be prohibited.

Statement of Policy:

Postings Permitted: Noncommercial messages and advertisements concerning the following may be posted on the Community Portal:

- a) Educational, philanthropic, civic, charitable, cultural, or recreational activities, events, or fundraisers;
- b) Public service announcements; and
- c) City programs, events, or meetings.

Postings Prohibited: All commercial messages, solicitations, and advertisements, and noncommercial messages which include any of the following are prohibited on the Community Portal:

- a) Content that defames, abuses, harasses, stalks, threatens or violates the legal rights of others;
- b) Sexual content, profanity, vulgarity, obscenity, racism, hatred, slander, threats and/or violence;
- c) Content that promotes, fosters, or perpetuates discrimination or personal attacks on the basis of race, creed, color, age, religion, gender, marital status, status with

regard to public assistance, national origin, physical or mental disability or sexual orientation;

- d) Content that contains personal information about another person or that violates a person's privacy;
- e) Content that promotes specific commercial entities, causes, products, candidates for office, ballot measures, or political organizations;
- f) Advertisements;
- g) Conduct or encouragement of illegal activity;
- h) Information that may tend to compromise the safety or security of the public or public systems; or
- i) Content that violates a legal ownership interest of any other party.

The City will apply these restrictions in a manner that is viewpoint neutral and is consistent over time.

Procedure:

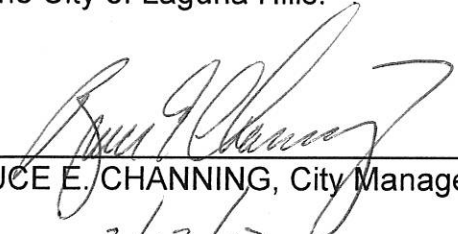
- a) All content intended for posting on the Community Portal must be delivered to the Community Services Director. The Community Services Director will review and evaluate the posting request consistent with the requirements set forth in this Policy.
- b) The Community Services Director shall determine whether the proposed posting complies with this Policy and is appropriate for posting. If deemed appropriate for posting, the Community Services Director will cause the notice to be posted on the Community Portal section of the City's website.
- c) Postings must be a reasonable file size, must not exceed 3 MB, and must be submitted in PDF file format.
- d) Due to limited staff time, the City may not be able to accommodate all postings submitted. Priority will be given in the order received.
- e) Postings containing specific dates for events and activities will be removed after the date(s) listed in the notice.

Interpretation of Policy and Discontinuance of Program:

- a) The City Manager is responsible for interpreting and enforcing this Policy, monitoring its implementation, and recommending changes to this Policy.
- b) The City Manager may immediately remove or otherwise discontinue use of the Community Portal in its entirety for any reason and at any time.

Approval:

Administrative Order No. 21, as revised, shall be effective on the date set forth above for the City of Laguna Hills.



BRUCE E. CHANNING, City Manager
3/13/17

Date of Issue

Approved as to Form:



GREGORY E. SIMONIAN, City Attorney
3/8/17

Date of Issue



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Janice Reyes
Finance Director
ISSUE: Utilization of State and Local Fiscal Recovery Funds as Authorized Under the American Rescue Plan Act

RECOMMENDATION: That the City Council appropriate the City's full allocation of Coronavirus-related State and Local Fiscal Recovery Funds, as authorized under the American Rescue Plan Act, for: 1) the provision of government services to the full extent of the reduction in revenue (revenue loss) due to the COVID-19 public health emergency; and 2) to respond to the public health emergency caused by COVID-19 or its negative economic impacts.

SUMMARY:

The American Rescue Plan Act (ARPA), signed into law on March 11, 2021, established the Coronavirus-related State and Local Fiscal Recovery Funds (SLFRF) program. This program is intended to provide support to state and local government's responses to the economic and public health impacts of COVID-19 and assist efforts to mitigate impacts on communities, residents, and businesses. The City's allocation of SLFRF is \$7,465,377. The first half payment of these funds to the City, \$3,732,688, (hereinafter \$3.7 million) was received in mid-July 2021 and the second half payment is expected in July 2022. The \$3.7 million received has been accounted for in a new Special Revenue Fund and is pending a decision by the City Council on the use of these funds in accordance with the associated regulations. The funds must be obligated by the City Council by December 31, 2024, and expended by December 31, 2026. The City is required to submit project and expenditure reports annually on the use of SLFRF to the United States Department of the Treasury beginning October 31, 2021.

On June 24, 2021, the Treasury Department issued an Interim Final Rule (IFR) with preliminary guidance, as well as Frequently Asked Questions, to assist jurisdictions in interpreting the policy language and outlined several eligible uses for the funds as further discussed in the Background. The allowable uses of these funds, amongst others, is for the replacement of City lost revenues as a result of the COVID-19 Pandemic. The application of the SLFRF funding for replacement of lost revenues provides the City with the most flexibility in the use of funds for government services. If the City Council obligates funds for government services, it would relieve available resources in the General Fund that could be used for other potential projects and initiatives. Hence, it is Staff's recommendation that the City Council direct the use of the SLFRF allocation: 1) for the provision of government services to the extent of the revenue loss due to the COVID-19 public health emergency; and 2) to respond to the COVID-19 public health emergency or its negative economic impacts. This recommendation is intended as an initial step for the required compliance reporting to the Treasury Department and the City Council will have ample opportunities to adjust the use of these funds upon receipt of the second tranche of SLFRF payment as further described herein.

BACKGROUND:

The American Rescue Plan Act (ARPA), which was signed into law by President Biden on March 11, 2021, is a nearly \$1.9 trillion coronavirus relief bill. ARPA provides a total of \$350 billion in Coronavirus-related State and Local Fiscal Recovery Funds (SLFRF) to assist eligible state and local governments with meeting their present needs in responding to the COVID-19 emergency and building the foundation for a stronger, more equitable economic recovery. Funds allocated to California include \$26 billion to the State, \$7.7 billion to counties, \$7 billion to metropolitan cities, and \$1.2 billion to small cities with populations under 50,000. Funding allocations were based on population. SLFRF funds must be used within certain limits prescribed in law and U.S. Department of the Treasury regulations. The Guidance documents issued by the United States Department of Treasury explaining these regulations are attached as listed below:

- ATTACHMENT A-1 "Interim Final Rule" (IFR)
- ATTACHMENT A-2 "Fact Sheet"
- ATTACHMENT A-3 "Frequently Asked Questions" (FAQs)
- ATTACHMENT A-4 "Compliance and Reporting Guidance – State and Local Fiscal Recovery Funds", version 1.1

Allocation and Distribution

ARPA established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund, which together make up the Coronavirus-related State Local Fiscal Recovery Funds (SLFRF) program. ARPA provides for the Treasury Department to make payments directly to states and various local governments, including cities designated as metropolitan cities with populations of 50,000 or more. ARPA also provided for the Treasury to make payments to the states to allocate and make funding available to smaller units of general local governments known as Non-entitlement Units (NEUs).

NEUs, defined in section 603(g)(5) of the Social Security Act, are local governments serving populations of less than 50,000. As a smaller city, Laguna Hills receives its SLFRF allocation via the State of California Department of Finance. While the statute requires states to make distributions to eligible NEUs, states may not place additional conditions or requirements on distributions to NEUs, beyond those required by the ARPA and Treasury Department's implementing regulations and guidance.

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. However, the total amount to be distributed to a NEU may not exceed the amount equal to 75 percent of its most recent budget as of January 27, 2020. Per the population formula, the total of SLFRF to be issued to the City of Laguna Hills is \$7,465,377.

All SLFRF recipients will receive funds in two equal tranches, approximately twelve months apart. The City's first 50% allocation, or \$3,732,688, was received in mid-July 2021. Consequently, this is the first City Council meeting at which the City Council can provide direction on the use of the first tranche of funds and provide input on the potential uses of the second tranche of funds.

Eligible Uses of SLFRF

To access SLFRF funds, NEUs were required to submit a request to the State and provide information as outlined in recent Treasury Department Guidance. A copy of the certification documents submitted by the City to the State are included as Attachment B to this staff report. All jurisdictions are responsible for adhering to the Treasury Department's requirements for expending and reporting on their use of funds. The IFR was posted on the Federal Register on May 16, 2021, and was effective May 17, 2021. Comments on the IFR were due on July 16, 2021. Staff is hopeful the Final Rules will be issued in late August 2021 without any significant changes. There are both specific

American Rescue Plan Act

August 24, 2021

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authorized and prohibited uses for the SLFRF. The prohibited uses are clearly outlined in Treasury Department Guidance and include the following:

- Deposits to Reserves or Rainy-Day Funds
- Deposits to Pension Funds for unfunded liabilities (current service costs may be eligible)
- Debt Services Payments
- Offset to tax cuts caused by a change in local law.

Outside of these restrictions, the City has substantial discretion to use the funds in ways that best suit the needs of its community – so long as the use fits into one of the following statutory program categories:

- A. Response to the COVID-19 public health emergency and support of various activities to decrease the spread of the virus and bring the pandemic under control, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- B. Address negative economic impacts caused by the public health emergency including economic harms to workers, households, small businesses, the public sector, nonprofits, or to provide aid to impacted industries such as tourism, travel, and hospitality;
- C. Replace lost public sector revenue, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- D. Provide premium pay to eligible workers or grants to eligible employers of workers who perform essential work during the COVID-19 public health emergency (up to an additional \$13 per hour and not to exceed \$25,000 per worker);
- E. Invest in water, sewer, and broadband infrastructure, by making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

The use of SLFRF is retroactive to March 3, 2021, and all funds must be obligated by

December 31, 2024. This time period covering almost four years is designed to provide prolonged support and recovery with the understanding that the recovery from COVID-19 will take many years.

Recommendations for First Appropriation:

Outlined below are some immediate recommendations for the first tranche appropriation of \$3.7 million, along with some categorical ideas for the second tranche appropriation that can be discussed in more detail when the second tranche of SLFRF is provided. In developing these recommendations, particularly for the first tranche appropriation, Staff's focus is on what would off-set COVID-19 related revenue losses and/or free-up limited resources to support previously adopted budget priorities, projects and deferred maintenance. The Treasury Department outlined several eligible uses for the funds, as outlined above as Categories A – E.

1. Revenue Loss Provisions of Category "C"

Within the allowable categories, Category C for the replacement of City lost revenues provides the most flexibility in the use of these funds. In the Treasury Department Guidance, any calculated reduction in actual revenue is presumed to have been due to the COVID-19 public health emergency. This presumption is made for ease of administration and in recognition of the broad-based economic damage that the Pandemic has caused.

Computation of Revenue Loss

The League of California Cities (League), alongside a team of city finance professionals and the California Society of Municipal Finance Officers (CSMFO), created an innovative revenue loss calculation tool that will help cities comply with the SLFRF funding rules. This new tool developed by the League and CSMFO incorporates the latest Treasury Department's Guidance and its applicability to local government finance in California as understood by their team of finance professionals.

The revenue loss calculation is an aggregate calculation to include all governmental funds and proprietary funds. Hence, the City may factor in revenues from its General Fund, various revenues from its Special Revenue Funds, as well as its Civic Center Leasing Operation Business-type Fund.

Using this revenue loss calculator tool, attached to this staff report as Attachment C, the

City's entire first SLFRF tranche of \$3.7 million is justified as revenue loss and is then applicable to government services after March 3, 2021. Recipients are permitted to calculate the extent of reduction in revenue at four points in time: December 31, 2020; December 31, 2021; December 31, 2022; and December 31, 2023. Upon receiving its first SLFRF appropriation of \$3.7 million, the City is allowed to account for the recovery of actual revenue lost for the period ending December 31, 2020, or \$1,436,730 (based on the revenue loss calculator) and the projected loss of an additional \$1,731,451 due revenue loss for the following reporting period ending December 31, 2021. A remaining SLFRF balance \$564,507 (\$3,732,688 less \$1,436,730 less \$1,731,451) could be applied to the projected revenue loss in the subsequent reporting period ending December 31, 2022. To calculate these projected revenue losses in the future reporting periods ending December 31, 2021 and 2022, the revenues estimates from City's adopted Biennial Budget were applied to the revenue loss calculator.

Use of Funds Recovered for Revenue Loss

The Treasury Department Guidance also gives broad latitude to use revenue loss funds for the provision of "government services". The Treasury Department Guidance acknowledges that "government services" is broadly defined and can include, but is not limited to:

- The provision of police, fire and other public safety services;
- Maintenance or pay-go funded building of infrastructure;
- Modernization of cybersecurity, including hardware, software, and protection of critical infrastructure;
- Environmental remediation;
- Health services;
- School or educational services.

The prohibited uses still apply to funds justified as revenue loss. While amounts determined eligible under "Category C - revenue loss" may be used broadly for "government services", certain limitations apply. Those limitations are:

- The covered period is March 3, 2021, to December 31, 2024 (IFR p.88)

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- Fund must be obligated by December 31, 2024, and fully expended by December 31, 2026 (IFR p.88)
 - May not spend funds on pension deposits (IFR p.71)
 - May not be used to replenish rainy day funds, financial reserves, etc. (IFR p.42, 60)
 - May not be used for debt obligations (IFR p.42)
 - May not be used as non-Federal Match for other Federal Programs (IFR p. 86)

Furthermore, there are absolutely no provisions that would require the apportioning the use of an amount determined under Category C Revenue Loss among particular funds. That is, regardless of the inclusion of all funds in the loss calculation, the eligible funds may be used for any “governmental purpose”.

With the flexibility provided by Category “C” Revenue Loss, the City would be replacing revenue lost during the COVID-19 pandemic and consequential economic downturn and spending it on government services impacted as a result. In doing so, the City would be supporting the essential services most affected by the Pandemic. This approach is consistent with the adopted budget of returning City service levels to nearly those provided pre-pandemic.

It is the City’s policy to fund current year operating expenditures with current year operating revenues. Additionally, the City Financial Policy recommends maintaining the ratio of “operating revenues to operating expenditure” at 1.1 to 1, or greater. No one-time, non-recurring revenues or Gas Tax (HUTA and RMRA) revenues may be used in determining the ratio unless the City Council authorizes the use of reserves and/or non-recurring revenues to balance the budget. The COVID-19 Pandemic has resulted in a significant unforeseen reduction in annual City revenues causing a budget imbalance, identifying potential deficit spending in the 2021-2022 Fiscal Year Budget. As a result, it was the Interim City Manager’s recommendation to apply a one-time use of non-recurring revenues to balance the Budget and this was approved by the City Council. The table below provides a review of budget scenarios, with Scenario 1 and 2 being discussed during the aforementioned adoption of the 2021-2022 Fiscal Year Budget, as follows:

- Scenario 1 is the projected deficit spending without the use of non-recurring

revenues;

- Scenario 2 is the use of \$863,090 in non-recurring revenues to achieve a 1.0 operating ratio (as has been approved by the City Council in the current Budget), and;
- Scenario 3 is the allocation of \$3,168,181 in revenue loss recovery from the first tranche of SLFRF (\$1,436,730 actual revenue loss as of December 31, 2020, plus \$1,731,451 projected revenue loss as of December 31, 2020) to achieve the 1.1 policy target ratio.

FY 2021/22 Operating Budget	SCENARIO 1	SCENARIO 2	SCENARIO 3
General Fund Revenues	22,236,737	22,236,737	22,236,737
Other Operating Revenues	826,042	826,042	826,042
<i>Use of Non-recurring Revenues</i>	-	<i>863,090</i>	<i>3,168,181</i>
Total Revenues	23,062,779	23,925,869	26,230,960
Personnel	5,148,039	5,148,039	5,148,039
Maintenance & Operations	2,679,878	2,679,878	2,679,878
Contracts & Professional Services	14,194,331	14,194,331	14,194,331
Capital Outlay	103,700	103,700	103,700
Total Operating Expenditures	22,125,948	22,125,948	22,125,948
Debt Service	1,799,921	1,799,921	1,799,921
Total Expenditures	23,925,869	23,925,869	23,925,869
Operating Surplus/(Deficit)	(863,090)	-	2,305,091
<i>Operating Ratio</i>	<i>0.96</i>	<i>1.00</i>	<i>1.10</i>

The broad latitude provided in the Treasury Department Guidance to use revenue loss funds for the provision of “government services” allows the City Council to obligate the use of SLFRF funds for recovery of revenue loss to support “government services” currently budgeted, essentially funding the current budget, addressing deferred maintenance and reversing previous service reductions.

Recipient Compliance and Reporting

Each SLFRF recipient is required to meet compliance and reporting responsibilities, as defined in Treasury Guidance and further described in the Compliance and Reporting Guidance. NEUs are required to submit a project and expenditure report to the Treasury

annually on the use of funds. Should the City allocate funds under Category “C” Revenue Loss, the City will be required to submit a description of services provided in the required annual reports. As discussed in the Interim Final Rule, the governmental services can include a broad range of services but may not be used directly for pension deposits or debt service.

2. COVID-19 Public Health Response

ARPA also provides that funds may be used for expenditures incurred as a public health response to COVID-19 through December 31, 2024. Currently, the City has incurred an estimated \$125,000 in expense over and above the funds it received from the 2020 Coronavirus Relief Funds (CRF) as part of the Coronavirus Aid, Relief and Economic Security (CARES) Act related to its public health response for COVID-19. To cover some of this cost, Staff is seeking Federal Emergency Management Agency (FEMA) reimbursements to supplement the funding of these disaster related expenditures. However, in reviewing the nature of some of the estimated \$125,000 already incurred, Staff has concluded that not all \$125,000 is eligible for FEMA reimbursement and FEMA has the final word on any reimbursement of the disaster relief funds applied for by the City. Staff continues to work with FEMA and CalOES to file the necessary documentation to support its claims to FEMA for reimbursement. However, the timelines for FEMA reimbursements are unclear and experience suggests that there will be a considerable lag between filing reimbursement claims and receiving FEMA funding, creating both budgetary and cash flow shortfalls. Thus, Staff recommends the use of SLFRF funds to backfill eligible expenditures related to the public health response of COVID-19 that are not eligible for FEMA reimbursement and not covered by any other eligible special revenue funding sources.

3. Potential Use of Future Appropriations

The second tranche SLFRF payment of \$3.7 million expected in July 2022 can continue to be utilized to offset Revenue Loss, as calculated at that time. The potential expenditures and projects, in no particular order, that can potentially be funded with the second tranche of SLFRF funds include the following:

- Category C - Revenue Loss (subsequently allowing a variety of capital projects to be funded)
- Category B – Reduce Economic Impact (financial support for businesses)

-
- Category A – Public Health (Community Center improvements such as air conditioning to the gymnasium and air purification of the building)
 - Category A – Public Health (Civic Center improvements such as add air purification of the building)

Based upon direction from City Council and the final Treasure Guidelines, once issued, Staff will present additional comprehensive information on potential projects and initiatives for the second tranche of funding by provided by SLFRF.

FISCAL IMPACT:

The \$7,465,377 in SLFRF funding the City will receive will cover eligible expenditures that are fully obligated by December 31, 2024, and expended by December 31, 2026. The first half funding payment of \$3,732,688 was received in July 2021 and the second half funding payment is expected in July 2022.

ATTACHMENTS:

- ATTACHMENT A-1 Interim Final Rules (IFR)
- ATTACHMENT A-2 Fact-Sheet
- ATTACHMENT A-3 FAQs
- ATTACHMENT A-4 Compliance and Reporting Guidance
- ATTACHMENT B - Non-Entitlement Units (NEUs) Certification Documents
- ATTACHMENT C - Revenue Loss Calculation

DEPARTMENT OF THE TREASURY

31 CFR Part 35

RIN 1505-AC77

Coronavirus State and Local Fiscal Recovery Funds

AGENCY: Department of the Treasury.

ACTION: Interim final rule.

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

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

Comment date: Comments must be received on or before July 16, 2021. **ADDRESSES:** Please submit comments electronically through the Federal eRulemaking Portal: <http://www.regulations.gov>. Comments can be mailed to the Office of the Undersecretary for Domestic Finance, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delay, it is recommended that comments be submitted electronically. All comments should be captions with "Coronavirus State and Local Fiscal Recovery Funds Interim Final Rule Comments." Please include your name, organization affiliation, address, email address and telephone number in your comment. Where appropriate, a comment should include a short executive summary.

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

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

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Overview

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

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

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

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

² U.S. Bureau of Labor Statistics, Unemployment Rate [UNRATE], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/UNRATE>, May 3, 2021. U.S. Bureau of Labor Statistics, Employment Level [LNU02000000], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/LNU02000000>, May 3, 2021.

³ U.S. Bureau of Labor Statistics, All Employees, Total Nonfarm [PAYEMS], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PAYEMS>, May 7, 2021.

⁴ Nirmita Panchal et al., The Implications of COVID-19 for Mental Health and Substance Abuse (Feb. 10, 2021), <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/#:~:text=Older%20adults%20are%20also%20more,prior%20to%20the%20current%20crisis;U.S.CensusBureau,HouseholdPulseSurvey:MeasuringSocialandEconomicImpactsduringtheCoronavirusPandemic,https://www.census.gov/programs-surveys/household-pulse-survey.html> (last visited Apr. 26, 2021); Rebecca T. Leeb et al., Mental Health-Related Emergency Department Visits Among Children Aged <18 Years During the COVID Pandemic—United States, January 1—October 17, 2020, *Morb. Mortal. Wkly. Rep.* 69(45):1675–80 (Nov. 13, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6945a3.htm>.

⁵ Board of Governors of the Federal Reserve System, Monetary Policy Report (June 12, 2020), <https://www.federalreserve.gov/monetarypolicy/2020-06-mpr-summary.htm>.

⁶ Joseph R. Biden, Remarks by President Biden on Helping Small Businesses (Feb. 22, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/>.

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

Continued

²³ Centers for Disease Control and Prevention, COVID Data Tracker: Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendscases (last visited May 8, 2021).

²⁴ *Id.*

²⁵ Centers for Disease Control and Prevention, COVID Data Tracker: COVID-19 Vaccinations in the United States, <https://covid.cdc.gov/covid-data-tracker/#vaccinations> (last visited May 8, 2021).

²⁶ Panchal, *supra* note 4; Mark E. Czeisler et al., Mental Health, Substance Abuse, and Suicidal Ideation During COVID-19 Pandemic—United States, June 24–30 2020, *Morb. Mortal. Wkly. Rep.* 69(32):1049–57 (Aug. 14, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6932a1.htm>.

²⁷ Leeb, *supra* note 4.

²⁸ Centers for Disease Prevention and Control, National Center for Health Statistics, Provisional Drug Overdose Death Counts, <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm> (last visited May 8, 2021).

Over the last year, Native Americans have experienced more than one and a half times the rate of COVID-19 infections, more than triple the rate of hospitalizations, and more than double the death rate compared to White Americans.³⁵ Low-income and minority communities also exhibit higher rates of pre-existing conditions that may contribute to an increased risk of COVID-19 mortality.³⁶

In addition, individuals living in low-income communities may have had more limited ability to socially distance or to self-isolate when ill, resulting in faster spread of the virus, and were over-represented among essential workers, who faced greater risk of exposure.³⁷ Social distancing measures in response to the pandemic may have also exacerbated pre-existing public health challenges. For example, for children living in homes with lead paint, spending substantially more time at home raises the risk of developing elevated blood lead levels, while screenings for elevated blood lead levels declined during the pandemic.³⁸ The combination of these underlying social and health vulnerabilities may have contributed to more severe public health outcomes of the pandemic within these communities, resulting in an exacerbation of pre-existing disparities in health outcomes.³⁹

and Deaths in the United States, by Social Vulnerability Index, https://covid.cdc.gov/covid-data-tracker/#pop-factors_totaldeaths (last visited May 8, 2021).

³⁵ Centers for Disease Control and Prevention, Risk for COVID-19 Infection, Hospitalization, and Death By Race/Ethnicity, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html> (last visited Apr. 26, 2021).

³⁶ See, e.g., Centers for Disease Control and Prevention, Risk of Severe Illness or Death from COVID-19 (Dec. 10, 2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-illness.html> (last visited Apr. 26, 2021).

³⁷ Milena Almagro et al., Racial Disparities in Frontline Workers and Housing Crowding During COVID-19: Evidence from Geolocation Data (Sept. 22, 2020), NYU Stern School of Business (forthcoming), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695249; Grace McCormack et al., Economic Vulnerability of Households with Essential Workers, *JAMA* 324(4):388–90 (2020), available at <https://jamanetwork.com/journals/jama/fullarticle/2767630>.

³⁸ See, e.g., Joseph G. Courtney et al., Decreases in Young Children Who Received Blood Lead Level Testing During COVID-19—34 Jurisdictions, *January–May 2020*, *Morb. Mort. Wkly. Rep.* 70(5):155–61 (Feb. 5, 2021), <https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a2.htm>; Emily A. Benfer & Lindsay F. Wiley, Health Justice Strategies to Combat COVID-19: Protecting Vulnerable Communities During a Pandemic, *Health Affairs Blog* (Mar. 19, 2020), <https://www.healthaffairs.org/doi/10.1377/hlbg20200319.757883/full/>.

³⁹ See, e.g., Centers for Disease Control and Prevention, *supra* note 34; Benfer & Wiley, *supra*

Eligible Public Health Uses. The Fiscal Recovery Funds provide resources to meet and address these emergent public health needs, including through measures to counter the spread of COVID-19, through the provision of care for those impacted by the virus, and through programs or services that address disparities in public health that have been exacerbated by the pandemic. To facilitate implementation and use of payments from the Fiscal Recovery Funds, the interim final rule identifies a non-exclusive list of eligible uses of funding to respond to the COVID-19 public health emergency. Eligible uses listed under this section build and expand upon permissible expenditures under the CRF, while recognizing the differences between the ARPA and CARES Act, and recognizing that the response to the COVID-19 public health emergency has changed and will continue to change over time. To assess whether additional uses would be eligible under this category, recipients should identify an effect of COVID-19 on public health, including either or both of immediate effects or effects that may manifest over months or years, and assess how the use would respond to or address the identified need.

The interim final rule identifies a non-exclusive list of uses that address the effects of the COVID-19 public health emergency, including:

- *COVID-19 Mitigation and Prevention.* A broad range of services and programming are needed to contain COVID-19. Mitigation and prevention efforts for COVID-19 include vaccination programs; medical care; testing; contact tracing; support for isolation or quarantine; supports for vulnerable populations to access medical or public health services; public health surveillance (e.g., monitoring case trends, genomic sequencing for variants); enforcement of public health orders; public communication efforts; enhancement to health care capacity, including through alternative care facilities; purchases of personal protective equipment; support for prevention, mitigation, or other services in congregate living facilities (e.g., nursing homes, incarceration settings, homeless shelters, group living facilities) and other key settings like schools;⁴⁰ ventilation improvements in

note 38; Nathaniel M. Lewis et al., Disparities in COVID-19 Incidence, Hospitalizations, and Testing, by Area-Level Deprivation—Utah, March 3–July 9, 2020, *Morb. Mort. Wkly. Rep.* 69(38):1369–73 (Sept. 25, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/mm6938a4.htm>.

⁴⁰ This includes implementing mitigation strategies consistent with the Centers for Disease Control and Prevention's (CDC) Operational

congregate settings, health care settings, or other key locations; enhancement of public health data systems; and other public health responses.⁴¹ They also include capital investments in public facilities to meet pandemic operational needs, such as physical plant improvements to public hospitals and health clinics or adaptations to public buildings to implement COVID-19 mitigation tactics. These COVID-19 prevention and mitigation programs and services, among others, were eligible expenditures under the CRF and are eligible uses under this category of eligible uses for the Fiscal Recovery Funds.⁴²

- *Medical Expenses.* The COVID-19 public health emergency continues to have devastating effects on public health; the United States continues to average hundreds of deaths per day and the spread of new COVID-19 variants has raised new risks and genomic surveillance needs.⁴³ Moreover, our understanding of the potentially serious and long-term effects of the virus is growing, including the potential for symptoms like shortness of breath to continue for weeks or months, for multi-organ impacts from COVID-19, or for post-intensive care syndrome.⁴⁴ State and local governments may need to continue to provide care and services to address these near- and longer-term needs.⁴⁵

Strategy for K–12 Schools through Phased Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/operation-strategy.html>.

⁴¹ Many of these expenses were also eligible in the CRF. Generally, funding uses eligible under CRF as a response to the direct public health impacts of COVID-19 will continue to be eligible under the ARPA, including those not explicitly listed here (e.g., telemedicine costs, costs to facilitate compliance with public health orders, disinfection of public areas, facilitating distance learning, increased solid waste disposal needs related to PPE, paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions), with the following two exceptions: (1) The standard for eligibility of public health and safety payrolls has been updated (see section II.A of this **SUPPLEMENTARY INFORMATION**) and (2) expenses related to the issuance of tax-anticipation notes are no longer an eligible funding use (see discussion of debt service in section II.B of this **SUPPLEMENTARY INFORMATION**).

⁴² Coronavirus Relief Fund for States, Tribal Governments, and Certain Eligible Local Governments, 86 FR 4182 (Jan. 15, 2021), available at https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.

⁴³ Centers for Disease Control and Prevention, *supra* note 24.

⁴⁴ Centers for Disease Control and Prevention, Long-Term Effects (Apr. 8, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/long-term-effects.html> (last visited Apr. 26, 2021).

⁴⁵ Pursuant to 42 CFR 433.51 and 45 CFR 75.306, Fiscal Recovery Funds may not serve as a State or locality's contribution of certain Federal funds.

• *Behavioral Health Care.* In addition, new or enhanced State, local, and Tribal government services may be needed to meet behavioral health needs exacerbated by the pandemic and respond to other public health impacts. These services include mental health treatment, substance misuse treatment, other behavioral health services, hotlines or warmlines, crisis intervention, overdose prevention, infectious disease prevention, and services or outreach to promote access to physical or behavioral health primary care and preventative medicine.

• *Public Health and Safety Staff.* Treasury recognizes that responding to the public health and negative economic impacts of the pandemic, including administering the services described above, requires a substantial commitment of State, local, and Tribal government human resources. As a result, the Fiscal Recovery Funds may be used for payroll and covered benefits expenses for public safety, public health, health care, human services, and similar employees, to the extent that their services are devoted to mitigating or responding to the COVID-19 public health emergency.⁴⁶ Accordingly, the Fiscal Recovery Funds may be used to support the payroll and covered benefits for the portion of the employee's time that is dedicated to responding to the COVID-19 public health emergency. For administrative convenience, the recipient may consider public health and safety employees to be entirely devoted to mitigating or responding to the COVID-19 public health emergency, and therefore fully covered, if the employee, or his or her operating unit or division, is primarily dedicated to responding to the COVID-19 public health emergency. Recipients may consider other presumptions for assessing the extent to which an employee, division, or operating unit is engaged in activities that respond to the COVID-19 public health emergency, provided that the recipient reassesses periodically and maintains records to support its assessment, such as payroll records, attestations from supervisors or staff, or regular work product or correspondence demonstrating work on

the COVID-19 response. Recipients need not routinely track staff hours.

• *Expenses to Improve the Design and Execution of Health and Public Health Programs.* State, local, and Tribal governments may use payments from the Fiscal Recovery Funds to engage in planning and analysis in order to improve programs addressing the COVID-19 pandemic, including through use of targeted consumer outreach, improvements to data or technology infrastructure, impact evaluations, and data analysis.

Eligible Uses to Address Disparities in Public Health Outcomes. In addition, in recognition of the disproportionate impacts of the COVID-19 pandemic on health outcomes in low-income and Native American communities and the importance of mitigating these effects, the interim final rule identifies a broader range of services and programs that will be presumed to be responding to the public health emergency when provided in these communities. Specifically, Treasury will presume that certain types of services, outlined below, are eligible uses when provided in a Qualified Census Tract (QCT),⁴⁷ to families living in QCTs, or when these services are provided by Tribal governments.⁴⁸ Recipients may also provide these services to other populations, households, or geographic areas that are disproportionately impacted by the pandemic. In identifying these disproportionately-impacted communities, recipients should be able to support their determination that the pandemic resulted in disproportionate public health or economic outcomes to the

⁴⁷ Qualified Census Tracts are a common, readily-accessible, and geographically granular method of identifying communities with a large proportion of low-income residents. Using an existing measure may speed implementation and decrease administrative burden, while identifying areas of need at a highly-localized level.

While QCTs are an effective tool generally, many tribal communities have households with a wide range of income levels due in part to non-tribal member, high income residents living in the community. Mixed income communities, with a significant share of tribal members at the lowest levels of income, are often not included as eligible QCTs yet tribal residents are experiencing disproportionate impacts due to the pandemic. Therefore, including all services provided by Tribal governments is a more effective means of ensuring that disproportionately impacted Tribal members can receive services.

⁴⁸ U.S. Department of Housing and Urban Development (HUD), Qualified Census Tracts and Difficult Development Areas, <https://www.huduser.gov/portal/datasets/qct.html> (last visited Apr. 26, 2021); U.S. Department of the Interior, Bureau of Indian Affairs, Indian Lands of Federally Recognized Tribes of the United States (June 2016), <https://www.bia.gov/sites/bia.gov/files/assets/bia/ots/webteam/pdf/idc1-028635.pdf> (last visited Apr. 26, 2021).

specific populations, households, or geographic areas to be served.

Given the exacerbation of health disparities during the pandemic and the role of pre-existing social vulnerabilities in driving these disparate outcomes, services to address health disparities are presumed to be responsive to the public health impacts of the pandemic. Specifically, recipients may use payments from the Fiscal Recovery Funds to facilitate access to resources that improve health outcomes, including services that connect residents with health care resources and public assistance programs and build healthier environments, such as:

- Funding community health workers to help community members access health services and services to address the social determinants of health;⁴⁹
- Funding public benefits navigators to assist community members with navigating and applying for available Federal, State, and local public benefits or services;
- Housing services to support healthy living environments and neighborhoods conducive to mental and physical wellness;
- Remediation of lead paint or other lead hazards to reduce risk of elevated blood lead levels among children; and
- Evidence-based community violence intervention programs to prevent violence and mitigate the increase in violence during the pandemic.⁵⁰

2. Responding to Negative Economic Impacts

Impacts on Households and Individuals. The public health emergency, including the necessary measures taken to protect public health, resulted in significant economic and financial hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote

⁴⁹ The social determinants of health are the social and environmental conditions that affect health outcomes, specifically economic stability, health care access, social context, neighborhoods and built environment, and education access. See, e.g., U.S. Department of Health and Human Services, Office of Disease Prevention and Health Promotion, Healthy People 2030: Social Determinants of Health, <https://health.gov/healthypeople/objectives-and-data/social-determinants-health> (last visited Apr. 26, 2021).

⁵⁰ National Commission on COVID-19 and Criminal Justice, Impact Report: COVID-19 and Crime (Jan. 31, 2021), <https://covid19.counciloncj.org/2021/01/31/impact-report-covid-19-and-crime-3/> (showing a spike in homicide and assaults); Brad Boesrup et al., Alarming Trends in US domestic violence during the COVID-19 pandemic, *Am. J. of Emerg. Med.* 38(12): 2753–55 (Dec. 1, 2020), available at [https://www.ajemjournal.com/article/S0735-6757\(20\)30307-7/fulltext](https://www.ajemjournal.com/article/S0735-6757(20)30307-7/fulltext) (showing a spike in domestic violence).

⁴⁶ In general, if an employee's wages and salaries are an eligible use of Fiscal Recovery Funds, recipients may treat the employee's covered benefits as an eligible use of Fiscal Recovery Funds. For purposes of the Fiscal Recovery Funds, covered benefits include costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and state), workers compensation insurance, and Federal Insurance Contributions Act (FICA) taxes (which includes Social Security and Medicare taxes).

education, and travel declined precipitously, over 20 million jobs were lost in March and April 2020.⁵¹ Although many have returned to work, as of April 2021, the economy remains 8.2 million jobs below its pre-pandemic peak,⁵² and more than 3 million workers have dropped out of the labor market altogether relative to February 2020.⁵³

Rates of unemployment are particularly severe among workers of color and workers with lower levels of educational attainment; for example, the overall unemployment rate in the United States was 6.1 percent in April 2021, but certain groups saw much higher rates: 9.7 percent for Black workers, 7.9 percent for Hispanic or Latino workers, and 9.3 percent for workers without a high school diploma.⁵⁴ Job losses have also been particularly steep among low wage workers, with these workers remaining furthest from recovery as of the end of 2020.⁵⁵ A severe recession—and its concentrated impact among low-income workers—has amplified food and housing insecurity, with an estimated nearly 17 million adults living in households where there is sometimes or often not enough food to eat and an estimated 10.7 million adults living in households that were not current on rent.⁵⁶ Over the course of the pandemic,

inequities also manifested along gender lines, as schools closed to in-person activities, leaving many working families without child care during the day.⁵⁷ Women of color have been hit especially hard: The labor force participation rate for Black women has fallen by 3.2 percentage points⁵⁸ during the pandemic as compared to 1.0 percentage points for Black men⁵⁹ and 2.0 percentage points for White women.⁶⁰

As the economy recovers, the effects of the pandemic-related recession may continue to impact households, including a risk of longer-term effects on earnings and economic potential. For example, unemployed workers, especially those who have experienced longer periods of unemployment, earn lower wages over the long term once rehired.⁶¹ In addition to the labor market consequences for unemployed workers, recessions can also cause longer-term economic challenges through, among other factors, damaged consumer credit scores⁶² and reduced familial and childhood wellbeing.⁶³

Food, Housing, and Employment Hardships, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-recessions-effects-on-food-housing-and> (last visited May 8, 2021).

⁵¹ Women have carried a larger share of childcare responsibilities than men during the COVID-19 crisis. See, e.g., Gema Zamarro & 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/cpseaa04.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/cpseaa05.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.frbf.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.frbf.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

⁸⁹ 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->

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.

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/>.

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.

⁹⁴ See *supra* notes 52 and 84.

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/oesrcst.htm> (last visited May 1, 2021); U.S. Bureau

months. Essential workers who have already earned premium pay for essential work performed during the COVID-19 public health emergency remain eligible for additional payments, and an essential worker may receive both retrospective premium pay for prior work as well as prospective premium pay for current or ongoing work.

To ensure any grants respond to the needs of essential workers and are made in a fair and transparent manner, the rule imposes some additional reporting requirements for grants to third-party employers, including the public disclosure of grants provided. See Section VIII of this **SUPPLEMENTARY INFORMATION**, discussing reporting requirements. In responding to the needs of essential workers, a grant to an employer may provide premium pay to eligible workers performing essential work, as these terms are defined in the interim final rule and discussed above. A grant provided to an employer may also be for essential work performed by eligible workers pursuant to a contract. For example, if a municipality contracts with a third party to perform sanitation work, the third-party contractor could be eligible to receive a grant to provide premium pay for these eligible workers.

Question 10: Are there additional sectors beyond those listed in the interim final rule that should be considered essential critical infrastructure sectors?

Question 11: What, if any, additional criteria should Treasury consider to ensure that premium pay responds to essential workers?

Question 12: What consideration, if any, should be given to the criteria on salary threshold, including measure and level, for requiring written justification?

C. Revenue Loss

Recipients may use payments from the Fiscal Recovery Funds for the provision of government services to the extent of the reduction in revenue experienced due to the COVID-19 public health emergency.¹⁰⁸ Pursuant to sections 602(c)(1)(C) and 603(c)(1)(C) of the Act, a recipient's reduction in revenue is measured relative to the revenue collected in the most recent full fiscal year prior to the emergency.

Many State, local, and Tribal governments are experiencing significant budget shortfalls, which can have a devastating impact on communities. State government tax revenue from major sources were down 4.3 percent in the six months ended September 2020, relative to the same

period 2019.¹⁰⁹ At the local level, nearly 90 percent of cities have reported being less able to meet the fiscal needs of their communities and, on average, cities expect a double-digit decline in general fund revenues in their fiscal year 2021.¹¹⁰ Similarly, surveys of Tribal governments and Tribal enterprises found majorities of respondents reporting substantial cost increases and revenue decreases, with Tribal governments reporting reductions in healthcare, housing, social services, and economic development activities as a result of reduced revenues.¹¹¹ These budget shortfalls are particularly problematic in the current environment, as State, local, and Tribal governments work to mitigate and contain the COVID-19 pandemic and help citizens weather the economic downturn.

Further, State, local, and Tribal government budgets affect the broader economic recovery. During the period following the 2007–2009 recession, State and local government budget pressures led to fiscal austerity that was a significant drag on the overall economic recovery.¹¹² Inflation-adjusted State and local government revenue did not return to the previous peak until 2013,¹¹³ while State, local, and Tribal government employment did not recover to its prior peak for over a decade, until August 2019—just a few months before the COVID-19 public health emergency began.¹¹⁴

¹⁰⁹ Major sources include personal income tax, corporate income tax, sales tax, and property tax. See Lucy Dadayan, States Reported Revenue Growth in July–September Quarter, Reflecting Revenue Shifts from the Prior Quarter, State Tax and Econ. Rev. (Q. 3, 2020), available at https://www.urban.org/sites/default/files/publication/103938/state-tax-and-economic-review-2020-q3_0.pdf.

¹¹⁰ National League of Cities, City Fiscal Conditions (2020), available at https://www.nlc.org/wp-content/uploads/2020/08/City_Fiscal_Conditions_2020_FINAL.pdf.

¹¹¹ Surveys conducted by the Center for Indian Country Development at the Federal Reserve Bank of Minneapolis in March, April, and September 2020. See Moreno & Sobrepina, *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.

¹¹⁷ Fund-oriented reporting, such as what is used under the Governmental Accounting Standards Board (GASB), focuses on the types of uses and activities funded by the revenue, as opposed to the economic activity from which the revenue is sourced. See Governmental Accounting Standards Series, Statement No. 54 of the Governmental Accounting Standards Board: Fund Balance Reporting and Governmental Fund Type Definitions, No. 287–B (Feb. 2009).

¹¹⁸ *Supra* note 116.

¹²² Together with revenue from liquor stores from 2015 to 2018. This estimate does not include any intergovernmental transfers. A recipient using the three-year average to calculate their growth adjustment must be based on the definition of general revenue, including treatment of intergovernmental transfers. 2015–2018 represents the most recent available data. See U.S. Census Bureau, State & Local Government Finance Historical Datasets and Tables (2018), <https://www.census.gov/programs-surveys/gov-finances/data/datasets.html>.

years prior to the COVID-19 public health emergency.

- *Step 3:* Identify *actual revenue*, which equals revenues collected over the past twelve months as of the calculation date.

- *Step 4:* The extent of the reduction in revenue is equal to *counterfactual*

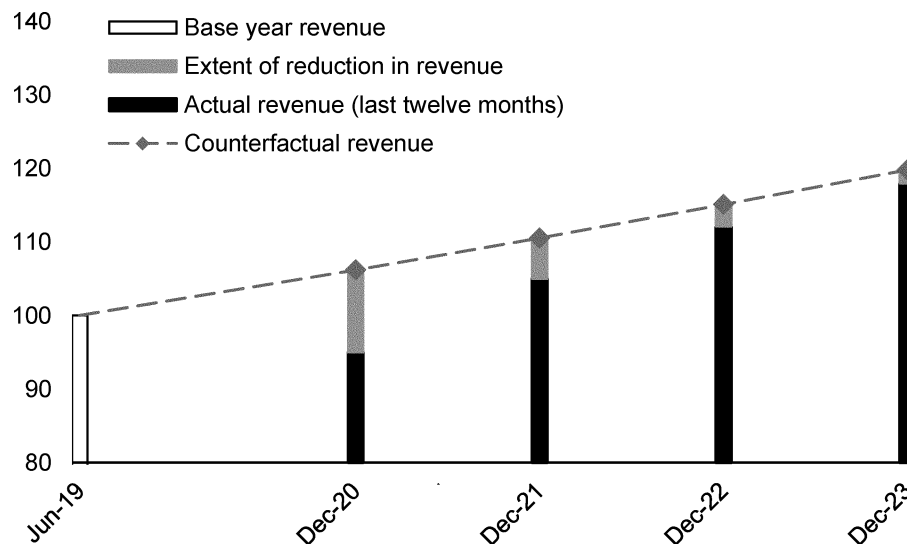
revenue less actual revenue. If actual revenue exceeds counterfactual revenue, the extent of the reduction in revenue is set to zero for that calculation date.

For illustration, consider a hypothetical recipient with *base year revenue* equal to 100. In Step 2, the hypothetical recipient finds that 4.1

percent is greater than the recipient's average annual revenue growth in the three full fiscal years prior to the public health emergency. Furthermore, this recipient's base year ends June 30. In this illustration, *n* (months elapsed) and *counterfactual revenue* would be equal to:

As of:	12/31/2020	12/31/2021	12/31/2022	12/31/2023
<i>n</i> (months elapsed)	18	30	42	54
<i>Counterfactual revenue:</i>	106.2	110.6	115.1	119.8

The overall methodology for calculating the reduction in revenue is illustrated in the figure below:



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

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building¹²³ of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and the provision of police, fire, and other public safety services. However, expenses associated with obligations under instruments evidencing financial indebtedness for

borrowed money would not be considered the provision of government services, as these financing expenses do not directly provide services or aid to citizens. Specifically, government services would not include interest or principal on any outstanding debt instrument, including, for example, short-term revenue or tax anticipation notes, or fees or issuance costs associated with the issuance of new debt. For the same reasons, government services would not include satisfaction of any obligation arising under or pursuant to a settlement agreement, judgment, consent decree, or judicially confirmed debt restructuring in a judicial, administrative, or regulatory proceeding, except if the judgment or settlement required the provision of government services. That is, satisfaction of a settlement or judgment itself is not a government service, unless the settlement required the provision of government services. In addition, replenishing financial reserves (e.g., rainy day or other reserve funds) would

not be considered provision of a government service, since such expenses do not directly relate to the provision of government services.

Question 13: Are there sources of revenue that either should or should not be included in the interim final rule's measure of "general revenue" for recipients? If so, discuss why these sources either should or should not be included.

Question 14: In the interim final rule, recipients are expected to calculate the reduction in revenue on an aggregate basis. Discuss the advantages and disadvantages of, and any potential concerns with, this approach, including circumstances in which it could be necessary or appropriate to calculate the reduction in revenue by source.

Question 15: Treasury is considering whether to take into account other factors, including actions taken by the recipient as well as the expiration of the COVID-19 public health emergency, in determining whether to presume that revenue losses are "due to" the COVID-

¹²³ Pay-go infrastructure funding refers to the practice of funding capital projects with cash-on-hand from taxes, fees, grants, and other sources, rather than with borrowed sums.

19 public health emergency. Discuss the advantages and disadvantages of this presumption, including when, if ever, during the covered period it would be appropriate to reevaluate the presumption that all losses are attributable to the COVID-19 public health emergency.

Question 16: Do recipients anticipate lagged revenue effects of the public health emergency? If so, when would these lagged effects be expected to occur, and what can Treasury do to support these recipients through its implementation of the program?

Question 17: In the interim final rule, paying interest or principal on government debt is not considered provision of a government service. Discuss the advantages and disadvantages of this approach, including circumstances in which paying interest or principal on government debt could be considered provision of a government service.

D. Investments in Infrastructure

To assist in meeting the critical need for investments and improvements to existing infrastructure in water, sewer, and broadband, the Fiscal Recovery Funds provide funds to State, local, and Tribal governments to make necessary investments in these sectors. The interim final rule outlines eligible uses within each category, allowing for a broad range of necessary investments in projects that improve access to clean drinking water, improve wastewater and stormwater infrastructure systems, and provide access to high-quality broadband service. Necessary investments are designed to provide an adequate minimum level of service and are unlikely to be made using private sources of funds. Necessary investments include projects that are required to maintain a level of service that, at least, meets applicable health-based standards, taking into account resilience to climate change, or establishes or improves broadband service to unserved or underserved populations to reach an adequate level to permit a household to work or attend school, and that are unlikely to be met with private sources of funds.¹²⁴

It is important that necessary investments in water, sewer, or broadband infrastructure be carried out in ways that produce high-quality infrastructure, avert disruptive and costly delays, and promote efficiency. Treasury encourages recipients to

ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions, not only to promote effective and efficient delivery of high-quality infrastructure projects but also to support the economic recovery through strong employment opportunities for workers. Using these practices in construction projects may help to ensure a reliable supply of skilled labor that would minimize disruptions, such as those associated with labor disputes or workplace injuries.

To provide public transparency on whether projects are using practices that promote on-time and on-budget delivery, Treasury will seek information from recipients on their workforce plans and practices related to water, sewer, and broadband projects undertaken with Fiscal Recovery Funds. Treasury will provide additional guidance and instructions on the reporting requirements at a later date.

1. Water and Sewer Infrastructure

The ARPA provides funds to State, local, and Tribal governments to make necessary investments in water and sewer infrastructure.¹²⁵ By permitting funds to be used for water and sewer infrastructure needs, Congress recognized the critical role that clean drinking water and services for the collection and treatment of wastewater and stormwater play in protecting public health. Understanding that State, local, and Tribal governments have a broad range of water and sewer infrastructure needs, the interim final rule provides these governments with wide latitude to identify investments in water and sewer infrastructure that are of the highest priority for their own communities, which may include projects on privately-owned infrastructure. The interim final rule does this by aligning eligible uses of the Fiscal Recovery Funds with the wide range of types or categories of projects that would be eligible to receive financial assistance through the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund (CWSRF) or Drinking Water State Revolving Fund (DWSRF).¹²⁶

¹²⁵ Sections 602(c)(1)(D), 603(c)(1)(D) of the Act.

¹²⁶ Environmental Protection Agency, Drinking Water State Revolving fund, <https://www.epa.gov/dwsrf> (last visited Apr. 30, 2021); Environmental Protection Agency, Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf> (last visited Apr. 30, 2021).

Established by the 1987 amendments¹²⁷ to the Clean Water Act (CWA),¹²⁸ the CWSRF provides financial assistance for a wide range of water infrastructure projects to improve water quality and address water pollution in a way that enables each State to address and prioritize the needs of their populations. The types of projects eligible for CWSRF assistance include projects to construct, improve, and repair wastewater treatment plants, control non-point sources of pollution, improve resilience of infrastructure to severe weather events, create green infrastructure, and protect waterbodies from pollution.¹²⁹ Each of the 51 State programs established under the CWSRF have the flexibility to direct funding to their particular environmental needs, and each State may also have its own statutes, rules, and regulations that guide project eligibility.¹³⁰

The DWSRF was modeled on the CWSRF and created as part of the 1996 amendments to the Safe Drinking Water Act (SDWA),¹³¹ with the principal objective of helping public water systems obtain financing for improvements necessary to protect public health and comply with drinking water regulations.¹³² Like the CWSRF,

¹²⁷ Water Quality Act of 1987, Public Law 100-4.

¹²⁸ Federal Water Pollution Control Act as amended, codified at 33 U.S.C. 1251 *et seq.*, common name (Clean Water Act). In 2009, the American Recovery and Reinvestment Act created the Green Project Reserve, which increased the focus on green infrastructure, water and energy efficient, and environmentally innovative projects. Public Law 111-5. The CWA was amended by the Water Resources Reform and Development Act of 2014 to further expand the CWSRF's eligibilities. Public Law 113-121. *The CWSRF's eligibilities were further expanded in 2018 by the America's Water Infrastructure Act of 2018, Public Law 115-270.*

¹²⁹ See Environmental Protection Agency, The Drinking Water State Revolving Funds: Financing America's Drinking Water, EPA-816-R-00-023 (Nov. 2000), <https://nepis.epa.gov/Exe/ZyPDF.cgi/200024WB.PDF?Dockey=200024WB.PDF>; See also Environmental Protection Agency, *Learn About the Clean Water State Revolving Fund*, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021).

¹³⁰ 33 U.S.C. 1383(c). See also Environmental Protection Agency, *Overview of Clean Water State Revolving Fund Eligibilities* (May 2016), https://www.epa.gov/sites/production/files/2016-07/documents/overview_of_cwsrf_eligibilities_may_2016.pdf; Claudia Copeland, *Clean Water Act: A Summary of the Law*, Congressional Research Service (Oct. 18, 2016), <https://fas.org/sgp/crs/misc/RL30030.pdf>; Jonathan L. Ramseur, *Wastewater Infrastructure: Overview, Funding, and Legislative Developments*, Congressional Research Service (May 22, 2018), <https://fas.org/sgp/crs/misc/R44963.pdf>.

¹³¹ 42 U.S.C. 300j-12.

¹³² Environmental Protection Agency, *Drinking Water State Revolving Fund Eligibility Handbook*, (June 2017), https://www.epa.gov/sites/production/files/2017-06/documents/dwsrf_eligibility_handbook_june_13_2017_updated_508_version.pdf; Environmental Protection Agency, *Drinking Water*

¹²⁴ Treasury notes that using funds to support or oppose collective bargaining would not be included as part of "necessary investments in water, sewer, or broadband infrastructure."

the DWSRF provides States with the flexibility to meet the needs of their populations.¹³³ The primary use of DWSRF funds is to assist communities in making water infrastructure capital improvements, including the installation and replacement of failing treatment and distribution systems.¹³⁴ In administering these programs, States must give priority to projects that ensure compliance with applicable health and environmental safety requirements; address the most serious risks to human health; and assist systems most in need on a per household basis according to State affordability criteria.¹³⁵

By aligning use of Fiscal Recovery Funds with the categories or types of eligible projects under the existing EPA state revolving fund programs, the interim final rule provides recipients with the flexibility to respond to the needs of their communities while ensuring that investments in water and sewer infrastructure made using Fiscal Recovery Funds are necessary. As discussed above, the CWSRF and DWSRF were designed to provide funding for projects that protect public health and safety by ensuring compliance with wastewater and drinking water health standards.¹³⁶ The need to provide funding through the state revolving funds suggests that these projects are less likely to be addressed with private sources of funding; for example, by remediating failing or inadequate infrastructure, much of which is publicly owned, and by addressing non-point sources of pollution. This approach of aligning with the EPA state revolving fund programs also supports expedited project identification and investment so that needed relief for the people and communities most affected by the pandemic can be deployed expeditiously and have a positive impact on their health and wellbeing as soon as possible. Further, the interim final rule is intended to preserve flexibility for award recipients to direct funding to their own particular needs and priorities and would not preclude recipients from applying their own additional project eligibility criteria.

In addition, responding to the immediate needs of the COVID-19 public health emergency may have diverted both personnel and financial resources from other State, local, and Tribal priorities, including projects to ensure compliance with applicable water health and quality standards and provide safe drinking and usable water.¹³⁷ Through sections 602(c)(1)(D) and 603(c)(1)(D), the ARPA provides resources to address these needs. Moreover, using Fiscal Recovery Funds in accordance with the priorities of the CWA and SWDA to “assist systems most in need on a per household basis according to state affordability criteria” would also have the benefit of providing vulnerable populations with safe drinking water that is critical to their health and, thus, their ability to work and learn.¹³⁸

Recipients may use Fiscal Recovery Funds to invest in a broad range of projects that improve drinking water infrastructure, such as building or upgrading facilities and transmission, distribution, and storage systems, including replacement of lead service lines. Given the lifelong impacts of lead exposure for children, and the widespread nature of lead service lines, Treasury encourages recipients to consider projects to replace lead service lines.

Fiscal Recovery Funds may also be used to support the consolidation or establishment of drinking water systems. With respect to wastewater infrastructure, recipients may use Fiscal Recovery Funds to construct publicly owned treatment infrastructure, manage and treat stormwater or subsurface drainage water, facilitate water reuse, and secure publicly owned treatment works, among other uses. Finally, consistent with the CWSRF and DWSRF, Fiscal Recovery Funds may be used for cybersecurity needs to protect water or sewer infrastructure, such as developing effective cybersecurity practices and measures at drinking water systems and publicly owned treatment works.

Many of the types of projects eligible under either the CWSRF or DWSRF also

support efforts to address climate change. For example, by taking steps to manage potential sources of pollution and preventing these sources from reaching sources of drinking water, projects eligible under the DWSRF and the ARPA may reduce energy required to treat drinking water. Similarly, projects eligible under the CWSRF include measures to conserve and reuse water or reduce the energy consumption of public water treatment facilities. Treasury encourages recipients to consider green infrastructure investments and projects to improve resilience to the effects of climate change. For example, more frequent and extreme precipitation events combined with construction and development trends have led to increased instances of stormwater runoff, water pollution, and flooding. Green infrastructure projects that support stormwater system resiliency could include rain gardens that provide water storage and filtration benefits, and green streets, where vegetation, soil, and engineered systems are combined to direct and filter rainwater from impervious surfaces. In cases of a natural disaster, recipients may also use Fiscal Recovery Funds to provide relief, such as interconnecting water systems or rehabilitating existing wells during an extended drought.

Question 18: What are the advantages and disadvantages of aligning eligible uses with the eligible project type requirements of the DWSRF and CWSRF? What other water or sewer project categories, if any, should Treasury consider in addition to DWSRF and CWSRF eligible projects? Should Treasury consider a broader general category of water and sewer projects?

Question 19: What additional water and sewer infrastructure categories, if any, should Treasury consider to address and respond to the needs of unserved, underserved, or rural communities? How do these projects differ from DWSRF and CWSRF eligible projects?

Question 20: What new categories of water and sewer infrastructure, if any, should Treasury consider to support State, local, and Tribal governments in mitigating the negative impacts of climate change? Discuss emerging technologies and processes that support resiliency of water and sewer infrastructure. Discuss any challenges faced by States and local governments when pursuing or implementing climate resilient infrastructure projects.

Question 21: Infrastructure projects related to dams and reservoirs are generally not eligible under the CWSRF and DWSRF categories. Should Treasury consider expanding eligible

Infrastructure Needs Survey and Assessment: Sixth Report to Congress (March 2018), https://www.epa.gov/sites/production/files/2018-10/documents/corrected_sixth_drinking_water_infrastructure_needs_survey_and_assessment.pdf.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ 42 U.S.C. 300j–12(b)(3)(A).

¹³⁶ Environmental Protection Agency, Learn About the Clean Water State Revolving Fund, <https://www.epa.gov/cwsrf/learn-about-clean-water-state-revolving-fund-cwsrf> (last visited Apr. 30, 2021); 42 U.S.C. 300j–12.

¹³⁷ House Committee on the Budget, State and Local Governments are in Dire Need of Federal Relief (Aug. 19, 2020), <https://budget.house.gov/publications/report/state-and-local-governments-are-dire-need-federal-relief>.

¹³⁸ Environmental Protection Agency, Drinking Water State Revolving Fund (Nov. 2019), https://www.epa.gov/sites/production/files/2019-11/documents/fact_sheet_-_dwsrf_overview_final_0.pdf; Environmental Protection Agency, National Benefits Analysis for Drinking Water Regulations, <https://www.epa.gov/sdwa/national-benefits-analysis-drinking-water-regulations> (last visited Apr. 30, 2020).

infrastructure under the interim final rule to include dam and reservoir projects? Discuss public health, environmental, climate, or equity benefits and costs in expanding the eligibility to include these types of projects.

2. Broadband Infrastructure

The COVID-19 public health emergency has underscored the importance of universally available, high-speed, reliable, and affordable broadband coverage as millions of Americans rely on the internet to participate in, among critical activities, remote school, healthcare, and work. Recognizing the need for such connectivity, the ARPA provides funds to State, territorial, local, and Tribal governments to make necessary investments in broadband infrastructure.

The National Telecommunications and Information Administration (NTIA) highlighted the growing necessity of broadband in daily lives through its analysis of NTIA Internet Use Survey data, noting that Americans turn to broadband internet access service for every facet of daily life including work, study, and healthcare.¹³⁹ With increased use of technology for daily activities and the movement by many businesses and schools to operating remotely during the pandemic, broadband has become even more critical for people across the country to carry out their daily lives.

By at least one measure, however, tens of millions of Americans live in areas where there is no broadband infrastructure that provides download speeds greater than 25 Mbps and upload speeds of 3 Mbps.¹⁴⁰ By contrast, as noted below, many households use upload and download speeds of 100 Mbps to meet their daily needs. Even in areas where broadband infrastructure

exists, broadband access may be out of reach for millions of Americans because it is unaffordable, as the United States has some of the highest broadband prices in the Organisation for Economic Co-operation and Development (OECD).¹⁴¹ There are disparities in availability as well; historically, Americans living in territories and Tribal lands as well as rural areas have disproportionately lacked sufficient broadband infrastructure.¹⁴² Moreover, rapidly growing demand has, and will likely continue to, quickly outpace infrastructure capacity, a phenomenon acknowledged by various states around the country that have set scalability requirements to account for this anticipated growth in demand.¹⁴³

The interim final rule provides that eligible investments in broadband are those that are designed to provide services meeting adequate speeds and are provided to unserved and underserved households and businesses. Understanding that States, territories, localities, and Tribal governments have a wide range of varied broadband infrastructure needs, the interim final rule provides award recipients with flexibility to identify the specific locations within their communities to be served and to otherwise design the project.

Under the interim final rule, eligible projects are expected to be designed to deliver, upon project completion, service that reliably meets or exceeds symmetrical upload and download speeds of 100 Mbps. There may be instances in which it would not be practicable for a project to deliver such service speeds because of the geography, topography, or excessive costs associated with such a project. In these instances, the affected project would be expected to be designed to deliver, upon project completion, service that reliably meets or exceeds 100 Mbps download and between at least 20 Mbps and 100 Mbps upload speeds and be scalable to

a minimum of 100 Mbps symmetrical for download and upload speeds.¹⁴⁴ In setting these standards, Treasury identified speeds necessary to ensure that broadband infrastructure is sufficient to enable users to generally meet household needs, including the ability to support the simultaneous use of work, education, and health applications, and also sufficiently robust to meet increasing household demands for bandwidth. Treasury also recognizes that different communities and their members may have a broad range of internet needs and that those needs may change over time.

In considering the appropriate speed requirements for eligible projects, Treasury considered estimates of typical households demands during the pandemic. Using the Federal Communication Commission's (FCC) Broadband Speed Guide, for example, a household with two telecommuters and two to three remote learners today are estimated to need 100 Mbps download to work simultaneously.¹⁴⁵ In households with more members, the demands may be greater, and in households with fewer members, the demands may be less.

In considering the appropriate speed requirements for eligible projects, Treasury also considered data usage patterns and how bandwidth needs have changed over time for U.S. households and businesses as people's use of technology in their daily lives has evolved. In the few years preceding the pandemic, market research data showed that average upload speeds in the United States surpassed over 10 Mbps in 2017¹⁴⁶ and continued to increase significantly, with the average upload speed as of November, 2019 increasing to 48.41 Mbps,¹⁴⁷ attributable, in part to a shift to using broadband and the internet by individuals and businesses

¹³⁹ See, e.g., <https://www.ntia.gov/blog/2020/more-half-american-households-used-internet-health-related-activities-2019-ntia-data-show>; <https://www.ntia.gov/blog/2020/nearly-third-american-employees-worked-remotely-2019-ntia-data-show>; and generally, <https://www.ntia.gov/data/digital-nation-data-explorer>.

¹⁴⁰ As an example, data from the Federal Communications Commission shows that as of June 2020, 9.07 percent of the U.S. population had no available cable or fiber broadband providers providing greater than 25 Mbps download speeds and 3 Mbps upload speeds. Availability was significantly less for rural versus urban populations, with 35.57 percent of the rural population lacking such access, compared with 2.57 percent of the urban population. Availability was also significantly less for tribal versus non-tribal populations, with 35.93 percent of the tribal population lacking such access, compared with 8.74 of the non-tribal population. Federal Communications Commission, Fixed Broadband Deployment, <https://broadbandmap.fcc.gov/#/> (last visited May 9, 2021).

¹⁴¹ How Do U.S. Internet Costs Compare To The Rest Of The World?, BroadbandSearch Blog Post, available at <https://www.broadbandsearch.net/blog/internet-costs-compared-worldwide>.

¹⁴² See, e.g., Federal Communications Commission, Fourteenth Broadband Deployment Report, available at <https://docs.fcc.gov/public/attachments/FCC-21-18A1.pdf>.

¹⁴³ See, e.g., Illinois Department of Commerce & Economic Opportunity, Broadband Grants, h (last visited May 9, 2021), <https://www2.illinois.gov/dceo/ConnectIllinois/Pages/BroadbandGrants.aspx>; Kansas Office of Broadband Development, Broadband Acceleration Grant, <https://www.kansascommerce.gov/wp-content/uploads/2020/11/Broadband-Acceleration-Grant.pdf> (last visited May 9, 2021); New York State Association of Counties, Universal Broadband: Deploying High Speed Internet Access in NYS (Jul. 2017), [https://www.nysac.org/files/BroadbandUpdateReport2017\(1\).pdf](https://www.nysac.org/files/BroadbandUpdateReport2017(1).pdf).

¹⁴⁴ This scalability threshold is consistent with scalability requirements used in other jurisdictions. *Id.*

¹⁴⁵ Federal Communications Commission, Broadband Speed Guide, <https://www.fcc.gov/consumers/guides/broadband-speed-guide> (last visited Apr. 30, 2021).

¹⁴⁶ Letter from Lisa R. Youngers, President and CEO of Fiber Broadband Association to FCC, WC Docket No. 19-126 (filed Jan. 3, 2020), including an Appendix with research from RVA LLC, *Data Review Of The Importance of Upload Speeds* (Jan. 2020), and Ookla speed test data, available at <https://ecfsapi.fcc.gov/file/101030085118517/FCC%20RDOP%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-96a8f30c69c (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)(ii)(I). Additional extensions may be granted at the discretion of the Secretary.

Question 37: What are alternative ways for States and territories to enforce the 75 percent cap while reducing the administrative burden on them?

Question 38: What criteria should Treasury consider in assessing requests for extensions for further time to distribute NEU payments?

VIII. Reporting

States (defined to include the District of Columbia), territories, metropolitan cities, counties, and Tribal governments will be required to submit one interim report and thereafter quarterly Project and Expenditure reports through the end of the award period on December 31, 2026. The interim report will include a recipient’s expenditures by category at the summary level from the date of award to July 31, 2021 and, for States and territories, information related to distributions to nonentitlement units. Recipients must submit their interim report to Treasury by August 31, 2021. Nonentitlement units of local government are not required to submit an interim report.

The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient’s utilization of the award funds. The reports will include the same general data (*e.g.*, on obligations, expenditures, contracts, grants, and subawards) as those submitted by recipients of the CRF, with some modifications. Modifications will include updates to the expenditure categories and the addition of data elements related to specific eligible uses, including some of the reporting elements described in sections above. The initial quarterly Project and Expenditure report will cover two calendar quarters from the date of award to September 30, 2021, and must be submitted to Treasury by October 31, 2021. The subsequent quarterly reports will cover one calendar quarter and must be submitted to Treasury within 30 days after the end of each calendar quarter.

Nonentitlement units of local government will be required to submit

annual Project and Expenditure reports until the end of the award period on December 31, 2026. The initial annual Project and Expenditure report for nonentitlement units of local government will cover activity from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year.

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will provide the public and Treasury information on the projects that recipients are undertaking with program funding and how they are planning to ensure project outcomes are achieved in an effective, efficient, and equitable manner. Each jurisdiction will have some flexibility in terms of the form and content of the Recovery Plan Performance report, as long as it includes the minimum information required by Treasury. The Recovery Plan Performance report will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury, as well as programmatic data in specific eligible use categories and the specific reporting requirements described in the sections above. The initial Recovery Plan Performance report will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, Recovery Plan Performance reports will cover a 12-month period, and recipients will be required to submit the report to Treasury within 30 days after the end of the 12-month period. The second Recovery Plan Performance report will cover the period from July 1, 2021 to June 30, 2022, and must be submitted to Treasury by July 31, 2022. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Local governments with fewer than 250,000 residents, Tribal governments, and nonentitlement units of local government are not required to develop a Recovery Plan Performance report.

Treasury will provide additional guidance and instructions on the reporting requirements outlined above for the Fiscal Recovery Funds at a later date.

IX. Comments and Effective Date

This interim final rule is being issued without advance notice and public comment to allow for immediate implementation of this program. As

discussed below, the requirements of advance notice and public comment do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.”¹⁸¹ The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. In addition and as discussed below, the Administrative Procedure Act also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”¹⁸² This good cause justification also supports waiver of the 60-day delayed effective date for major rules under the Congressional Review Act at 5 U.S.C. 808(2). Although this interim final rule is effective immediately, comments are solicited from interested members of the public and from recipient governments on all aspects of the interim final rule.

These comments must be submitted on or before July 16, 2021.

X. Regulatory Analyses

Executive Orders 12866 and 13563

This interim final rule is economically significant for the purposes of Executive Orders 12866 and 13563. Treasury, however, is proceeding under the emergency provision at Executive Order 12866 section 6(a)(3)(D) based on the need to act expeditiously to mitigate the current economic conditions arising from the COVID-19 public health emergency. The rule has been reviewed by the Office of Management and Budget (OMB) in accordance with Executive Order 12866. This rule is necessary to implement the ARPA in order to provide economic relief to State, local, and Tribal governments adversely impacted by the COVID-19 public health emergency.

Under Executive Order 12866, OMB must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive Order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a significant regulatory

action as an action likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or Tribal governments or communities in a material way (also referred to as “economically significant” regulations);

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This regulatory action is an economically significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. Treasury has also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, section 1(b) of Executive Order 13563 requires that an agency:

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives taking into account, among other things, and to the extent practicable, the costs of cumulative regulations;

(3) Select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or providing information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available

¹⁸¹ 5 U.S.C. 553(a)(2).

¹⁸² 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”).

techniques to quantify anticipated present and future benefits and costs as accurately as possible.” OMB’s Office of Information and Regulatory Affairs (OIRA) has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

Treasury has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action, and is issuing this interim final rule only on a reasoned determination that the benefits exceed the costs. In choosing among alternative regulatory approaches, Treasury selected those approaches that would maximize net benefits. Based on the analysis that follows and the reasons stated elsewhere in this document, Treasury believes that this interim final rule is consistent with the principles set forth in Executive Order 13563.

Treasury also has determined that this regulatory action does not unduly interfere with States, territories, Tribal governments, and localities in the exercise of their governmental functions.

This Regulatory Impact Analysis discusses the need for regulatory action, the potential benefits, and the potential costs.

Need for Regulatory Action. This interim final rule implements the \$350 billion Fiscal Recovery Funds of the ARPA, which Congress passed to help States, territories, Tribal governments, and localities respond to the ongoing COVID-19 public health emergency and its economic impacts. As the agency charged with execution of these programs, Treasury has concluded that this interim final rule is needed to ensure that recipients of Fiscal Recovery Funds fully understand the requirements and parameters of the program as set forth in the statute and deploy funds in a manner that best reflects Congress’ mandate for targeted fiscal relief.

This interim final rule is primarily a transfer rule: It transfers \$350 billion in aid from the Federal Government to states, territories, Tribal governments, and localities, generating a significant macroeconomic effect on the U.S. economy. In making this transfer, Treasury has sought to implement the program in ways that maximize its potential benefits while minimizing its costs. It has done so by aiming to target relief in key areas according to the congressional mandate; offering clarity to States, territories, Tribal governments, and localities while maintaining their flexibility to respond

to local needs; and limiting administrative burdens.

Analysis of Benefits. Relative to a pre-statutory baseline, the Fiscal Recovery Funds provide a combined \$350 billion to State, local, and Tribal governments for fiscal relief and support for costs incurred responding to the COVID-19 pandemic. Treasury believes that this transfer will generate substantial additional economic activity, although given the flexibility accorded to recipients in the use of funds, it is not possible to precisely estimate the extent to which this will occur and the timing with which it will occur. Economic research has demonstrated that state fiscal relief is an efficient and effective way to mitigate declines in jobs and output during an economic downturn.¹⁸³ Absent such fiscal relief, fiscal austerity among State, local, and Tribal governments could exert a prolonged drag on the overall economic recovery, as occurred following the 2007–09 recession.¹⁸⁴

This interim final rule provides benefits across several areas by implementing the four eligible funding uses, as defined in statute: Strengthening the response to the COVID-19 public health emergency and its economic impacts; easing fiscal pressure on State, local, and Tribal governments that might otherwise lead to harmful cutbacks in employment or government services; providing premium pay to essential workers; and making necessary investments in certain types of infrastructure. In implementing the ARPA, Treasury also sought to support disadvantaged communities that have been disproportionately impacted by the pandemic. The Fiscal Recovery Funds as implemented by the interim final rule can be expected to channel resources toward these uses in order to achieve substantial near-term economic and public health benefits, as well as longer-term benefits arising from the allowable investments in water, sewer, and broadband infrastructure and aid to families.

¹⁸³ Gabriel Chodorow-Reich et al., Does State Fiscal Relief during Recessions Increase Employment? Evidence from the American Recovery and Reinvestment Act, *American Econ. J.: Econ. Policy*, 4:3 118–45 (Aug. 2012), available at <https://www.aeaweb.org/articles?id=10.1257/pol.4.3.118>.

¹⁸⁴ See, e.g., Fitzpatrick, Haughwout & Setren, Fiscal Drag from the State and Local Sector?, Liberty Street Economics Blog, Federal Reserve Bank of New York (June 27, 2012), <https://www.libertystreeteconomics.newyorkfed.org/2012/06/fiscal-drag-from-the-state-and-local-sector.html>; Jiri Jonas, Great Recession and Fiscal Squeeze at U.S. Subnational Government Level, IMF Working Paper 12/184, (July 2012), available at <https://www.imf.org/external/pubs/ft/wp/2012/wp12184.pdf>; Gordon, *supra* note 9.

These benefits are achieved in the interim final rule through a broadly flexible approach that sets clear guidelines on eligible uses of Fiscal Recovery Funds and provides State, local, and Tribal government officials discretion within those eligible uses to direct Fiscal Recovery Funds to areas of greatest need within their jurisdiction. While preserving recipients’ overall flexibility, the interim final rule includes several provisions that implement statutory requirements and will help support use of Fiscal Recovery Funds to achieve the intended benefits. The remainder of this section clarifies how Treasury’s approach to key provisions in the interim final rule will contribute to greater realization of benefits from the program.

- **Revenue Loss:** Recipients will compute the extent of reduction in revenue by comparing actual revenue to a counterfactual trend representing what could have plausibly been expected to occur in the absence of the pandemic. The counterfactual trend begins with the last full fiscal year prior to the public health emergency (as required by statute) and projects forward with an annualized growth adjustment. Treasury’s decision to incorporate a growth adjustment into the calculation of revenue loss ensures that the formula more fully captures revenue shortfalls relative to recipients’ pre-pandemic expectations. Moreover, recipients will have the opportunity to re-calculate revenue loss at several points throughout the program, recognizing that some recipients may experience revenue effects with a lag. This option to re-calculate revenue loss on an ongoing basis should result in more support for recipients to avoid harmful cutbacks in future years. In calculating revenue loss, recipients will look at general revenue in the aggregate, rather than on a source-by-source basis. Given that recipients may have experienced offsetting changes in revenues across sources, Treasury’s approach provides a more accurate representation of the effect of the pandemic on overall revenues.

- **Premium Pay:** Per the statute, recipients have broad latitude to designate critical infrastructure sectors and make grants to third-party employers for the purpose of providing premium pay or otherwise respond to essential workers. While the interim final rule generally preserves the flexibility in the statute, it does add a requirement that recipients give written justification in the case that premium pay would increase a worker’s annual pay above a certain threshold. To set this threshold, Treasury analyzed data

from the Bureau of Labor Statistics to determine a level that would not require further justification for premium pay to the vast majority of essential workers, while requiring higher scrutiny for provision of premium pay to higher-earners who, even without premium pay, would likely have greater personal financial resources to cope with the effects of the pandemic. Treasury believes the threshold in the interim final rule strikes the appropriate balance between preserving flexibility and helping encourage use of these resources to help those in greatest need. The interim final rule also requires that eligible workers have regular in-person interactions or regular physical handling of items that were also handled by others. This requirement will also help encourage use of financial resources for those who have endured the heightened risk of performing essential work.

- *Withholding of Payments to Recipients:* Treasury believes that for the vast majority of recipient entities, it will be appropriate to receive funds in two separate payments. As discussed above, withholding of payments ensures that recipients can adapt spending plans to evolving economic conditions and that at least some of the economic benefits will be realized in 2022 or later. However, consistent with authorities granted to Treasury in the statute, Treasury recognizes that a subset of States with significant remaining elevation in the unemployment rate could face heightened additional near-term needs to aid unemployed workers and stimulate the recovery. Therefore, for a subset of State governments, Treasury will not withhold any funds from the first payment. Treasury believes that this approach strikes the appropriate balance between the general reasons to provide funds in two payments and the heightened additional near-term needs in specific States. As discussed above, Treasury set a threshold based on historical analysis of unemployment rates in recessions.

- *Hiring Public Sector Employees:* The interim final rule states explicitly that recipients may use funds to restore their workforces up to pre-pandemic levels. Treasury believes that this statement is beneficial because it eliminates any uncertainty that could cause delays or otherwise negatively impact restoring public sector workforces (which, at time of publication, remain significantly below pre-pandemic levels).

Finally, the interim final rule aims to promote and streamline the provision of assistance to individuals and communities in greatest need,

particularly communities that have been historically disadvantaged and have experienced disproportionate impacts of the COVID-19 crisis. Targeting relief is in line with Executive Order 13985, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” which laid out an Administration-wide priority to support “equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”¹⁸⁵ To this end, the interim final rule enumerates a list of services that may be provided using Fiscal Recovery Funds in low-income areas to address the disproportionate impacts of the pandemic in these communities; establishes the characteristics of essential workers eligible for premium pay and encouragement to serve workers based on financial need; provides that recipients may use Fiscal Recovery Funds to restore (to pre-pandemic levels) state and local workforces, where women and people of color are disproportionately represented;¹⁸⁶ and targets investments in broadband infrastructure to unserved and underserved areas. Collectively, these provisions will promote use of resources to facilitate the provision of assistance to individuals and communities with the greatest need.

Analysis of Costs. This regulatory action will generate administrative costs relative to a pre-statutory baseline. This includes, chiefly, costs required to administer Fiscal Recovery Funds, oversee subrecipients and beneficiaries, and file periodic reports with Treasury. It also requires States to allocate Fiscal Recovery Funds to nonentitlement units, which are smaller units of local government that are statutorily required to receive their funds through States.

Treasury expects that the administrative burden associated with this program will be moderate for a grant program of its size. Treasury expects that most recipients receive direct or indirect funding from Federal Government programs and that many

have familiarity with how to administer and report on Federal funds or grant funding provided by other entities. In particular, States, territories, and large localities will have received funds from the CRF and Treasury expects them to rely heavily on established processes developed last year or through prior grant funding, mitigating burden on these governments.

Treasury expects to provide technical assistance to defray the costs of administration of Fiscal Recovery Funds to further mitigate burden. In making implementation choices, Treasury has hosted numerous consultations with a diverse range of direct recipients—States, small cities, counties, and Tribal governments—along with various communities across the United States, including those that are underserved. Treasury lacks data to estimate the precise extent to which this interim final rule generates administrative burden for State, local, and Tribal governments, but seeks comment to better estimate and account for these costs, as well as on ways to lessen administrative burdens.

Executive Order 13132

Executive Order 13132 (entitled Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State, local, and Tribal governments, and is not required by statute, or preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This interim final rule does not have federalism implications within the meaning of the Executive order and does not impose substantial, direct compliance costs on State, local, and Tribal governments or preempt state law within the meaning of the Executive order. The compliance costs are imposed on State, local, and Tribal governments by sections 602 and 603 of the Social Security Act, as enacted by the ARPA. Notwithstanding the above, Treasury has engaged in efforts to consult and work cooperatively with affected State, local, and Tribal government officials and associations in the process of developing the interim final rule. Pursuant to the requirements set forth in section 8(a) of Executive Order 13132, Treasury certifies that it has complied with the requirements of Executive Order 13132.

Administrative Procedure Act

The Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, generally requires public notice and an opportunity for comment before a rule

¹⁸⁵ Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government (Jan. 20, 2021) (86 FR 7009, January 25, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/> (last visited May 9, 2021).

¹⁸⁶ David Cooper, Mary Gable & Algernon Austin, Economic Policy Institute Briefing Paper, The Public-Sector Jobs Crisis: Women and African Americans hit hardest by job losses in state and local governments, <https://www.epi.org/publication/bp339-public-sector-jobs-crisis> (last visited May 9, 2021).

becomes effective. However, the APA provides that the requirements of 5 U.S.C. 553 do not apply “to the extent that there is involved . . . a matter relating to agency . . . grants.” The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses. The rule is thus “both clearly and directly related to a federal grant program.” *National Wildlife Federation v. Snow*, 561 F.2d 227, 232 (D.C. Cir. 1976). The rule sets forth the “process necessary to maintain state . . . eligibility for federal funds,” *id.*, as well as the “method[s] by which states can . . . qualify for federal aid,” and other “integral part[s] of the grant program,” *Center for Auto Safety v. Tiemann*, 414 F. Supp. 215, 222 (D.D.C. 1976). As a result, the requirements of 5 U.S.C. 553 do not apply.

The APA also provides an exception to ordinary notice-and-comment procedures “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B); *see also* 5 U.S.C. 553(d)(3) (creating an exception to the requirement of a 30-day delay before the effective date of a rule “for good cause found and published with the rule”). Assuming 5 U.S.C. 553 applied, Treasury would still have good cause under sections 553(b)(3)(B) and 553(d)(3) for not undertaking section 553’s requirements. The ARPA is a law responding to a historic economic and

public health emergency; it is “extraordinary” legislation about which “both Congress and the President articulated a profound sense of ‘urgency.’” *Petry v. Block*, 737 F.2d 1193, 1200 (D.C. Cir. 1984). Indeed, several provisions implemented by this interim final rule (sections 602(c)(1)(A) and 603(c)(1)(A)) explicitly provide funds to “respond to the public health emergency,” and the urgency is further exemplified by Congress’s command (in sections 602(b)(6)(B) and 603(b)(7)(A)) that, “[t]o the extent practicable,” funds must be provided to Tribes and cities “not later than 60 days after the date of enactment.” *See Philadelphia Citizens in Action v. Schweiker*, 669 F.2d 877, 884 (3d Cir. 1982) (finding good cause under circumstances, including statutory time limits, where APA procedures would have been “virtually impossible”). Finally, there is an urgent need for States to undertake the planning necessary for sound fiscal policymaking, which requires an understanding of how funds provided under the ARPA will augment and interact with existing budgetary resources and tax policies. Treasury understands that many states require immediate rules on which they can rely, especially in light of the fact that the ARPA “covered period” began on March 3, 2021. The statutory urgency and practical necessity are good cause to forego the ordinary requirements of notice-and-comment rulemaking.

Congressional Review Act

The Administrator of OIRA has determined that this is a major rule for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the

Congressional Review Act or CRA) (5 U.S.C. 804(2) *et seq.*). Under the CRA, a major rule takes effect 60 days after the rule is published in the **Federal Register**. 5 U.S.C. 801(a)(3). Notwithstanding this requirement, the CRA allows agencies to dispense with the requirements of section 801 when the agency for good cause finds that such procedure would be impracticable, unnecessary, or contrary to the public interest and the rule shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). Pursuant to section 808(2), for the reasons discussed above, Treasury for good cause finds that a 60-day delay to provide public notice is impracticable and contrary to the public interest.

Paperwork Reduction Act

The information collections associated with State, territory, local, and Tribal government applications materials necessary to receive Fiscal Recovery Funds (*e.g.*, payment information collection and acceptance of award terms) have been reviewed and approved by OMB pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) emergency processing procedures and assigned control number 1505–0271. The information collections related to ongoing reporting requirements, as discussed in this interim final rule, will be submitted to OMB for emergency processing in the near future. Under the PRA, an agency may not conduct or sponsor and a respondent is not required to respond to, an information collection unless it displays a valid OMB control number.

Estimates of hourly burden under this program are set forth in the table below. Burden estimates below are preliminary.

Reporting	Number of respondents (estimated)	Number of responses per respondent	Total responses	Hours per response	Total burden in hours	Cost to respondent (\$48.80 per hour*)
Recipient Payment Form	5,050	1	5,050	.25 (15 minutes) ...	1,262.5	\$61,610
Acceptance of Award Terms	5,050	1	5,050	.25 (15 minutes) ...	1,262.5	61,610
Title VI Assurances	5,050	1	5,050	.50 (30 minutes) ...	2,525	123,220
Quarterly Project and Expenditure Report.	5,050	4***	20,200	25	505,000	24,644,000
Annual Project and Expenditure Report from NEUs.	TBD	1 per year	† 20,000–40,000	15	300,000–600,000	14,640,000–29,280,000
Annual Recovery Plan Performance report.	418	1 per year	418	100	41,800	2,039,840
Total	(**)	N/A	55,768–75,768	141	851,850–1,151,850	41,570,280–56,210,280

*Bureau of Labor Statistics, U.S. Department of Labor, Occupational Outlook Handbook, Accountants and Auditors, on the internet at <https://www.bls.gov/ooh/business-and-financial/accountants-and-auditors.htm> (visited March 28, 2020). Base wage of \$33.89/hour increased by 44 percent to account for fully loaded employer cost of employee compensation (benefits, etc.) for a fully loaded wage rate of \$48.80.

**5,050–TBD.

***Per year after first year.

† (Estimate only).

Periodic reporting is required by section 602(c) of Section VI of the Social Security Act and under the interim final rule.

As discussed in Section VIII of this **SUPPLEMENTARY INFORMATION**, recipients of Fiscal Recovery Funds will be required to submit one interim report

and thereafter quarterly Project and Expenditure reports until the end of the award period. Recipients must submit interim reports to Treasury by August

31, 2021. The quarterly Project and Expenditure reports will include financial data, information on contracts and subawards over \$50,000, types of projects funded, and other information regarding a recipient's utilization of the award funds.

Nonentitlement unit recipients will be required to submit annual Project and Expenditure reports until the end of the award period. The initial annual Project and Expenditure report for Nonentitlement unit recipients must be submitted to Treasury by October 31, 2021. The subsequent annual reports must be submitted to Treasury by October 31 each year. States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to submit an annual Recovery Plan Performance report to Treasury. The Recovery Plan Performance report will include descriptions of the projects funded and information on the performance indicators and objectives of the award. Each annual Recovery Plan Performance report must be posted on the public-facing website of the recipient. Treasury will provide additional guidance and instructions on all the reporting requirements outlined above for the Fiscal Recovery Funds program at a later date.

These and related periodic reporting requirements are under consideration and will be submitted to OMB for approval under the PRA emergency provisions in the near future.

Treasury invites comments on all aspects of the reporting and recordkeeping requirements including: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Comments should be sent by the comment deadline to the www.regulations.gov docket with a copy to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, 725 17th Street NW, Washington, DC 20503; or email to oira_submission@omb.eop.gov.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule, or a final rule

pursuant to section 553(b) of the Administrative Procedure Act or another law, the agency must prepare a regulatory flexibility analysis that meets the requirements of the RFA and publish such analysis in the **Federal Register**. 5 U.S.C. 603, 604.

Rules that are exempt from notice and comment under the APA are also exempt from the RFA requirements, including the requirement to conduct a regulatory flexibility analysis, when among other things the agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Since this rule is exempt from the notice and comment requirements of the APA, Treasury is not required to conduct a regulatory flexibility analysis.

List of Subjects in 31 CFR Part 35

Executive compensation, Public health emergency, State and local governments, Tribal governments.

For the reasons stated in the preamble, the Department of the Treasury amends 31 CFR part 35 as follows:

PART 35—PANDEMIC RELIEF PROGRAMS

- 1. The authority citation for part 35 is revised to read as follows:

Authority: 42 U.S.C. 802(f); 42 U.S.C. 803(f); 31 U.S.C. 321; Division N, Title V, Subtitle B, Pub. L. 116–260, 134 Stat. 1182; Section 104A, Pub. L. 103–325, 108 Stat. 2160, as amended (12 U.S.C. 4701 *et seq.*); Pub. L. 117–2, 135 Stat. 4 (42 U.S.C. 802 *et seq.*).

- 2. Revise the part heading to read as set forth above.
- 3. Add subpart A to read as follows:

Subpart A—Coronavirus State and Local Fiscal Recovery Funds

Sec.

- 35.1 Purpose.
- 35.2 Applicability.
- 35.3 Definitions.
- 35.4 Reservation of authority, reporting.
- 35.5 Use of funds.
- 35.6 Eligible uses.
- 35.7 Pensions.
- 35.8 Tax.
- 35.9 Compliance with applicable laws.
- 35.10 Recoupment.
- 35.11 Payments to States.
- 35.12 Distributions to nonentitlement units of local government and units of general local government.

§ 35.1 Purpose.

This subpart implements section 9901 of the American Rescue Plan Act (Subtitle M of Title IX of Pub. L. 117–2), which amends Title VI of the Social Security Act (42 U.S.C. 801 *et*

seq.) by adding sections 602 and 603 to establish the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Fund.

§ 35.2 Applicability.

This subpart applies to States, territories, Tribal governments, metropolitan cities, nonentitlement units of local government, counties, and units of general local government that accept a payment or transfer of funds made under section 602 or 603 of the Social Security Act.

§ 35.3 Definitions.

As used in this subpart:

Baseline means tax revenue of the recipient for its fiscal year ending in 2019, adjusted for inflation in each reporting year using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

County means a county, parish, or other equivalent county division (as defined by the Census Bureau).

Covered benefits include, but are not limited to, the costs of all types of leave (vacation, family-related, sick, military, bereavement, sabbatical, jury duty), employee insurance (health, life, dental, vision), retirement (pensions, 401(k)), unemployment benefit plans (Federal and State), workers' compensation insurance, and Federal Insurance Contributions Act taxes (which includes Social Security and Medicare taxes).

Covered change means a change in law, regulation, or administrative interpretation. A change in law includes any final legislative or regulatory action, a new or changed administrative interpretation, and the phase-in or taking effect of any statute or rule if the phase-in or taking effect was not prescribed prior to the start of the covered period.

Covered period means, with respect to a State, Territory, or Tribal government, the period that:

- (1) Begins on March 3, 2021; and
- (2) Ends on the last day of the fiscal year of such State, Territory, or Tribal government in which all funds received by the State, Territory, or Tribal government from a payment made under section 602 or 603 of the Social Security Act have been expended or returned to, or recovered by, the Secretary.

COVID–19 means the Coronavirus Disease 2019.

COVID–19 public health emergency means the period beginning on January 27, 2020 and until the termination of the national emergency concerning the COVID–19 outbreak declared pursuant to the National Emergencies Act (50 U.S.C. 1601 *et seq.*).

Deposit means an extraordinary payment of an accrued, unfunded liability. The term deposit does not refer to routine contributions made by an employer to pension funds as part of the employer's obligations related to payroll, such as either a pension contribution consisting of a normal cost component related to current employees or a component addressing the amortization of unfunded liabilities calculated by reference to the employer's payroll costs.

Eligible employer means an employer of an eligible worker who performs essential work.

Eligible workers means workers needed to maintain continuity of operations of essential critical infrastructure sectors, including health care; emergency response; sanitation, disinfection, and cleaning work; maintenance work; grocery stores, restaurants, food production, and food delivery; pharmacy; biomedical research; behavioral health work; medical testing and diagnostics; home- and community-based health care or assistance with activities of daily living; family or child care; social services work; public health work; vital services to Tribes; any work performed by an employee of a State, local, or Tribal government; educational work, school nutrition work, and other work required to operate a school facility; laundry work; elections work; solid waste or hazardous materials management, response, and cleanup work; work requiring physical interaction with patients; dental care work; transportation and warehousing; work at hotel and commercial lodging facilities that are used for COVID-19 mitigation and containment; work in a mortuary; work in critical clinical research, development, and testing necessary for COVID-19 response.

(1) With respect to a recipient that is a metropolitan city, nonentitlement unit of local government, or county, workers in any additional sectors as each chief executive officer of such recipient may designate as critical to protect the health and well-being of the residents of their metropolitan city, nonentitlement unit of local government, or county; or

(2) With respect to a State, Territory, or Tribal government, workers in any additional sectors as each Governor of a State or Territory, or each Tribal government, may designate as critical to protect the health and well-being of the residents of their State, Territory, or Tribal government.

Essential work means work that:

- (1) Is not performed while teleworking from a residence; and
- (2) Involves:

(i) Regular in-person interactions with patients, the public, or coworkers of the individual that is performing the work; or

(ii) Regular physical handling of items that were handled by, or are to be handled by patients, the public, or coworkers of the individual that is performing the work.

Funds means, with respect to a recipient, amounts provided to the recipient pursuant to a payment made under section 602(b) or 603(b) of the Social Security Act or transferred to the recipient pursuant to section 603(c)(4) of the Social Security Act.

General revenue means money that is received from tax revenue, current charges, and miscellaneous general revenue, excluding refunds and other correcting transactions, proceeds from issuance of debt or the sale of investments, agency or private trust transactions, and intergovernmental transfers from the Federal Government, including transfers made pursuant to section 9901 of the American Rescue Plan Act. General revenue does not include revenues from utilities. Revenue from Tribal business enterprises must be included in general revenue.

Intergovernmental transfers means money received from other governments, including grants and shared taxes.

Metropolitan city has the meaning given that term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) and includes cities that relinquish or defer their status as a metropolitan city for purposes of receiving allocations under section 106 of such Act (42 U.S.C. 5306) for fiscal year 2021.

Net reduction in total spending is measured as the State or Territory's total spending for a given reporting year excluding its spending of funds, subtracted from its total spending for its fiscal year ending in 2019, adjusted for inflation using the Bureau of Economic Analysis's Implicit Price Deflator for the gross domestic product of the United States.

Nonentitlement unit of local government means a "city," as that term is defined in section 102(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(5)), that is not a metropolitan city.

Nonprofit means a nonprofit organization that is exempt from Federal income taxation and that is described in section 501(c)(3) of the Internal Revenue Code.

Obligation means an order placed for property and services and entering into

contracts, subawards, and similar transactions that require payment.

Pension fund means a defined benefit plan and does not include a defined contribution plan.

Premium pay means an amount of up to \$13 per hour that is paid to an eligible worker, in addition to wages or remuneration the eligible worker otherwise receives, for all work performed by the eligible worker during the COVID-19 public health emergency. Such amount may not exceed \$25,000 with respect to any single eligible worker. Premium pay will be considered to be in addition to wages or remuneration the eligible worker otherwise receives if, as measured on an hourly rate, the premium pay is:

(1) With regard to work that the eligible worker previously performed, pay and remuneration equal to the sum of all wages and remuneration previously received plus up to \$13 per hour with no reduction, substitution, offset, or other diminishment of the eligible worker's previous, current, or prospective wages or remuneration; or

(2) With regard to work that the eligible worker continues to perform, pay of up to \$13 that is in addition to the eligible worker's regular rate of wages or remuneration, with no reduction, substitution, offset, or other diminishment of the workers' current and prospective wages or remuneration.

Qualified census tract has the same meaning given in 26 U.S.C. 42(d)(5)(B)(ii)(I).

Recipient means a State, Territory, Tribal government, metropolitan city, nonentitlement unit of local government, county, or unit of general local government that receives a payment made under section 602(b) or 603(b) of the Social Security Act or transfer pursuant to section 603(c)(4) of the Social Security Act.

Reporting year means a single year or partial year within the covered period, aligned to the current fiscal year of the State or Territory during the covered period.

Secretary means the Secretary of the Treasury.

State means each of the 50 States and the District of Columbia.

Small business means a business concern or other organization that:

- (1) Has no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates; and
- (2) Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632).

Tax revenue means revenue received from a compulsory contribution that is exacted by a government for public purposes excluding refunds and corrections and, for purposes of § 35.8, intergovernmental transfers. Tax revenue does not include payments for a special privilege granted or service rendered, employee or employer assessments and contributions to finance retirement and social insurance trust systems, or special assessments to pay for capital improvements.

Territory means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or American Samoa.

Tribal enterprise means a business concern:

(1) That is wholly owned by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments; or

(2) That is owned in part by one or more Tribal governments, or by a corporation that is wholly owned by one or more Tribal governments, if all other owners are either United States citizens or small business concerns, as these terms are used and consistent with the definitions in 15 U.S.C. 657a(b)(2)(D).

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list published by the Bureau of Indian Affairs on January 29, 2021, pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Unemployment rate means the U-3 unemployment rate provided by the Bureau of Labor Statistics as part of the Local Area Unemployment Statistics program, measured as total unemployment as a percentage of the civilian labor force.

Unemployment trust fund means an unemployment trust fund established under section 904 of the Social Security Act (42 U.S.C. 1104).

Unit of general local government has the meaning given to that term in section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)).

Unserved and underserved households or businesses means one or more households or businesses that are not currently served by a wireline connection that reliably delivers at least 25 Mbps download speed and 3 Mbps of upload speed.

§ 35.4 Reservation of authority, reporting.

(a) *Reservation of authority.* Nothing in this subpart shall limit the authority of the Secretary to take action to enforce conditions or violations of law, including actions necessary to prevent evasions of this subpart.

(b) *Extensions or accelerations of timing.* The Secretary may extend or accelerate any deadline or compliance date of this subpart, including reporting requirements that implement this subpart, if the Secretary determines that such extension or acceleration is appropriate. In determining whether an extension or acceleration is appropriate, the Secretary will consider the period of time that would be extended or accelerated and how the modified timeline would facilitate compliance with this subpart.

(c) *Reporting and requests for other information.* During the covered period, recipients shall provide to the Secretary periodic reports providing detailed accounting of the uses of funds, all modifications to a State or Territory's tax revenue sources, and such other information as the Secretary may require for the administration of this section. In addition to regular reporting requirements, the Secretary may request other additional information as may be necessary or appropriate, including as may be necessary to prevent evasions of the requirements of this subpart. False statements or claims made to the Secretary may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

§ 35.5 Use of funds.

(a) *In general.* A recipient may only use funds to cover costs incurred during the period beginning March 3, 2021, and ending December 31, 2024, for one or more of the purposes enumerated in sections 602(c)(1) and 603(c)(1) of the Social Security Act, as applicable, including those enumerated in section § 35.6, subject to the restrictions set forth in sections 602(c)(2) and 603(c)(2) of the Social Security Act, as applicable.

(b) *Costs incurred.* A cost shall be considered to have been incurred for purposes of paragraph (a) of this section if the recipient has incurred an obligation with respect to such cost by December 31, 2024.

(c) *Return of funds.* A recipient must return any funds not obligated by December 31, 2024, and any funds not expended to cover such obligations by December 31, 2026.

§ 35.6 Eligible uses.

(a) *In general.* Subject to §§ 35.7 and 35.8, a recipient may use funds for one or more of the purposes described in paragraphs (b) through (e) of this section

(b) *Responding to the public health emergency or its negative economic impacts.* A recipient may use funds to respond to the public health emergency or its negative economic impacts, including for one or more of the following purposes:

(1) *COVID-19 response and prevention.* Expenditures for the mitigation and prevention of COVID-19, including:

(i) Expenses related to COVID-19 vaccination programs and sites, including staffing, acquisition of equipment or supplies, facilities costs, and information technology or other administrative expenses;

(ii) COVID-19-related expenses of public hospitals, clinics, and similar facilities;

(iii) COVID-19 related expenses in congregate living facilities, including skilled nursing facilities, long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities;

(iv) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(v) Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs and other capital investments in public facilities to meet COVID-19-related operational needs;

(vi) Costs of providing COVID-19 testing and monitoring, contact tracing, and monitoring of case trends and genomic sequencing for variants;

(vii) Emergency medical response expenses, including emergency medical transportation, related to COVID-19;

(viii) Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment;

(ix) Expenses for communication related to COVID-19 vaccination programs and communication or enforcement by recipients of public health orders related to COVID-19;

(x) Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment;

(xi) Expenses for disinfection of public areas and other facilities in

response to the COVID-19 public health emergency;

(xii) Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety;

(xiii) Expenses for quarantining or isolation of individuals;

(xiv) Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions;

(xv) Expenses for treatment of the long-term symptoms or effects of COVID-19, including post-intensive care syndrome;

(xvi) Expenses for the improvement of ventilation systems in congregate settings, public health facilities, or other public facilities;

(xvii) Expenses related to establishing or enhancing public health data systems; and

(xviii) Mental health treatment, substance misuse treatment, and other behavioral health services.

(2) *Public health and safety staff.*

Payroll and covered benefit expenses for public safety, public health, health care, human services, and similar employees to the extent that the employee's time is spent mitigating or responding to the COVID-19 public health emergency.

(3) *Hiring State and local government staff.* Payroll, covered benefit, and other costs associated with the recipient increasing the number of its employees up to the number of employees that it employed on January 27, 2020.

(4) *Assistance to unemployed workers.* Assistance, including job training, for individuals who want and are available for work, including those who have looked for work sometime in the past 12 months or who are employed part time but who want and are available for full-time work.

(5) *Contributions to State unemployment insurance trust funds.* Contributions to an unemployment trust fund up to the level required to restore the unemployment trust fund to its balance on January 27, 2020 or to pay back advances received under Title XII of the Social Security Act (42 U.S.C. 1321) for the payment of benefits between January 27, 2020 and May 17, 2021.

(6) *Small businesses.* Assistance to small businesses, including loans, grants, in-kind assistance, technical assistance or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(7) *Nonprofits.* Assistance to nonprofit organizations, including loans, grants, in-kind assistance, technical assistance

or other services, that responds to the negative economic impacts of the COVID-19 public health emergency.

(8) *Assistance to households.*

Assistance programs, including cash assistance programs, that respond to the COVID-19 public health emergency.

(9) *Aid to impacted industries.* Aid to tourism, travel, hospitality, and other impacted industries that responds to the negative economic impacts of the COVID-19 public health emergency.

(10) *Expenses to improve efficacy of public health or economic relief programs.* Administrative costs associated with the recipient's COVID-19 public health emergency assistance programs, including services responding to the COVID-19 public health emergency or its negative economic impacts, that are not federally funded.

(11) *Survivor's benefits.* Benefits for the surviving family members of individuals who have died from COVID-19, including cash assistance to widows, widowers, or dependents of individuals who died of COVID-19.

(12) *Disproportionately impacted populations and communities.* A program, service, or other assistance that is provided in a qualified census tract, that is provided to households and populations living in a qualified census tract, that is provided by a Tribal government, or that is provided to other households, businesses, or populations disproportionately impacted by the COVID-19 public health emergency, such as:

(i) Programs or services that facilitate access to health and social services, including:

(A) Assistance accessing or applying for public benefits or services;

(B) Remediation of lead paint or other lead hazards; and

(C) Community violence intervention programs;

(ii) Programs or services that address housing insecurity, lack of affordable housing, or homelessness, including:

(A) Supportive housing or other programs or services to improve access to stable, affordable housing among individuals who are homeless;

(B) Development of affordable housing to increase supply of affordable and high-quality living units; and

(C) Housing vouchers and assistance relocating to neighborhoods with higher levels of economic opportunity and to reduce concentrated areas of low economic opportunity;

(iii) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on education, including:

(A) New or expanded early learning services;

(B) Assistance to high-poverty school districts to advance equitable funding across districts and geographies; and

(C) Educational and evidence-based services to address the academic, social, emotional, and mental health needs of students; and

(iv) Programs or services that address or mitigate the impacts of the COVID-19 public health emergency on childhood health or welfare, including:

(A) New or expanded childcare;

(B) Programs to provide home visits by health professionals, parent educators, and social service professionals to individuals with young children to provide education and assistance for economic support, health needs, or child development; and

(C) Services for child welfare-involved families and foster youth to provide support and education on child development, positive parenting, coping skills, or recovery for mental health and substance use.

(c) *Providing premium pay to eligible workers.* A recipient may use funds to provide premium pay to eligible workers of the recipient who perform essential work or to provide grants to eligible employers, provided that any premium pay or grants provided under this paragraph (c) must respond to eligible workers performing essential work during the COVID-19 public health emergency. A recipient uses premium pay or grants provided under this paragraph (c) to respond to eligible workers performing essential work during the COVID-19 public health emergency if it prioritizes low- and moderate-income persons. The recipient must provide, whether for themselves or on behalf of a grantee, a written justification to the Secretary of how the premium pay or grant provided under this paragraph (c) responds to eligible workers performing essential work if the premium pay or grant would increase an eligible worker's total wages and remuneration above 150 percent of such eligible worker's residing State's average annual wage for all occupations or their residing county's average annual wage, whichever is higher.

(d) *Providing government services.* For the provision of government services to the extent of a reduction in the recipient's general revenue, calculated according to paragraphs (d)(1) and (2) of this section.

(1) *Frequency.* A recipient must calculate the reduction in its general revenue using information as-of December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023 (each, a calculation date) and following each calculation date.

(2) *Calculation.* A reduction in a recipient's general revenue equals:

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

Where:

Base Year Revenue is the recipient's general revenue for the most recent full fiscal year prior to the COVID-19 public health emergency;

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

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

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

Subscript *t* denotes the specific calculation date.

(e) *To make necessary investments in infrastructure.* A recipient may use funds to make investments in:

(1) *Clean Water State Revolving Fund and Drinking Water State Revolving Fund investments.* Projects or activities of the type that would be eligible under section 603(c) of the Federal Water Pollution Control Act (33 U.S.C. 1383(c)) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j-12); or,

(2) *Broadband.* Broadband infrastructure that is designed to provide service to unserved or underserved households and businesses and that is designed to, upon completion:

(i) Reliably meet or exceed symmetrical 100 Mbps download speed and upload speeds; or

(ii) In cases where it is not practicable, because of the excessive cost of the project or geography or topography of the area to be served by the project, to provide service meeting the standards set forth in paragraph (e)(2)(i) of this section:

(A) Reliably meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed; and

(B) Be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.

§ 35.7 Pensions.

A recipient may not use funds for deposit into any pension fund.

§ 35.8 Tax.

(a) *Restriction.* A State or Territory shall not use funds to either directly or indirectly offset a reduction in the net tax revenue of the State or Territory

resulting from a covered change during the covered period.

(b) *Violation.* Treasury will consider a State or Territory to have used funds to offset a reduction in net tax revenue if, during a reporting year:

(1) *Covered change.* The State or Territory has made a covered change that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of reducing tax revenue relative to current law;

(2) *Exceeds the de minimis threshold.* The aggregate amount of the measured or predicted reductions in tax revenue caused by covered changes identified under paragraph (b)(1) of this section, in the aggregate, exceeds 1 percent of the State's or Territory's baseline;

(3) *Reduction in net tax revenue.* The State or Territory reports a reduction in net tax revenue, measured as the difference between actual tax revenue and the State's or Territory's baseline, each measured as of the end of the reporting year; and

(4) *Consideration of other changes.* The aggregate amount of measured or predicted reductions in tax revenue caused by covered changes is greater than the sum of the following, in each case, as calculated for the reporting year:

(i) The aggregate amount of the expected increases in tax revenue caused by one or more covered changes that, either based on a reasonable statistical methodology to isolate the impact of the covered change in actual revenue or based on projections that use reasonable assumptions and do not incorporate the effects of macroeconomic growth to reduce or increase the projected impact of the covered change, the State or Territory assesses has had or predicts to have the effect of increasing tax revenue; and

(ii) Reductions in spending, up to the amount of the State's or Territory's net reduction in total spending, that are in:

(A) Departments, agencies, or authorities in which the State or Territory is not using funds; and

(B) Departments, agencies, or authorities in which the State or Territory is using funds, in an amount equal to the value of the spending cuts in those departments, agencies, or authorities, minus funds used.

(c) *Amount and revenue reduction cap.* If a State or Territory is considered to be in violation pursuant to paragraph (b) of this section, the amount used in violation of paragraph (a) of this section is equal to the lesser of:

(1) The reduction in net tax revenue of the State or Territory for the reporting year, measured as the difference between the State's or Territory's baseline and its actual tax revenue, each measured as of the end of the reporting year; and,

(2) The aggregate amount of the reductions in tax revenues caused by covered changes identified in paragraph (b)(1) of this section, minus the sum of the amounts in identified in paragraphs (b)(4)(i) and (ii).

§ 35.9 Compliance with applicable laws.

A recipient must comply with all other applicable Federal statutes, regulations, and Executive orders, and a recipient shall provide for compliance with the American Rescue Plan Act, this subpart, and any interpretive guidance by other parties in any agreements it enters into with other parties relating to these funds.

§ 35.10 Recoupment.

(a) *Identification of violations*—(1) *In general.* Any amount used in violation of § 35.5, § 35.6, or § 35.7 may be identified at any time prior to December 31, 2026.

(2) *Annual reporting of amounts of violations.* On an annual basis, a recipient that is a State or Territory must calculate and report any amounts used in violation of § 35.8.

(b) *Calculation of amounts subject to recoupment*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.5, § 35.6, or § 35.7 as the amounts used in violation of such restrictions.

(2) *Violations of § 35.8.* Treasury will calculate any amounts subject to recoupment resulting from a violation of § 35.8, equal to the lesser of:

(i) The amount set forth in § 35.8(c); and,

(ii) The amount of funds received by such recipient.

(c) *Notice.* If Treasury calculates an amount subject to recoupment under paragraph (b) of this section, Treasury will provide the recipient a written notice of the amount subject to recoupment along with an explanation of such amounts.

(d) *Request for reconsideration.* Unless Treasury extends the time period, within 60 calendar days of receipt of a notice of recoupment provided under paragraph (c) of this section, a recipient may submit a written request to Treasury requesting reconsideration of any amounts subject to recoupment under paragraph (b) of this section. To request reconsideration of any amounts subject to recoupment, a recipient must submit to Treasury a written request that includes:

(1) An explanation of why the recipient believes all or some of the amount should not be subject to recoupment; and

(2) A discussion of supporting reasons, along with any additional information.

(e) *Final amount subject to recoupment.* Unless Treasury extends the time period, within 60 calendar days of receipt of the recipient's request for reconsideration provided pursuant to paragraph (d) of this section, the recipient will be notified of the Secretary's decision to affirm, withdraw, or modify the notice of recoupment. Such notification will include an explanation of the decision, including responses to the recipient's supporting reasons and consideration of additional information provided.

(f) *Repayment of funds.* Unless Treasury extends the time period, a recipient shall repay to the Secretary any amounts subject to recoupment in accordance with instructions provided by Treasury:

(1) Within 120 calendar days of receipt of the notice of recoupment provided under paragraph (c) of this section, in the case of a recipient that does not submit a request for reconsideration in accordance with the

requirements of paragraph (d) of this section; or

(2) Within 120 calendar days of receipt of the Secretary's decision under paragraph (e) of this section, in the case of a recipient that submits a request for reconsideration in accordance with the requirements of paragraph (d) of this section.

§ 35.11 Payments to States.

(a) *In general.* With respect to any State or Territory that has an unemployment rate as of the date that it submits an initial certification for payment of funds pursuant to section 602(d)(1) of the Social Security Act that is less than two percentage points above its unemployment rate in February 2020, the Secretary will withhold 50 percent of the amount of funds allocated under section 602(b) of the Social Security Act to such State or territory until the date that is twelve months from the date such initial certification is provided to the Secretary.

(b) *Payment of withheld amount.* In order to receive the amount withheld under paragraph (a) of this section, the State or Territory must submit to the Secretary at least 30 days prior to the date referenced in paragraph (a) the following information:

(1) A certification, in the form provided by the Secretary, that such State or Territory requires the payment to carry out the activities specified in section 602(c) of the Social Security Act and will use the payment in compliance with section 602(c) of the Social Security Act; and,

(2) Any reports required to be filed by that date pursuant to this subpart that have not yet been filed.

§ 35.12 Distributions to nonentitlement units of local government and units of general local government.

(a) *Nonentitlement units of local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(2)(B) of the Social Security Act shall distribute the amount of the payment to nonentitlement units of government in such State or Territory in accordance

with the requirements set forth in section 603(b)(2)(C) of the Social Security Act and without offsetting any debt owed by such nonentitlement units of local governments against such payments.

(b) *Budget cap.* A State or Territory may not make a payment to a nonentitlement unit of local government pursuant to section 603(b)(2)(C) of the Social Security Act and paragraph (a) of this section in excess of the amount equal to 75 percent of the most recent budget for the nonentitlement unit of local government as of January 27, 2020. A State or Territory shall permit a nonentitlement unit of local government without a formal budget as of January 27, 2020, to provide a certification from an authorized officer of the nonentitlement unit of local government of its most recent annual expenditures as of January 27, 2020, and a State or Territory may rely on such certification for purposes of complying with this paragraph (b).

(c) *Units of general local government.* Each State or Territory that receives a payment from Treasury pursuant to section 603(b)(3)(B)(ii) of the Social Security Act, in the case of an amount to be paid to a county that is not a unit of general local government, shall distribute the amount of the payment to units of general local government within such county in accordance with the requirements set forth in section 603(b)(3)(B)(ii) of the Social Security Act and without offsetting any debt owed by such units of general local government against such payments.

(d) *Additional conditions.* A State or Territory may not place additional conditions or requirements on distributions to nonentitlement units of local government or units of general local government beyond those required by section 603 of the Social Security Act or this subpart.

Laurie Schaffer,

Acting General Counsel.

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FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver \$350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs

May 10, 2021

Aid to state, local, territorial, and Tribal governments will help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery

Today, the U.S. Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments. Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support the communities and populations hardest-hit by the COVID-19 crisis. With the launch of the Coronavirus State and Local Fiscal Recovery Funds, eligible jurisdictions will be able to access this funding in the coming days to address these needs.

State, local, territorial, and Tribal governments have been on the frontlines of responding to the immense public health and economic needs created by this crisis – from standing up vaccination sites to supporting small businesses – even as these governments confronted revenue shortfalls during the downturn. As a result, these governments have endured unprecedented strains, forcing many to make untenable choices between laying off educators, firefighters, and other frontline workers or failing to provide other services that communities rely on. Faced with these challenges, state and local governments have cut over 1 million jobs since the beginning of the crisis. The experience of prior economic downturns has shown that budget pressures like these often result in prolonged fiscal austerity that can slow an economic recovery.

To support the immediate pandemic response, bring back jobs, and lay the groundwork for a strong and equitable recovery, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, designed to deliver \$350 billion to state, local, territorial, and Tribal governments to bolster their response to the COVID-19 emergency and its economic impacts. Today, Treasury is launching this much-needed relief to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the inequal impact of the pandemic on certain populations.

The Coronavirus State and Local Fiscal Recovery Funds provide substantial flexibility for each jurisdiction to meet local needs—including support for households, small businesses, impacted industries, essential workers, and the communities hardest-hit by the crisis. These funds also deliver resources that recipients can invest in building, maintaining, or upgrading their water, sewer, and broadband infrastructure.

Starting today, eligible state, territorial, metropolitan city, county, and Tribal governments may request Coronavirus State and Local Fiscal Recovery Funds through the Treasury Submission Portal. Concurrent with this program launch, Treasury has published an Interim Final Rule that implements the provisions of this program.

FUNDING AMOUNTS

The American Rescue Plan provides a total of \$350 billion in Coronavirus State and Local Fiscal Recovery Funds to help eligible state, local, territorial, and Tribal governments meet their present needs and build the foundation for a strong recovery. Congress has allocated this funding to tens of thousands of jurisdictions. These allocations include:

Type	Amount (\$ billions)
States & District of Columbia	\$195.3
Counties	\$65.1
Metropolitan Cites	\$45.6
Tribal Governments	\$20.0
Territories	\$4.5
Non-Entitlement Units of Local Government	\$19.5

Treasury expects to distribute these funds directly to each state, territorial, metropolitan city, county, and Tribal government. Local governments that are classified as non-entitlement units will receive this funding through their applicable state government. Treasury expects to provide further guidance on distributions to non-entitlement units next week.

Local governments should expect to receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February 2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches. Governments of U.S. territories will receive a single payment. Tribal governments will receive two payments, with the first payment available in May and the second payment, based on employment data, to be delivered in June 2021.

USES OF FUNDING

Coronavirus State and Local Fiscal Recovery Funds provide eligible state, local, territorial, and Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. Within the categories of eligible uses, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- **Support public health expenditures**, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Within these overall categories, Treasury’s Interim Final Rule provides guidelines and principles for determining the types of programs and services that this funding can support, together with examples of allowable uses that recipients may consider. As described below, Treasury has also designed these provisions to take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic.

1. Supporting the public health response

Mitigating the impact of COVID-19 continues to require an unprecedented public health response from state, local, territorial, and Tribal governments. Coronavirus State and Local Fiscal Recovery Funds provide resources to meet these needs through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic. Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral healthcare, and public health resources. Among other services, these funds can help support:

- **Services and programs to contain and mitigate the spread of COVID-19, including:**
 - ✓ Vaccination programs
 - ✓ Medical expenses
 - ✓ Testing
 - ✓ Contact tracing
 - ✓ Isolation or quarantine
 - ✓ PPE purchases
 - ✓ Support for vulnerable populations to access medical or public health services
 - ✓ Public health surveillance (e.g., monitoring for variants)
 - ✓ Enforcement of public health orders
 - ✓ Public communication efforts
 - ✓ Enhancement of healthcare capacity, including alternative care facilities
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities and schools
 - ✓ Enhancement of public health data systems
 - ✓ Capital investments in public facilities to meet pandemic operational needs
 - ✓ Ventilation improvements in key settings like healthcare facilities

- **Services to address behavioral healthcare needs exacerbated by the pandemic, including:**
 - ✓ Mental health treatment
 - ✓ Substance misuse treatment
 - ✓ Other behavioral health services
 - ✓ Hotlines or warmlines
 - ✓ Crisis intervention
 - ✓ Services or outreach to promote access to health and social services
- **Payroll and covered benefits expenses** for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response. For public health and safety workers, recipients can use these funds to cover the full payroll and covered benefits costs for employees or operating units or divisions primarily dedicated to the COVID-19 response.

2. Addressing the negative economic impacts caused by the public health emergency

The COVID-19 public health emergency resulted in significant economic hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost between February and April 2020. Although many have since returned to work, as of April 2021, the economy remains more than 8 million jobs below its pre-pandemic peak, and more than 3 million workers have dropped out of the labor market altogether since February 2020.

To help alleviate the economic hardships caused by the pandemic, Coronavirus State and Local Fiscal Recovery Funds enable eligible state, local, territorial, and Tribal governments to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Among these uses include:

- **Delivering assistance to workers and families**, including aid to unemployed workers and job training, as well as aid to households facing food, housing, or other financial insecurity. In addition, these funds can support survivor's benefits for family members of COVID-19 victims.
- **Supporting small businesses**, helping them to address financial challenges caused by the pandemic and to make investments in COVID-19 prevention and mitigation tactics, as well as to provide technical assistance. To achieve these goals, recipients may employ this funding to execute a broad array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.
- **Speeding the recovery of the tourism, travel, and hospitality sectors**, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.
- **Rebuilding public sector capacity**, by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

3. Serving the hardest-hit communities and families

While the pandemic has affected communities across the country, it has disproportionately impacted low-income families and communities of color and has exacerbated systemic health and economic inequities. Low-income and socially vulnerable communities have experienced 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.

Coronavirus State and Local Fiscal Recovery Funds allow for a broad range of uses to address the disproportionate public health and economic impacts of the crisis on the hardest-hit communities, populations, and households. Eligible services include:

- **Addressing health disparities and the social determinants of health**, through funding for community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs;
- **Investments in housing and neighborhoods**, such as services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity;
- **Addressing educational disparities** through new or expanded early learning services, providing additional resources to high-poverty school districts, and offering educational services like tutoring or afterschool programs as well as services to address social, emotional, and mental health needs; and,
- **Promoting healthy childhood environments**, including new or expanded high quality childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Governments may use Coronavirus State and Local Fiscal Recovery Funds to support these additional services if they are provided:

- within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development);
- to families living in Qualified Census Tracts;
- by a Tribal government; or,
- to other populations, households, or geographic areas disproportionately impacted by the pandemic.

4. Replacing lost public sector revenue

State, local, territorial, and Tribal governments that are facing budget shortfalls may use Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services. With these additional resources, recipients can continue to provide valuable public services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Many state, local, territorial, and Tribal governments have experienced significant budget shortfalls, which can yield a devastating impact on their respective communities. Faced with budget shortfalls and pandemic-related uncertainty, state and local governments cut staff in all 50 states. These budget shortfalls and staff cuts are particularly problematic at present, as these entities are on the front lines of battling the COVID-19 pandemic and helping citizens weather the economic downturn.

Recipients may use these funds to replace lost revenue. Treasury's Interim Final Rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency and projects forward at either (a) the recipient's average annual revenue growth over the three full fiscal years prior to the public health emergency or (b) 4.1%, the national average state and local revenue growth rate from 2015-18 (the latest available data).

For administrative convenience, Treasury's Interim Final Rule allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Upon receiving Coronavirus State and Local Fiscal Recovery Funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. Recipients will have the opportunity to re-calculate revenue loss at several points through the program, supporting those entities that experience a lagged impact of the crisis on revenues.

Importantly, once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services, up to this amount of lost revenue.

5. Providing premium pay for essential workers

Coronavirus State and Local Fiscal Recovery Funds provide resources for eligible state, local, territorial, and Tribal governments to recognize the heroic contributions of essential workers. Since the start of the public health emergency, essential workers have put their physical well-being at risk to meet the daily needs of their communities and to provide care for others.

Many of these essential workers have not received compensation for the heightened risks they have faced and continue to face. Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs including, among others:

- | | |
|---|---|
| ✓ Staff at nursing homes, hospitals, and home-care settings | ✓ Truck drivers, transit staff, and warehouse workers |
| ✓ Workers at farms, food production facilities, grocery stores, and restaurants | ✓ Childcare workers, educators, and school staff |
| ✓ Janitors and sanitation workers | ✓ Social service and human services staff |
| ✓ Public health and safety staff | |

Treasury's 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.

In addition, employers are both permitted and encouraged to use Coronavirus State and Local Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

6. Investing in water and sewer infrastructure

Recipients may use Coronavirus State and Local Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change.

Recipients may use this funding to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.

Recipients may also use this funding to invest in wastewater infrastructure projects, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.

To help jurisdictions expedite their execution of these essential investments, Treasury's Interim Final Rule aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

Treasury's Interim Final Rule also 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.

7. Investing in broadband infrastructure

The pandemic has underscored the importance of access to universal, high-speed, reliable, and affordable broadband coverage. Over the past year, millions of Americans relied on the internet to participate in remote school, healthcare, and work.

Yet, by at least one measure, 30 million Americans live in areas where there is no broadband service or where existing services do not deliver minimally acceptable speeds. For millions of other Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan aims to help remedy these shortfalls, providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Recognizing the acute need in certain communities, Treasury's Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses.

Using these funds, recipients generally should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100

Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments.

In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use to respond to the public health and negative economic impacts of the pandemic, as detailed above.

8. Ineligible Uses

Coronavirus State and Local Fiscal Recovery Funds provide substantial resources to help eligible state, local, territorial, and Tribal governments manage the public health and economic consequences of COVID-19. Recipients have considerable flexibility to use these funds to address the diverse needs of their communities.

To ensure that these funds are used for their intended purposes, the American Rescue Plan Act also specifies two ineligible uses of funds:

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.** The American Rescue Plan ensures that funds needed to provide vital services and support public employees, small businesses, and families struggling to make it through the pandemic are not used to fund reductions in net tax revenue. Treasury's Interim Final Rule implements this requirement. If a state or territory cuts taxes, they must demonstrate how they paid for the tax cuts from sources other than Coronavirus State Fiscal Recovery Funds—by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- **No recipient may use this funding to make a deposit to a pension fund.** Treasury's Interim Final Rule defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.

AS OF JULY 19, 2021

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?

Attachment: ATTACHMENT A-3 FAQs (2534 : American Rescue Plan Act)

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.

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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?

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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 CSFRR/CLFRR 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?

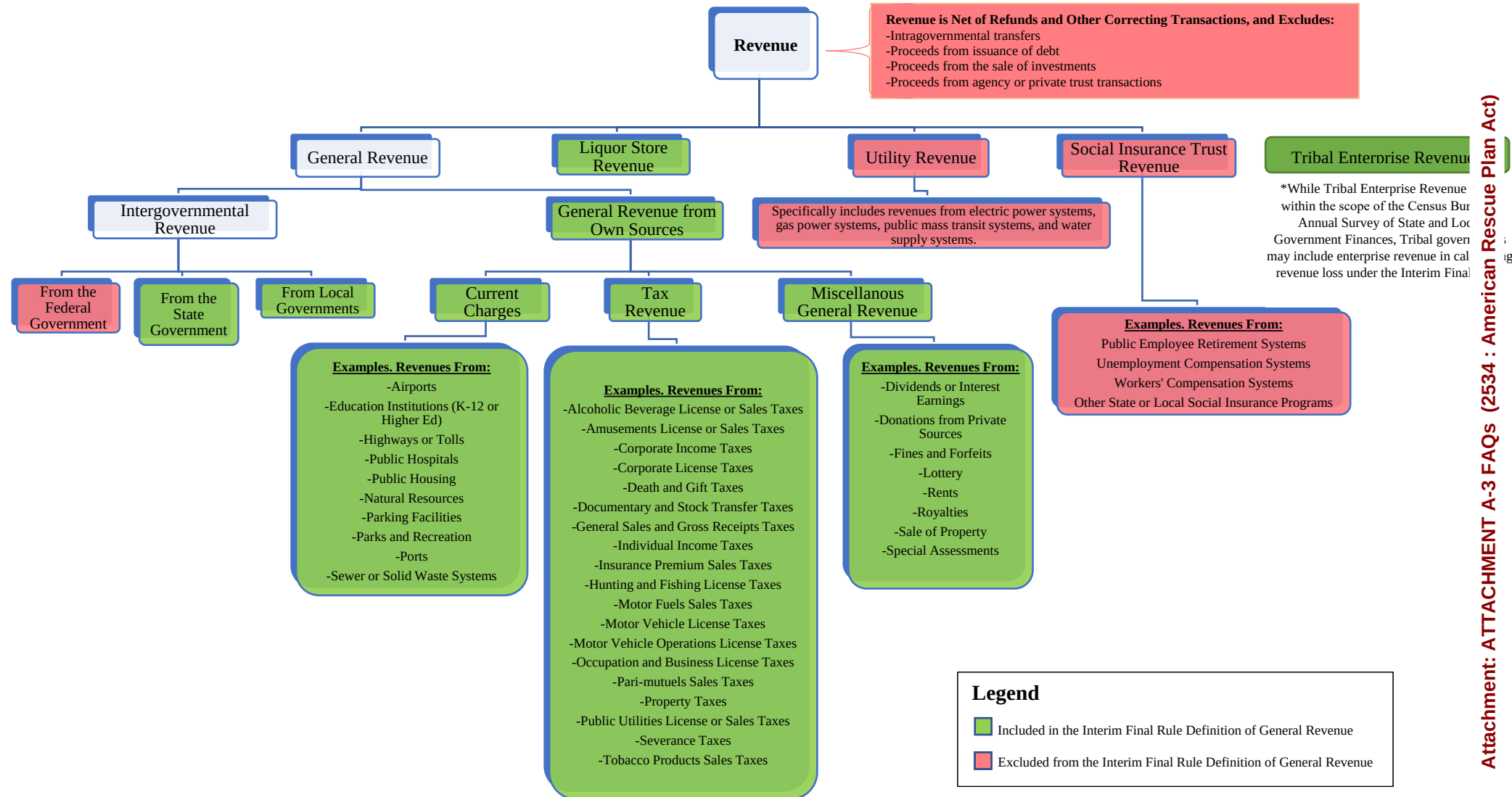
Before Treasury is able to execute a payment, a representative of an eligible government must submit the government's information for verification through the [Treasury Submission Portal](#). The verification process takes approximately four business days. If any errors are identified, the designated 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.

AS OF JULY 19, 2021

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](#)

Compliance and Reporting Guidance

State and Local Fiscal Recovery Funds



June 24, 2021



Coronavirus State and Local Fiscal Recovery Funds Guidance on Recipient Compliance and Reporting Responsibilities

On March 11, 2021, the American Rescue Plan Act was signed into law, and established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds, which together make up the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) program. This program is intended to provide support to State, territorial, local, and Tribal governments in responding to the economic and public health impacts of COVID-19 and in their efforts to contain impacts on their communities, residents, and businesses.

This guidance provides additional detail and clarification for each recipient’s compliance and reporting responsibilities under the SLFRF program, and should be read in concert with the Award Terms and Conditions, the authorizing statute, the [SLFRF implementing regulation](#), and other regulatory and statutory requirements, including regulatory requirements under [the Uniform Guidance \(2 CFR Part 200\)](#). Please see the [Assistance Listing](#) in SAM.gov under assistance listing number (formerly known as CFDA number), 21.027 for more information.

Please Note: This guidance document applies to the SLFRF program only and does not change nor impact reporting and compliance requirements for the Coronavirus Relief Fund (“CRF”) established by the CARES Act.

This guidance includes two parts:

Part 1: General Guidance

This section provides an orientation to recipients’ compliance responsibilities and the U.S. Department of the Treasury’s (“Treasury”) expectations and recommends best practices where appropriate under the SLFRF Program.

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B. Statutory Eligible Uses.....	P. 3
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Part 2: Reporting Requirements

This section provides information on the reporting requirements for the SLFRF program.

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Part 1: General Guidance

This section provides an orientation on recipients' compliance responsibilities and Treasury's expectations and recommended best practices where appropriate under the SLFRF program.

Recipients under the SLFRF program are the eligible entities identified in sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021 (the "SLFRF statute") that receive a SLFRF award. Subrecipients under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient.

Recipients are accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Interim Final Rule, and reporting requirements, as applicable.

A. Key Principles

There are several guiding principles for developing your own effective compliance regimes:

- Recipients and subrecipients are the first line of defense, and responsible for ensuring the SLFRF award funds are not used for ineligible purposes, and there is no fraud, waste, and abuse associated with their SLFRF award;
- Many SLFRF-funded projects respond to the COVID-19 public health emergency and meet urgent community needs. Swift and effective implementation is vital, and recipients must balance facilitating simple and rapid program access widely across the community and maintaining a robust documentation and compliance regime;
- SLFRF-funded projects should advance shared interests and promote equitable delivery of government benefits and opportunities to underserved communities, as outlined in [Executive Order 13985, On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#); and
- Transparency and public accountability for SLFRF award funds and use of such funds are critical to upholding program integrity and trust in all levels of government, and SLFRF award funds should be managed consistent with Administration guidance per [Memorandum M-21-20](#) and [Memorandum M-20-21](#).

B. Statutory Eligible Uses

As a recipient of an SLFRF award, your organization has substantial discretion to use the award funds in the ways that best suit the needs of your constituents – as long as such use fits into one of the following four statutory categories:

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



Treasury adopted an [Interim Final Rule](#) to implement these eligible use categories and other restrictions on the use of funds under the SLFRF program.¹ It is the recipient's responsibility to ensure all SLFRF award funds are used in compliance with these requirements. In addition, recipients should be mindful of any additional compliance obligations that may apply – for example, additional restrictions imposed upon other sources of funds used in conjunction with SLFRF award funds, or statutes and regulations that may independently apply to water, broadband, and sewer infrastructure projects. Recipients should ensure they maintain proper documentation supporting determinations of costs and applicable compliance requirements, and how they have been satisfied as part of their award management, internal controls, and subrecipient oversight and management.

C. Treasury's Rule

Treasury's [Interim Final Rule](#) details recipients' compliance responsibilities and provides additional information on eligible and restricted uses of SLFRF award funds and reporting requirements. Your organization should review and comply with the information contained in Treasury's Interim Final Rule, and any subsequent final rule when building appropriate controls for SLFRF award funds.

- 1. Eligible and Restricted Uses of SLFRF Funds.** As described in the SLFRF statute and summarized above, there are four enumerated eligible uses of SLFRF award funds. As a recipient of an award under the SLFRF program, your organization is responsible for complying with requirements for the use of funds. In addition to determining a given project's eligibility, recipients are also responsible for determining subrecipient's or beneficiaries' eligibility and must monitor use of SLFRF award funds.

To help recipients build a greater understanding of eligible uses, Treasury's Interim Final Rule establishes a framework for determining whether a specific project would be eligible under the SLFRF program, including some helpful definitions. For example, Treasury's Interim Final Rule establishes:

- A framework for determining whether a project "responds to" a "negative economic impact" caused by the COVID-19 public health emergency;
- Definitions of "eligible employers", "essential work," "eligible workers", and "premium pay" for cases where premium pay is an eligible use;
- A definition of "general revenue" and a formula for calculating revenue lost due to the COVID-19 public health emergency;
- A framework for eligible water and sewer infrastructure projects that aligns eligible uses with projects that are eligible under the Environmental Protection Agency's Drinking Water and Clean Water State Revolving Funds; and
- A framework for eligible broadband projects designed to provide service to unserved or underserved households, or businesses at speeds 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's Interim Final Rule also provides more information on four important restrictions on use of SLFRF award funds: recipients may not deposit SLFRF funds into a pension fund; recipients that are States or territories may not use SLFRF funds to offset a reduction in net tax revenue caused by the recipient's change in law, regulation, or administrative

¹ Treasury's Interim Final Rule is effective as of May 17, 2021, and public comments are due July 16, 2021. This guidance may be clarified consistent with the final rule.
<https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>



interpretation; and, recipients may not use SLFRF funds as non-Federal match where prohibited. In addition, the Interim Final Rule clarifies certain uses of SLFRF funds outside the scope of eligible uses, including that recipients generally may not use SLFRF funds directly to service debt, satisfy a judgment or settlement, or contribute to a “rainy day” fund. Recipients should refer to Treasury’s Interim Final Rule for more information on these restrictions.

- 2. Eligible Costs Timeframe.** Your organization, as a recipient of an SLFRF award, may use SLFRF funds to cover eligible costs that your organization incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, as long as the award funds for the obligations incurred by December 31, 2024 are expended by December 31, 2026. Costs for projects incurred by the recipient State, territorial, local, or Tribal government prior to March 3, 2021 are not eligible, as provided for in Treasury’s Interim Final Rule.

Recipients may use SLFRF award funds to provide assistance to households, businesses, and individuals within the eligible use categories described in Treasury’s Interim Final Rule for costs that those households, businesses and individuals incurred prior to March 3, 2021. For example,

- a. Public Health/Negative Economic Impacts: Recipients may use SLFRF award funds to provide assistance to households – such as rent, mortgage, or utility assistance – for costs incurred by the household prior to March 3, 2021, provided that the recipient State, territorial, local or Tribal government did not incur the cost of providing such assistance prior to March 3, 2021.
- b. 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.
- c. Revenue Loss: Treasury’s Interim Final Rule gives recipients broad latitude to use funds for the provision of government services to the extent of reduction in revenue. While 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, use of funds for government services must be forward looking for costs incurred by the recipient after March 3, 2021.
- d. Investments in Water, Sewer, and Broadband: Recipients may use SLFRF award funds to make necessary investments in water, sewer, and broadband. Recipients may use SLFRF award funds to cover costs incurred for eligible projects planned or started prior to March 3, 2021, provided that the project costs covered by the SLFRF award funds were incurred after March 3, 2021.

Any funds not obligated or expended for eligible uses by the timelines above must be returned to Treasury, including any unobligated or unexpended funds that have been provided to subrecipients and contractors. For the purposes of determining expenditure eligibility, Treasury’s Interim Final Rule provides that “incurred” has the same meaning given to “financial obligation” in 2 CFR § 200.1.

- 3. Reporting.** Generally, recipients must submit one initial interim report, quarterly or annual Project and Expenditure reports which include subaward reporting, and in some cases annual Recovery Plan reports. Treasury’s Interim Final Rule and Part 2 of this guidance provide more detail around SLFRF reporting requirements.



Assistance Listing

The [Assistance Listing](#) for the Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) was published May 28, 2021 on SAM.gov under Assistance Listing Number (“ALN”), formerly known as CFDA Number, **21.027**.

The assistance listing includes helpful information including program purpose, statutory authority, eligibility requirements, and compliance requirements for recipients. The ALN is the unique 5-digit number assigned to identify a federal assistance listing, and can be used to search for federal assistance 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 ALN, 21.019, assigned to the CRF. If you have already received funds or captured the initial number in your records, please update your systems and reporting to reflect the new ALN 21.027 for the SLFRF program. **Recipients must use ALN 21.027 for all financial accounting, subawards, and associated program reporting requirements for the SLFRF awards.**

D. Uniform Administrative Requirements

The SLFRF awards are generally subject to the requirements set forth in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, [2 CFR Part 200](#) (the “Uniform Guidance”). In all instances, your organization should review the Uniform Guidance requirements applicable to your organization’s use of SLFRF funds, and SLFRF-funded projects. Recipients should consider how and whether certain aspects of the Uniform Guidance apply.

The following sections provide a general summary of your organization’s compliance responsibilities under applicable statutes and regulations, including the Uniform Guidance, as described in the [2020 OMB Compliance Supplement Part 3. Compliance Requirements \(issued August 18, 2020\)](#). Note that the descriptions below are only general summaries and all recipients and subrecipients are advised to carefully review the Uniform Guidance requirements and any additional regulatory and statutory requirements applicable to the program.

- 1. Allowable Activities.** Each recipient should review program requirements, including Treasury’s Interim Final Rule and the recipient’s Award Terms and Conditions, to determine and record eligible uses of SLFRF funds. Per 2 CFR 200.303, your organization must develop and implement effective internal controls to ensure that funding decisions under the SLFRF award constitute eligible uses of funds, and document determinations.
- 2. Allowable Costs/Cost Principles.** As outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E regarding Cost Principles, allowable costs are based on the premise that a recipient is responsible for the effective administration of Federal awards, application of sound management practices, and administration of Federal funds in a manner consistent with the program objectives and terms and conditions of the award. Recipients must implement robust internal controls and effective monitoring to ensure compliance with the Cost Principles, which are important for building trust and accountability.



SLFRF Funds may be, but are not required to be, used along with other funding sources for a given project. Note that SLFRF Funds may not be used for a non-Federal cost share or match where prohibited by other Federal programs, e.g., funds may not be used for the State share for Medicaid.²

Treasury's Interim Final Rule and guidance and the Uniform Guidance outline the types of costs that are allowable, including certain audit costs. For example, per 2 CFR 200.425, a reasonably proportionate share of the costs of audits required by the Single Audit Act Amendments of 1996 are allowable; however, costs for audits that were not performed, or not in accordance with 2 CFR Part 200, Subpart F are not allowable. Please see 2 CFR Part 200, Subpart E regarding the Cost Principles for more information.

- a. **Administrative costs:** Recipients may use funds for administering the SLFRF program, including costs of consultants to support effective management and oversight, including consultation for ensuring compliance with legal, regulatory, and other requirements.³ Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405. Pursuant to the SLFRF Award Terms and Conditions, recipients are permitted to charge both direct and indirect costs to their SLFRF award as administrative costs. Direct costs are those that are identified specifically as costs of implementing the SLFRF program objectives, such as contract support, materials, and supplies for a project. Indirect costs are general overhead costs of an organization where a portion of such costs are allocable to the SLFRF award such as the cost of facilities or administrative functions like a director's office.⁴⁵ Each category of cost should be treated consistently in like circumstances as direct or indirect, and recipients may not charge the same administrative costs to both direct and indirect cost categories, or to other programs. If a recipient has a current Negotiated Indirect Costs Rate Agreement (NICRA) established with a Federal cognizant agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, then the recipient may use its current NICRA. Alternatively, if the recipient does not have a NICRA, the recipient may elect to use the de minimis rate of 10 percent of the modified total direct costs pursuant to 2 CFR 200.414(f).
 - b. **Salaries and Expenses:** In general, certain employees' wages, salaries, and covered benefits are an eligible use of SLFRF award funds. Please see Treasury's Interim Final Rule for details.
- 3. Cash Management.** SLFRF payments made to recipients are not subject to the requirements of the Cash Management Improvement Act and Treasury's implementing regulations at 31 CFR part 205 or 2 CFR 200.305(b)(8)-(9).
- As such, recipients can place funds in interest-bearing accounts, do not need to remit interest to Treasury, and are not limited to using that interest for eligible uses under the SLFRF award.
- 4. Eligibility.** Under this program, recipients are responsible for ensuring funds are used for eligible purposes. Generally, recipients must develop and implement policies and procedures, and record retention, to determine and monitor implementation of criteria for

² See 42 CFR 433.51 and 45 CFR 75.306.

³ Recipients also may use SLFRF funds directly for administrative costs to improve efficacy of programs that respond to the COVID-19 public health emergency. 31 CFR 35.6(b)(10).

⁴ 2 CFR 200.413 Direct Costs.

⁵ 2 CFR 200.414 Indirect Costs.



determining the eligibility of beneficiaries and/or subrecipients. Your organization, and if applicable, the subrecipient(s) administering a program on behalf of your organization, will need to maintain procedures for obtaining information evidencing a given beneficiary, subrecipient, or contractor's eligibility including a valid SAM.gov registration. Implementing risk-based due diligence for eligibility determinations is a best practice to augment your organization's existing controls.

5. **Equipment and Real Property Management.** Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.
6. **Matching, Level of Effort, Earmarking.** There are no matching, level of effort, or earmarking compliance responsibilities associated with the SLFRF award. SLFRF funds may only be used for non-Federal match in other programs where costs are eligible under both SLFRF and the other program and use of such funds is not prohibited by the other program.
7. **Period of Performance.** Your organization should also develop and implement internal controls related to activities occurring outside the period of performance. For example, each recipient should articulate each project's policy on allowability of costs incurred prior to award or start of the period of performance. All funds remain subject to statutory requirements that they must be used for costs incurred by the recipient during the period that begins on March 3, 2021, and ends on December 31, 2024, and that award funds for the financial obligations incurred by December 31, 2024 must be expended by December 31, 2026. Any funds not used must be returned to Treasury.
8. **Procurement, Suspension & Debarment.** Recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable. The Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non-competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate.⁶ Recipients must have and use documented procurement procedures that are consistent with the standards outlined in 2 CFR 200.317 through 2 CFR 200.320. The Uniform Guidance requires an infrastructure for competitive bidding and contractor oversight, including maintaining written standards of conduct and prohibitions on dealing with suspended or debarred parties. Your organization must ensure adherence to all applicable local, State, and federal procurement laws and regulations.
9. **Program Income.** Generally, program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards and principal and interest on loans made with Federal award funds. Program income does not include interest earned on advances of Federal funds, rebates, credits, discounts, or interest on rebates, credits, or discounts. Recipients of SLFRF funds

⁶ 2 CFR 200.320(c)(1)-(3) and (5)



should calculate, document, and record the organization's program income. Additional controls that your organization should implement include written policies that explicitly identify appropriate allocation methods, accounting standards and principles, compliance monitoring checks for program income calculations, and records.

The Uniform Guidance outlines the requirements that pertain to program income at 2 CFR 200.307. Treasury intends to provide additional guidance regarding program income and the application of 2 CFR 200.307(e)(1), including with respect to lending programs.

- 10. Reporting.** All recipients of federal funds must complete financial, performance, and compliance reporting as required and outlined in Part 2 of this guidance. Expenditures may be reported on a cash or accrual basis, as long as the methodology is disclosed and consistently applied. Reporting must be consistent with the definition of expenditures pursuant to 2 CFR 200.1. Your organization should appropriately maintain accounting records for compiling and reporting accurate, compliant financial data, in accordance with appropriate accounting standards and principles.

In addition, where appropriate, your organization needs to establish controls to ensure completion and timely submission of all mandatory performance and/or compliance reporting. See Part 2 of this guidance for a full overview of recipient reporting responsibilities.

- 11. Subrecipient Monitoring.** SLFRF recipients that are pass-through entities as defined under 2 CFR 200.1 are required to manage and monitor their subrecipients to ensure compliance with requirements of the SLFRF award pursuant to 2 CFR 200.332 regarding requirements for pass-through entities.

First, your organization must clearly identify to the subrecipient: (1) that the award is a subaward of SLFRF funds; (2) any and all compliance requirements for use of SLFRF funds; and (3) any and all reporting requirements for expenditures of SLFRF funds.

Next, your organization will need to evaluate each subrecipient's risk of noncompliance based on a set of common factors. These risk assessments may include factors such as prior experience in managing Federal funds, previous audits, personnel, and policies or procedures for award execution and oversight. Ongoing monitoring of any given subrecipient should reflect its assessed risk and include monitoring, identification of deficiencies, and follow-up to ensure appropriate remediation.

Accordingly, your organization should develop written policies and procedures for subrecipient monitoring and risk assessment and maintain records of all award agreements identifying or otherwise documenting subrecipients' compliance obligations.

- 12. Special Tests and Provisions.** Treasury has set a deadline of July 16, 2021, for receipt of public comment on its Interim Final Rule and will adopt a final rule responding to these comments. In addition, Treasury may add clarifications to the implementing guidance.

Across each of the compliance requirements above, Treasury described some best practices for development of internal controls. The table below provides a brief description and example of each best practice.

**Table 1: Internal controls best practices**

Best Practice	Description	Example
Written policies and procedures	Formal documentation of recipient policies and procedures	Documented procedure for determining worker eligibility for premium pay
Written standards of conduct	Formal statement of mission, values, principles, and professional standards	Documented code of conduct / ethics for subcontractors
Risk-based due diligence	Pre-payment validations conducted according to an assessed level of risk	Enhanced eligibility review of subrecipient with imperfect performance history
Risk-based compliance monitoring	Ongoing validations conducted according to an assessed level of risk	Higher degree of monitoring for projects that have a higher risk of fraud, given program characteristics
Record maintenance and retention	Creation and storage of financial and non-financial records.	Storage of all subrecipient payment information.

E. Award Terms and Conditions

The Award Terms and Conditions of the SLFRF financial assistance agreement sets forth the compliance obligations for recipients pursuant to the SLFRF statute, the Uniform Guidance, and Treasury's Interim Final Rule. Recipients should ensure they remain in compliance with all Award Terms and Conditions. These obligations include the following items in addition to those described above:

- 1. SAM.gov Requirements.** All eligible recipients are also required to have an active registration with the System for Award Management (SAM) (<https://www.sam.gov>). To ensure timely receipt of funding, Treasury has stated that Non-entitlement Units of Government (NEUs) who have not previously registered with SAM.gov may do so after receipt of the award, but before the submission of mandatory reporting.⁷
- 2. Recordkeeping Requirements.** Generally, your organization must maintain records and financial documents for five years after all funds have been expended or returned to Treasury, as outlined in paragraph 4.c. of the Award Terms and Conditions. Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Your organization must agree to provide or make available such records to Treasury upon request, and to any authorized oversight body, including but not limited to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and the Pandemic Relief Accountability Committee ("PRAC").
- 3. Single Audit Requirements.** Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.⁸ Recipients and subrecipients may also refer to the [Office of](#)

⁷ See flexibility provided in https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf.

⁸ For-profit entities that receive SLFRF subawards are not subject to Single Audit requirements. However, they are subject to other audits as deemed necessary by authorized governmental entities, including Treasury, the GAO, the PRAC and the Treasury's OIG.



[Management and Budget \(OMB\) Compliance Supplements for audits of federal funds and related guidance](#) and the [Federal Audit Clearinghouse](#) to see examples and single audit submissions.

4. **Civil Rights Compliance.** Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

In order to carry out its enforcement responsibilities under Title VI of the Civil Rights Act, Treasury will collect and review information from recipients to ascertain their compliance with the applicable requirements before and after providing financial assistance. Treasury's implementing regulations, 31 CFR part 22, and the Department of Justice (DOJ) regulations, [Coordination of Non-discrimination in Federally Assisted Programs, 28 CFR part 42](#), provide for the collection of data and information from recipients (see 28 CFR 42.406). Treasury may request that recipients submit data for post-award compliance reviews, including information such as a narrative describing their Title VI compliance status.



Part 2: Reporting Guidance

There are three types of reporting requirements for the SLFRF program.

- **Interim Report:** Provide initial overview of status and uses of funding. This is a one-time report. [See Section A, page 13.](#)
- **Project and Expenditure Report:** Report on projects funded, expenditures, and contracts and subawards over \$50,000, and other information. [See Section B, page 15.](#)
- **Recovery Plan Performance Report:** The Recovery Plan Performance Report (the “Recovery Plan”) will provide information on the projects that large recipients are undertaking with program funding and how they plan to ensure program outcomes are achieved in an effective, efficient, and equitable manner. It will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury. The Recovery Plan will be posted on the website of the recipient as well as provided to Treasury. [See Section C, page 23.](#)

Table 2: Reporting requirements by recipient type

Recipient	Interim Report	Project and Expenditure Report	Recovery Plan Performance Report
States, U.S. territories, metropolitan cities and counties with a population that exceeds 250,000 residents	By August 31, 2021, with expenditures by category	By October 31, 2021, and then 30 days after the end of each quarter thereafter ⁹	By August 31, 2021, and annually thereafter by July 31 ¹⁰
Metropolitan cities and counties with a population below 250,000 residents which received more than \$5 million in SLFRF funding			Not required
Tribal Governments			
Metropolitan cities and counties with a population below 250,000 residents which received less than \$5 million in SLFRF funding		By October 31, 2021, and then annually thereafter ¹¹	
NEUs	Not required		

The remainder of this document describes these reporting requirements. A users’ guide will be provided with additional information on how and where to submit required reports.

⁹ Interim Final Rule Page 111

¹⁰ Interim Final Rule page 112

¹¹ Interim Final Rule Page 111



Comparison to reporting for the CRF

This guidance does not change the reporting or compliance requirements pertaining to the CRF. Reporting and compliance requirements for the SLFRF are separate from CRF reporting requirements. Changes from CRF to SLFRF include:

- **Project, Expenditure, and Subaward Reporting:** The SLFRF reporting requirements leverage the existing reporting regime used for CRF to foster continuity and provide many recipients with a familiar reporting mechanism. The data elements for the Project and Expenditure Report will largely mirror those used for CRF, with some minor exceptions noted in this guidance. The users' guide will describe how reporting for CRF funds will relate to reporting for the SLFRF.
- **Timing of Reports:** CRF reports were due within 10 days of each calendar quarter. SLFRF quarterly reporting will be due 30 days from quarter end.
- **Program and Performance Reporting:** The CRF reporting did not include any program or performance reporting. To build public awareness and accountability and allow Treasury to monitor compliance with eligible uses, some program and performance reporting is required.

A. Interim Report

States, U.S. territories, metropolitan cities, counties, and Tribal governments are required to submit a one-time interim report with expenditures¹² by Expenditure Category from the date of award to July 31, 2021. The recipient will be required to enter obligations¹³ and expenditures and, for each, select the specific expenditure category from the available options. See Appendix 1 for Expenditure Categories (EC).

1. Required Programmatic Data

Recipients will also be required to provide the following information if they have or plan to have expenditures in the following Expenditure Categories.

- Revenue replacement (EC 6.1¹⁴):** Key inputs into the revenue replacement formula in the Interim Final Rule and estimated revenue loss due to the Covid-19 public health emergency calculated using the formula in the Interim Final Rule as of December 31, 2020.
 - Base year general revenue (e.g., revenue in the last full fiscal year prior to the public health emergency)
 - Fiscal year end date
 - Growth adjustment used (either 4.1 percent or average annual general revenue growth over 3 years prior to pandemic)
 - Actual general revenue as of the twelve months ended December 31, 2020
 - Estimated revenue loss due to the Covid-19 public health emergency as of December 31, 2020
 - An explanation of how revenue replacement funds were allocated to government services (Note: additional instructions and/or template to be provided in users' guide)

¹² For purposes of reporting in the SLFRF portal, an expenditure is the amount that has been incurred as a liability of the entity (the service has been rendered or the good has been delivered to the entity).

¹³ For purposes of reporting in the SLFRF portal, an obligation is an order placed for property and services, contracts and subawards made, and similar transactions that require payment.

¹⁴ See Appendix 1 for the full Expenditure Category (EC) list. References to Expenditure Categories are identified by "EC" followed by numbers from the table in Appendix 1.



In calculating general revenue and the other items discussed above, recipients should use audited data if it is available. When audited data is not available, recipients are not required to obtain audited data if substantially accurate figures can be produced on an unaudited basis. Recipients should use their own data sources to calculate general revenue, and do not need to rely on revenue data published by the Census Bureau. Treasury acknowledges that due to differences in timing, data sources, and definitions, recipients' self-reported general revenue figures may differ from those published by the Census Bureau. 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. Recipients' reporting should align with their own financial reporting.

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 CRF or SLFRF. 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.

Consistent with the broad latitude provided to recipients to use funds for government services to the extent of reduction in revenue, recipients will be required to submit a description of services provided. This description may be in 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 law enforcement operating expenses and \$50 were used for pay-go building of sidewalk infrastructure. As discussed in the Interim Final Rule, these services can include a broad range of services but may not be used directly for pension deposits or debt service.

Reporting requirements will not require tracking the indirect effects of Fiscal Recovery Funds, apart from the restrictions on use of Fiscal Recovery Funds to offset a reduction in net tax revenue. In addition, recipients must indicate that Fiscal Recovery Funds were not used to make a deposit in a pension fund.

- b. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory 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; or (3) not taken action on its funding. States and territories should be prepared to report on their information, including the following:
- NEU name
 - NEU DUNS number
 - NEU Taxpayer Identification Number (TIN)
 - NEU Recipient Number (a unique identification code for each NEU assigned by the State to the NEU as part of the request for funding)
 - NEU contact information (e.g., address, point of contact name, point of contact email address, and point of contact phone number)
 - NEU authorized representative name and email address
 - Initial allocation and, if applicable, subsequent allocation to the NEU (before application of the 75 percent cap)
 - Total NEU reference 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), the State must also attach a form signed by the NEU, as detailed in the [Guidance on Distributions of Funds to Non-Entitlement Units of Local Government](#).

States with "weak" minor civil divisions (i.e., Illinois, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, and South Dakota) should also list any minor civil divisions that the State deemed ineligible.

B. Project and Expenditure Report

All recipients are required to submit Project and Expenditure Reports.

1. Quarterly Reporting

The following recipients are required to submit quarterly Project and Expenditure Reports:

- States, U.S. territories, and Tribal governments
- Metropolitan cities and counties that received more than \$5 million in SLFRF funding

For these recipients, 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 calendar days after the end of each calendar quarter. Quarterly reports are not due concurrently with applicable annual reports. The table below summarizes the quarterly report timelines:

Report	Year	Quarter	Period Covered	Due Date
1	2021	2 and 3	Award Date – September 30	October 31, 2021
2	2021	4	October 1 – December 31	January 31, 2022
3	2022	1	January 1 – March 31	April 30, 2022
4	2022	2	April 1 – June 30	July 31, 2022
5	2022	3	July 1 – September 30	October 31, 2022
6	2022	4	October 1 – December 31	January 31, 2023
7	2023	1	January 1 – March 31	April 30, 2023
8	2023	2	April 1 – June 30	July 31, 2023
9	2023	3	July 1 – September 30	October 31, 2023
10	2023	4	October 1 – December 31	January 31, 2024
11	2024	1	January 1 – March 31	April 30, 2024
12	2024	2	April 1 – June 30	July 31, 2024
13	2024	3	July 1 – September 30	October 31, 2024
14	2024	4	October 1 – December 31	January 31, 2025
15	2025	1	January 1 – March 31	April 30, 2025
16	2025	2	April 1 – June 30	July 31, 2025
17	2025	3	July 1 – September 30	October 31, 2025
18	2025	4	October 1 – December 31	January 31, 2026
19	2026	1	January 1 – March 31	April 30, 2026
20	2026	2	April 1 – June 30	July 31, 2026



Report	Year	Quarter	Period Covered	Due Date
21	2026	3	July 1 – September 30	October 31, 2026
22	2026	4	October 1 – December 31	March 31, 2027

2. Annual Reporting

The following recipients are required to submit annual Project and Expenditure Reports:

- Metropolitan cities and counties that received less than \$5 million in SLFRF funding.
- NEUs. To facilitate reporting, each NEU will need a NEU Recipient Number. This is a unique identification code for each NEU assigned by the State to the NEU as part of its request for funding.

For these recipients, the initial Project and Expenditure Report will cover from the date of award to September 30, 2021 and must be submitted to Treasury by October 31, 2021. The subsequent annual reports will cover one calendar year and must be submitted to Treasury by October 31. The table below summarizes the report timelines:

Report	Period Covered	Due Date
1	Award Date – September 30, 2021	October 31, 2021
2	October 1, 2021 – September 30, 2022	October 31, 2022
3	October 1, 2022 – September 30, 2023	October 31, 2023
4	October 1, 2023 – September 30, 2024	October 31, 2024
5	October 1, 2024 – September 30, 2025	October 31, 2025
6	October 1, 2025 – September 30, 2026	October 31, 2026
7	October 1, 2026 – December 31, 2026	March 31, 2027

3. Required Information

The following information will be required in Project and Expenditure Reports:

- Projects:** Provide information on all SLFRF funded projects. Projects are new or existing eligible government services or investments funded in whole or in part by SLFRF funding. For each project, the recipient will be required to enter the project name, identification number (created by the recipient), project expenditure category (see Appendix 1), description, and status of completion. Project descriptions must describe the project in sufficient detail to provide understanding of the major activities that will occur, and will be required to be between 50 and 250 words. Projects should be defined to include only closely related activities directed toward a common purpose. In particular, recipients should review the Required Programmatic Data described below and define their projects at a sufficient level of granularity to report these metrics for a reasonably specific activity or set of activities in each project.

Note: For each project, the recipient will be asked to select the appropriate Expenditure Category based on the scope of the project (see Appendix 1). Projects should be scoped to align to a single Expenditure Category. For select Expenditure Categories, the recipient will also be asked to provide additional programmatic data (described further below).

- Expenditures:** Once a project is entered the recipient will be able to report on the project's obligations and expenditures. Recipients will be asked to report:
 - Current period obligation
 - Cumulative obligation
 - Current period expenditure
 - Cumulative expenditure



- c. **Project Status:** Once a project is entered the recipient will be asked to report on project status each reporting period, in four categories:
- Not Started
 - Completed less than 50 percent
 - Completed 50 percent or more
 - Completed
- d. **Project Demographic Distribution:** Recognizing the disproportionate impact of the pandemic-related recession on low-income communities, recipients must report whether certain types of projects¹⁵ are targeted to economically disadvantaged communities, as defined by HUD's [Qualified Census Tract](#).¹⁶ Recipients will be asked to identify whether or not the project is serving an economically disadvantaged community. To minimize the administrative burden on recipients while ensuring that this important aspect of program performance is tracked, recipients may assume that the funds for a project count as being targeted towards economically disadvantaged communities if the project funds are spent on:
- A program or service is provided at a physical location in a Qualified Census Tract (for multi-site projects, if a majority of sites are within Qualified Census Tracts);
 - A program or service where the primary intended beneficiaries live within a Qualified Census Tract;
 - A program or service for which the eligibility criteria are such that the primary intended beneficiaries earn less than 60 percent of the median income for the relevant jurisdiction (e.g., State, county, metropolitan area, or other jurisdiction); or
 - A program or service for which the eligibility criteria are such that over 25 percent of intended beneficiaries are below the federal poverty line.

Recipients may use reasonable estimates to determine if a project meets one of these criteria, including identifying the intended beneficiaries of a program or service in terms of income characteristics, geographic location, or otherwise estimating the beneficiaries of a program based on its eligibility criteria. Recipients do not need to track information on each individual beneficiary to make the determination of whether or not the project is serving an economically disadvantaged community. If a recipient is unable to measure economic characteristics of the primary intended beneficiaries of a program or service due to data limitations or for other reasons, that program or service may not be counted as targeted to economically disadvantaged communities. Treasury recognizes that in some circumstances, recipients may fund eligible programs or services that benefit economically disadvantaged communities but may lack adequate data to assess conclusively that such a program or service is targeted to economically disadvantaged communities based on the criteria described above.

- e. **Subawards:** Each recipient shall also provide detailed obligation and expenditure information for any contracts and grants awarded, loans issued, transfers made to other government entities, and direct payments made by the recipient that are greater than or equal to \$50,000.

¹⁵ Specifically recipients must report this information for projects in the Expenditure Categories that are marked with “^” in the expenditure category listing in Appendix 1 of this guidance

¹⁶ HUD defines as a QCT as having “50 percent of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or have a poverty rate of 25 percent or more.” To view median income area for their jurisdiction, recipients may visit the U.S. Census [website](#) on median incomes and select the geography for their jurisdiction and relevant unit of measurement (household or individual) for the project.



Recipients do not also need to submit separate monthly subaward reports to FSRS.gov as required pursuant to the 2 CFR Part 170, Appendix A award term regarding reporting subaward and executive compensation, which is included in the SLFRF Award Terms and Conditions. Treasury will submit this reporting on behalf of recipients using the \$50,000 reporting threshold, timing, and data elements discussed in this guidance. If recipients choose to continue reporting to FSRS.gov in addition to reporting directly to Treasury on these funds, they may do so and will be asked to notify Treasury as part of their quarterly submission.

In general, recipients will be asked to provide the following information for each Contract, Grant, Loan, Transfer, or Direct Payment greater than or equal to \$50,000:

- Subrecipient identifying and demographic information (e.g., DUNS number and location)
- Award number (e.g., Award number, Contract number, Loan number)
- Award date, type, amount, and description
- Award payment method (reimbursable or lump sum payment(s))
- For loans, expiration date (date when loan expected to be paid in full)
- Primary place of performance
- Related project name(s)
- Related project identification number(s) (created by the recipient)
- Period of performance start date
- Period of performance end date
- Quarterly obligation amount
- Quarterly expenditure amount
- Project(s)
- Additional programmatic performance indicators for select Expenditure Categories (see below)

Aggregate reporting is required for contracts, grants, transfers made to other government entities, loans, direct payments, and payments to individuals that are below \$50,000. This information will be accounted for by expenditure category at the project level.

As required by the 2 CFR Part 170, Appendix A award term regarding reporting subaward and executive compensation, recipients must also report the names and total compensation of their five most highly compensated executives and their subrecipients' executives for the preceding completed fiscal year if (1) the recipient received 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and received \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act (and subawards), and (2) if the information is not otherwise public. In general, most SLFRF Recipients are governmental entities with executive salaries that are already disclosed, so no additional information must be reported. The recipient is responsible for the subrecipients' compliance with registering and maintaining an updated profile on SAM.gov.

- f. Civil Rights Compliance: Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964 on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances.



g. Required Programmatic Data (other than infrastructure projects): For all projects listed under the following Expenditure Categories (see Appendix 1), the information listed must be provided in each report.

1. Payroll for Public Health and Safety Employees (EC 1.9):

- Number of government FTEs responding to COVID-19 supported under this authority

2. Household Assistance (EC 2.1-2.5):

- Brief description of structure and objectives of assistance program(s) (e.g., nutrition assistance for low-income households)
- Number of individuals served (by program if recipient establishes multiple separate household assistance programs)
- Brief description of recipient's approach to ensuring that aid to households responds to a negative economic impact of Covid-19, as described in the Interim Final Rule

3. Small Business Economic Assistance (EC 2.9):

- Brief description of the structure and objectives of assistance program(s) (e.g., grants for additional costs related to Covid-19 mitigation)
- Number of small businesses served (by program if recipient establishes multiple separate small businesses assistance programs)
- Brief description of recipient's approach to ensuring that aid to small businesses responds to a negative economic impact of COVID-19, as described in the Interim Final Rule

4. Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (EC 2.11-2.12):

- If aid is provided to industries other than travel, tourism, and hospitality (EC 2.12), a description of pandemic impact on the industry and rationale for providing aid to the industry
- Brief narrative description of how the assistance provided responds to negative economic impacts of the COVID-19 pandemic
- For each subaward:
 - Sector of employer (Note: additional detail, including list of sectors to be provided in a users' guide)
 - Purpose of funds (e.g., payroll support, safety measure implementation)

5. Rehiring Public Sector Staff (EC 2.14):

- Number of FTEs rehired by governments under this authority

6. Education Assistance (EC 3.1-3.5):

- The National Center for Education Statistics ("NCES") School ID or NCES District ID. List the School District if all schools within the school district received some funds. If not all schools within the school district received funds, list the School ID of the schools that received funds. These can allow evaluators to link data from the NCES to look at school-level demographics and, eventually, student performance.¹⁷

¹⁷ For more information on NCES identification numbers see <https://nces.ed.gov/ccd/districtsearch/> (districts) and <https://nces.ed.gov/ccd/schoolsearch/> (schools).



7. Premium Pay (both Public Sector EC 4.1 and Private Sector EC 4.2):

- List of sectors designated as critical to the health and well-being of residents by the chief executive of the jurisdiction, if beyond those included in the Interim Final Rule (Note: a list of sectors will be provided in the forthcoming users' guide).
- Number of workers to be served
- Employer sector for all subawards to third-party employers (i.e., employers other than the State, local, or Tribal government) (Note: a list of sectors will be provided in the forthcoming users' guide).
- For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, for whom premium pay would increase total pay above 150 percent of their residing State's average annual wage, or their residing county's¹⁸ average annual wage, whichever is higher, on an annual basis:
 - A brief written narrative justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19, and why the recipient government determined that the premium pay was responsive to workers performing essential work during the pandemic. This description should not include personally identifiable information; when addressing individual workers, recipients should be careful not to include this information. Recipients may consider describing the workers' occupations and duties in a general manner as necessary to protect privacy.

8. Revenue replacement (EC 6.1):

Under the Interim Final Rule, recipients calculate revenue loss using data as of four discrete points during the program: December 31, 2020, December 31, 2021, December 31, 2022, and December 31, 2023. Revenue loss calculated as of December 31, 2020 will be reported in the Interim Report, as described above. For future calculation dates, revenue loss will be reported only in the Quarter 4 reports due January 31, 2022, January 31, 2023, and January 31, 2024. Reporting on revenue loss should include:

- General revenue collected over the past 12 months as of the most recent calculation date, as outlined in the Interim Final Rule (for example, for the January 31, 2022 report, recipients should provide 12 month general revenue as of December 31, 2021);
- Calculated revenue loss due to the Covid-19 public health emergency; and
- An explanation of how the revenue replacement funds were allocated to government services (note: additional instructions and/or template to be provided in user guide).

In calculating general revenue and the revenue loss due to the COVID-19 public health emergency, recipients should follow the same guidance as described above for the Interim Report.

- h. Required Programmatic Data for Infrastructure Projects (EC 5): For all projects listed under the Water, Sewer, and Broadband Expenditure Categories (see Appendix 1), more detailed project-level information is required. Each project will be required to report expenditure data as described above, but will also report the following information:

¹⁸ *County* means a county, parish, or other equivalent county division (as defined by the Census Bureau). See 31 CFR 35.3.

1. All infrastructure projects (EC 5):

- Projected/actual construction start date (month/year)
- Projected/actual initiation of operations date (month/year)
- Location (for broadband, geospatial location data)
- For projects over \$10 million:
 - a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as “baby Davis-Bacon Acts”). If such certification is not provided, a recipient must provide a project employment and local impact report detailing:
 - The number of employees of contractors and sub-contractors working on the project;
 - The number of employees on the project hired directly and hired through a third party;
 - The wages and benefits of workers on the project by classification; and
 - Whether those wages are at rates less than those prevailing.¹⁹
 Recipients must maintain sufficient records to substantiate this information upon request.
 - b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:
 - How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
 - How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and
 - How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
 - Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and
 - Whether the project has completed a project labor agreement.
 - c. Whether the project prioritizes local hires.
 - d. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

¹⁹ As determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed.

2. Water and sewer projects (EC 5.1-5.15):

- National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)

3. Broadband projects (EC 5.16-5.17):

- Speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering
 - Technology to be deployed
 - Miles of fiber
 - Cost per mile
 - Cost per passing
 - Number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload
 - Number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download
 - Number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization
 - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and
 - Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
- i. Distributions to NEUs - States and territories only (EC 7.4): Information on SLFRF distributions to eligible NEUs. Each State and territory 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; or (3) not taken action on its funding. States and territories should be prepared to report on their information, including the following:
- NEU name
 - NEU DUNS number
 - NEU Taxpayer Identification Number (TIN)
 - NEU Recipient Number (a unique identification code for each NEU assigned by the State to the NEU as part of the request for funding)
 - NEU contact information (e.g., address, point of contact name, point of contact email address, and point of contact phone number)
 - NEU authorized representative name and email address
 - Initial allocation and, if applicable, subsequent allocation to the NEU (before application of the 75 percent cap)
 - Total NEU reference 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), the State must also attach a form signed by the NEU, as detailed in the [Guidance on Distributions of Funds to Non-Entitlement Units of Local Government](#).

States with “weak” minor civil divisions (i.e., Illinois, Indiana, Kansas, Missouri, Nebraska, North Dakota, Ohio, and South Dakota) should also list any minor civil divisions that the State deemed ineligible.

- j. **NEU Documentation (NEUs only):** Each NEU will also be asked to provide the following information with their first report submitted by October 31, 2021:
- Copy of the signed award terms and conditions agreement (which was signed and submitted to the State as part of the request for funding)
 - Copy of the signed assurances of compliance with Title VI of the Civil Rights Act of 1964 (which was signed and submitted to the State as part of the request for funding)
 - Copy of actual budget documents validating the top-line budget total provided to the State as part of the request for funding

C. Recovery Plan Performance Report

States, territories, metropolitan cities, and counties with a population that exceeds 250,000 residents will also be required to publish and submit to Treasury a Recovery Plan performance report (“Recovery Plan”). Each Recovery Plan must be posted on the public-facing website of the recipient by the same date the recipient submits the report to Treasury. This reporting requirement includes uploading a link to the publicly available document report along with providing data in the Treasury reporting portal.

The Recovery Plan will provide the public and Treasury information on the projects recipients are undertaking with program funding and how they are planning to ensure program outcomes are achieved in an effective, efficient, and equitable manner. While this guidance outlines some minimum requirements for the Recovery Plan, each recipient is encouraged to add information to the plan they feel is appropriate to provide information to their constituents on efforts they are taking to respond to the pandemic and promote economic recovery. Each jurisdiction may determine the general form and content of the Recovery Plan, as long as it includes the minimum information determined by Treasury. Treasury will provide a recommended template but recipients may modify this template as appropriate for their jurisdiction. The Recovery Plan will include key performance indicators identified by the recipient and some mandatory indicators identified by Treasury.

The initial Recovery Plan will cover the period from the date of award to July 31, 2021 and must be submitted to Treasury by August 31, 2021. Thereafter, the Recovery Plan 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 (by July 31). The table below summarizes the report timelines:

Annual Report	Period Covered	Due Date
1	Award Date – July 31, 2021	August 31, 2021
2	July 1, 2021 – June 30, 2022	July 31, 2022
3	July 1, 2022 – June 30, 2023	July 31, 2023
4	July 1, 2023 – June 30, 2024	July 31, 2024
5	July 1, 2024 – June 30, 2025	July 31, 2025
6	July 1, 2025 – June 30, 2026	July 31, 2026
7	July 1, 2026 – December 31, 2026	March 31, 2027



The Recovery Plan will include, at a minimum, the following information:

1. Executive Summary

Provide a high-level overview of the jurisdiction's intended and actual uses of funding including, but not limited to: the jurisdiction's plan for use of funds to promote a response to the pandemic and economic recovery, key outcome goals, progress to date on those outcomes, and any noteworthy challenges or opportunities identified during the reporting period.

2. Uses of Funds

Describe in further detail your jurisdiction's intended and actual uses of the funds, such as how your jurisdiction's approach would help support a strong and equitable recovery from the COVID-19 pandemic and economic downturn. Describe any strategies employed to maximize programmatic impact and effective, efficient, and equitable outcomes. Given the broad eligible uses of funds and the specific needs of the jurisdiction, please also explain how the funds would support the communities, populations, or individuals in your jurisdiction. Your description should address how you are promoting each of the following, to the extent they apply:

- a. Public Health (EC 1): As relevant, describe how funds are being used to respond to COVID-19 and the broader health impacts of COVID-19 and the COVID-19 public health emergency.
- b. Negative Economic Impacts (EC 2): As relevant, describe how funds are being used to respond to negative economic impacts of the COVID-19 public health emergency, including to households and small businesses.
- c. Services to Disproportionately Impacted Communities (EC 3): As relevant, describe how funds are being used to provide services to communities disproportionately impacted by the COVID-19 public health emergency.
- d. Premium Pay (EC 4): As relevant, describe the approach, goals, and sectors or occupations served in any premium pay program. Describe how your approach prioritizes low-income workers.
- e. Water, sewer, and broadband infrastructure (EC 5): Describe the approach, goals, and types of projects being pursued, if pursuing.
- f. Revenue Replacement (EC 6): Describe the loss in revenue due to the COVID-19 public health emergency and how funds have been used to provide government services.

Where appropriate, recipients should also include information on your jurisdiction's use (or planned use) of other federal recovery funds including other programs under the American Rescue Plan such as the Emergency Rental Assistance, Housing Assistance, and so forth, to provide broader context on the overall approach for pandemic recovery.

3. Promoting equitable outcomes

Describe efforts to promote equitable outcomes, including how programs were designed with equity in mind. Please include in your description how your jurisdiction will consider and measure equity at the various stages of the program, including:

- a. Goals: Are there particular historically underserved, marginalized, or adversely affected groups that you intend to serve within your jurisdiction?
- b. Awareness: How equal and practical is the ability for residents or businesses to become aware of the services funded by the SLFRF?
- c. Access and Distribution: Are there differences in levels of access to benefits and services across groups? Are there administrative requirements that result in disparities in ability to complete applications or meet eligibility criteria?



- d. **Outcomes:** Are intended outcomes focused on closing gaps, reaching universal levels of service, or disaggregating progress by race, ethnicity, and other equity dimensions where relevant for the policy objective?

Treasury encourages uses of funds that promote strong, equitable growth, including racial equity. Please describe how your jurisdiction's planned or current use of funds prioritizes economic and racial equity as a goal, names specific targets intended to produce meaningful equity results at scale, and articulates the strategies to achieve those targets. In addition, please explain how your jurisdiction's overall equity strategy translates into the specific services or programs offered by your jurisdiction in the following Expenditure Categories:

- a. **Negative Economic Impacts (EC 2):** assistance to households, small businesses, and non-profits to address impacts of the pandemic, which have been most severe among low-income populations. This includes assistance with food, housing, and other needs; employment programs for people with barriers to employment who faced negative economic impacts from the pandemic (such as residents of low-income neighborhoods, minorities, disconnected youth, the unemployed, formerly incarcerated people, veterans, and people with disabilities); and other strategies that provide disadvantaged groups with access to education, jobs, and opportunity.
- b. **Services to Disproportionately Impacted Communities (EC 3):** services to address health disparities and the social determinants of health, build stronger neighborhoods and communities (e.g., affordable housing), address educational disparities (e.g., evidence-based tutoring, community schools, and academic, social-emotional, and mental health supports for high poverty schools), and promote healthy childhood environments (e.g., home visiting, child care).

The initial report must describe efforts to date and intended outcomes to promote equity. Each annual report thereafter must provide an update, using qualitative and quantitative data, on how the recipients' approach achieved or promoted equitable outcomes or progressed against equity goals during the performance period. Please also describe any constraints or challenges that impacted project success in terms of increasing equity. In particular, this section must describe the geographic and demographic distribution of funding, including whether it is targeted toward traditionally marginalized communities.

For the purposes of the SLFRF, equity is defined in the [Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#), as issued on January 20, 2021.

4. Community Engagement

Please describe how your jurisdiction's planned or current use of funds incorporates written, oral, and other forms of input that capture diverse feedback from constituents, community-based organizations, and the communities themselves. Where relevant, this description must include how funds will build the capacity of community organizations to serve people with significant barriers to services, including people of color, people with low incomes, limited English proficient populations, and other traditionally underserved groups.

5. Labor Practices

Describe workforce practices on any infrastructure projects being pursued (EC 5). How are projects using strong labor standards to promote effective and efficient delivery of high-quality infrastructure projects while also supporting the economic recovery through strong employment opportunities for workers? For example, report whether any of the following practices are being utilized: project labor agreements, community benefits agreements, prevailing wage requirements, and local hiring.



6. Use of Evidence

The Recovery Plan should identify whether SLFRF funds are being used for evidence-based interventions²⁰ and/or if projects are being evaluated through rigorous program evaluations that are designed to build evidence. Recipients must briefly describe the goals of the project, and the evidence base for the interventions funded by the project. Recipients must specifically identify the dollar amount of the total project spending that is allocated towards evidence-based interventions for each project in the Public Health (EC 1), Negative Economic Impacts (EC 2), and Services to Disproportionately Impacted Communities (EC 3) Expenditure Categories.²¹

Recipients are exempt from reporting on evidence-based interventions in cases where a program evaluation is being conducted. Recipients are encouraged to use relevant evidence Clearinghouses, among other sources, to assess the level of evidence for their interventions and identify evidence-based models that could be applied in their jurisdiction; such evidence clearinghouses include the U.S. Department of Education's [What Works Clearinghouse](#), the U.S. Department of Labor's [CLEAR](#), and the [Childcare & Early Education Research Connections and the Home Visiting Evidence of Effectiveness](#) clearinghouses from Administration for Children and Families, as well as other clearinghouses relevant to particular projects conducted by the recipient. In such cases where a recipient is conducting a program evaluation in lieu of reporting the amount of spending on evidence-based interventions, they must describe the evaluation design including whether it is a randomized or quasi-experimental design; the key research questions being evaluated; whether the study has sufficient statistical power to disaggregate outcomes by demographics; and the timeframe for the completion of the evaluation (including a link to completed evaluation if relevant).²² Once the evaluation has been completed, recipients must post the evaluation publicly and link to the completed evaluation in the Recovery Plan. Once an evaluation has been completed (or has sufficient interim findings to determine the efficacy of the intervention), recipients should determine whether the spending for the evaluated interventions should be counted towards the dollar amount categorized as evidence-based for the relevant project.

For all projects, recipients may be selected to participate in a national evaluation, which would study their project along with similar projects in other jurisdictions that are focused on the same set of outcomes. In such cases, recipients may be asked to share information and data that is needed for the national evaluation.

Recipients are encouraged to consider how a Learning Agenda, either narrowly focused on SLFRF or broadly focused on the recipient's broader policy agenda, could support their overarching evaluation efforts in order to create an evidence-building strategy for their jurisdiction.²³

Appendix 2 contains additional information on evidence-based interventions for the purposes of the Recovery Plan.

²⁰As noted in Appendix 2, evidence-based refers to interventions with strong or moderate levels of evidence.

²¹ Of note, recipients are only required to report the amount of the total funds that are allocated to evidence-based interventions in the areas of Public Health, Negative Economic Impacts, and Services to Disproportionately Impacted Communities that are marked by an asterisk in Appendix 1: Expenditure Categories.

²² For more information on the required standards for program evaluation, see [OMB M-20-12](#).

²³ For more information on learning agendas, please see [OMB M-19-23](#)

**7. Table of Expenses by Expenditure Category**

Please include a table listing the amount of funds used in each Expenditure Category (See Appendix 1). The table should include cumulative expenses to date within each category, and the additional amount spent within each category since the last annual Recovery Plan.

8. Project Inventory

List the name and provide a brief description of all SLFRF funded projects. Projects are new or existing eligible government services or investments funded in whole or in part by SLFRF funding. For each project, include the project name, funding amount, identification number (created by the recipient and used thereafter in the quarterly Program and Expenditure Report), project Expenditure Category (see Appendix 1), and a description of the project which includes an overview of the main activities of the project, the approximate timeline, primary delivery mechanisms and partners, if applicable, and intended outcomes. Include a link to the website of the project if available. This information will provide context and additional detail for the information reported quarterly in the Project and Expenditure Report.

For infrastructure investment projects (EC 5), project-level reporting will be more detailed, as described for the Project and Expenditure Report above. Projects in this area may be grouped by Expenditure Category if needed, with further detail (such as the specific project name and identification number) provided in the Project and Expenditure Report. For infrastructure projects, descriptions should note how the project contributes to addressing climate change.

9. Performance Report

The Recovery Plan must include key performance indicators for the major SLFRF funded projects undertaken by the recipient. The recipient has flexibility in terms of how this information is presented in the Recovery Plan, and may report key performance indicators for each project, or may group projects with substantially similar goals and the same outcome measures. In some cases, the recipient may choose to include some indicators for each individual project as well as crosscutting indicators.

Performance indicators should include both output and outcome measures. Output measures, such as number of students enrolled in an early learning program, provide valuable information about the early implementation stages of a project. Outcome measures, such as the percent of students reading on grade level, provide information about whether a project is achieving its overall goals. Recipients are encouraged to use logic models²⁴ to identify their output and outcome measures. While the initial report will focus heavily on early output goals, recipients must include the related outcome goal for each project and provide updated information on achieving these outcome goals in annual reports. In cases where recipients are conducting a program evaluation for a project (as described above), the outcome measures in the performance report should be aligned with those being evaluated in the program. To support their performance measurement and program improvement efforts, recipients are permitted to use funds to make improvements to data or technology infrastructure and data analytics, as well as program evaluations.

10. Required Performance Indicators and Programmatic Data

While recipients have discretion on the full suite of performance indicators to include, a number of mandatory performance indicators and programmatic data must be included. These are necessary to allow Treasury to conduct oversight as well as understand and aggregate program outcomes across recipients. This section provides an overview of the mandatory performance indicators and programmatic data. This information may be included in each recipient's Recovery Plan as they determine most appropriate, including combining with the

²⁴ A logic model is a tool that depicts the intended links between program investments and outcomes, specifically the relationships among the resources, activities, outputs, outcomes, and impact of a program.



section above, but this data will also need to be entered directly into the Treasury reporting portal. Below is a list of required data for each Expenditure Category:

- a. Household Assistance (EC 2.2 & 2.5) and Housing Support (EC 3.10-3.12):
 - Number of people or households receiving eviction prevention services (including legal representation)
 - Number of affordable housing units preserved or developed
- b. Negative Economic Impacts (EC 2):
 - Number of workers enrolled in sectoral job training programs
 - Number of workers completing sectoral job training programs
 - Number of people participating in summer youth employment programs
- c. Education Assistance (EC 3.1-3.5):
 - Number of students participating in evidence-based tutoring programs²⁵
- d. Healthy Childhood Environments (EC 3.6-3.9):
 - Number of children served by childcare and early learning (pre-school/pre-K/ages 3-5)
 - Number of families served by home visiting

The initial report should include the key indicators above. Each annual report thereafter should include updated data for the performance period as well as prior period data, and a brief narrative adding any additional context to help the reader interpret the results and understand the any changes in performance indicators over time. To the extent possible, Treasury also encourages recipients to provide data disaggregated by race, ethnicity, gender, income, and other relevant factors.

11. Ineligible Activities: Tax Offset Provision (States and territories only)

The following information is required for Treasury to ensure SLFRF funding is not used for ineligible activities.

In each reporting year, States and territories will report certain items related to the Tax Offset Provision 31 CFR 35.8, as detailed below. As indicated in the Interim Final Rule, Treasury is seeking comment on reporting requirements related to the Tax Offset Provision, including ways to better rely on information already produced by States and territories and to minimize burden.

The terms “reporting year,” “baseline,” “covered change,” “net reduction in total spending,” and “tax revenue” are defined in the Interim Final Rule, 31 CFR 35.3. For purposes of calculating a net reduction in total spending, total spending for the fiscal year ending 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3. Similarly, for purposes of calculating baseline, tax revenue for the fiscal year 2019 should be reported on an inflation-adjusted basis, consistent with the Interim Final Rule, 31 CFR 35.3.

For purposes of reporting actual tax revenue and calculating tax revenue for the fiscal year ending 2019,²⁶ (a) if available, recipients should report information using audited financials and (b) recipients may provide data on a cash, accrual, or modified accrual basis, but must be consistent in their approach across all reporting periods. Similarly, for purposes of calculating

²⁵ For more information on evidence-based tutoring programs, refer to the U.S. Department of Education’s [2021 ED COVID-19 Handbook \(Volume 2\)](#), which summarizes research on evidence-based tutoring programs (see the bottom of page 20).

²⁶ Tax revenue for fiscal year ending 2019 is relevant for calculating the recipient’s baseline.



a net reduction in total spending, recipients should report data using audited financials where available.

a. Revenue-reducing Covered Changes:

For each reporting year, a recipient must report the value of covered changes that the recipient predicts will have the effect of reducing tax revenue in a given reporting year (revenue-reducing covered changes), 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). Estimation approaches should not use dynamic methodologies that incorporate the projected effects of the policies on macroeconomic growth. In general and where possible, reported values should be produced by the agency of the recipient government responsible for estimating the costs and effects of fiscal policy changes. Recipients must maintain records regarding the identification and predicted effects of revenue-reducing covered changes.

b. Baseline Revenue:

Baseline has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

Whether the revenue-reducing covered changes are in excess of the *de minimis*.

Recipients must determine whether the aggregate value of the revenue-reducing covered changes in the reporting year is less than one percent of baseline revenue.

c. Actual Tax Revenue:

Actual tax revenue means the actual tax revenue received by the recipient government in the reporting year. Tax revenue has the meaning defined in the Interim Final Rule, 31 CFR 35.3.

d. Reduction in Net Tax Revenue:

The reduction in net tax revenue is equal to baseline revenue minus actual tax revenue in each reporting year. If this value is zero or negative, there is no reduction in net tax revenue.

e. Any revenue-increasing covered changes:

A recipient must report the value of covered changes that have had or that the recipient predicts will have the effect of increasing tax revenue in a given reporting year (revenue-increasing covered changes), 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'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). Estimation approaches should not use dynamic methodologies that incorporate the projected effects of the policies on macroeconomic growth. In general and where possible, reporting should be produced by the agency of the recipient responsible for estimating the costs and effects of fiscal policy changes.



Recipients should maintain records regarding revenue-reducing covered changes and estimates of such changes.

f. Net reduction in total spending, and tables of specific spending cuts:

Recipients must report on spending cuts. To calculate the amount of spending cuts that are available to offset a reduction in tax revenue, the recipient must first consider whether there has been a reduction in total net spending, excluding Fiscal Recovery Funds (net reduction in total spending). As in the Interim Final Rule, 35 CFR 35.3, net reduction in total spending is measured as the recipient government's total spending for a given reporting year excluding Fiscal Recovery 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. If that subtraction yields a positive value, there has been a net reduction; if it yields zero or a negative value, there has not been a net reduction. If there has been no net reduction in total spending, a recipient will have no spending cuts to offset a reduction in net tax revenue.

Next, a recipient must determine and aggregate the value of spending cuts in each "reporting unit," as defined below. For each reporting unit, the recipient must report (1) the amount of the reduction in spending in the reporting unit relative to its inflation-adjusted FY 2019 level, (2) the amount of any Fiscal Recovery Funds spent in the reporting unit, and (3) the amount by which the reduction in spending exceeds the Fiscal Recovery funds spent in the reporting unit. If a recipient has not spent amounts received from the Fiscal Recovery Funds in a reporting unit, the full amount of the reduction in spending counts as a covered spending cut and may be included in aggregate spending cuts. If the recipient has spent amounts received from the Fiscal Recovery Funds, such amounts 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 reporting unit would be eligible to offset a reduction in net tax revenue. Only such amounts above the amount of Fiscal Recovery Funds spent on the reporting unit should be included in the aggregate of spending cuts.

To align with existing reporting and accounting, the Interim Final Rule considers the department, agency, or authority from which spending has been cut and whether the recipient government has spent amounts received from the Fiscal Recovery Funds on that same department, agency, or authority. Recipients may also choose to report at a more granular sub-department level. Recipients are encouraged to define and report spending in departments, sub-departments (e.g., bureaus), agencies, or authorities (each a "reporting unit") in a manner consistent with their existing budget process and should, to the extent possible, report using the same reporting unit in each reporting year. For example, if a State health department maintains separate budgets for different units (e.g., medical and public health units), those units may be reported and considered separately. Spending cuts must be reported relative to FY 2019 spending levels, adjusted for inflation, and excluding Fiscal Recovery Funds from reporting year spending levels.

Recipients should maintain records regarding spending cuts. As discussed in the Interim Final Rule, in order to help ensure 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. Evasions of the Tax Offset Provision may be subject to recoupment.



Appendix 1: Expenditure Categories

The Expenditure Categories (EC) listed below must be used to categorize each project as noted in Part 2 above. The term “Expenditure Category” refers to the detailed level (e.g., 1.1 COVID-10 Vaccination). When referred to as a category (e.g., EC 1) it includes all Expenditure Categories within that level.

1: Public Health	
1.1	COVID-19 Vaccination ^
1.2	COVID-19 Testing ^
1.3	COVID-19 Contact Tracing
1.4	Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.)*
1.5	Personal Protective Equipment
1.6	Medical Expenses (including Alternative Care Facilities)
1.7	Capital Investments or Physical Plant Changes to Public Facilities that respond to the COVID-19 public health emergency
1.8	Other COVID-19 Public Health Expenses (including Communications, Enforcement, Isolation/Quarantine)
1.9	Payroll Costs for Public Health, Safety, and Other Public Sector Staff Responding to COVID-19
1.10	Mental Health Services*
1.11	Substance Use Services*
1.12	Other Public Health Services
2: Negative Economic Impacts	
2.1	Household Assistance: Food Programs* ^
2.2	Household Assistance: Rent, Mortgage, and Utility Aid* ^
2.3	Household Assistance: Cash Transfers* ^
2.4	Household Assistance: Internet Access Programs* ^
2.5	Household Assistance: Eviction Prevention* ^
2.6	Unemployment Benefits or Cash Assistance to Unemployed Workers*
2.7	Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives)* ^
2.8	Contributions to UI Trust Funds
2.9	Small Business Economic Assistance (General)* ^
2.10	Aid to Nonprofit Organizations*
2.11	Aid to Tourism, Travel, or Hospitality
2.12	Aid to Other Impacted Industries
2.13	Other Economic Support* ^
2.14	Rehiring Public Sector Staff
3: Services to Disproportionately Impacted Communities	
3.1	Education Assistance: Early Learning* ^
3.2	Education Assistance: Aid to High-Poverty Districts ^
3.3	Education Assistance: Academic Services* ^
3.4	Education Assistance: Social, Emotional, and Mental Health Services* ^
3.5	Education Assistance: Other* ^
3.6	Healthy Childhood Environments: Child Care* ^
3.7	Healthy Childhood Environments: Home Visiting* ^
3.8	Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System* ^



3.9	Healthy Childhood Environments: Other* ^
3.10	Housing Support: Affordable Housing* ^
3.11	Housing Support: Services for Unhoused Persons* ^
3.12	Housing Support: Other Housing Assistance* ^
3.13	Social Determinants of Health: Other* ^
3.14	Social Determinants of Health: Community Health Workers or Benefits Navigators* ^
3.15	Social Determinants of Health: Lead Remediation ^
3.16	Social Determinants of Health: Community Violence Interventions* ^
4: Premium Pay	
4.1	Public Sector Employees
4.2	Private Sector: Grants to Other Employers
5: Infrastructure²⁷	
5.1	Clean Water: Centralized Wastewater Treatment
5.2	Clean Water: Centralized Wastewater Collection and Conveyance
5.3	Clean Water: Decentralized Wastewater
5.4	Clean Water: Combined Sewer Overflows
5.5	Clean Water: Other Sewer Infrastructure
5.6	Clean Water: Stormwater
5.7	Clean Water: Energy Conservation
5.8	Clean Water: Water Conservation
5.9	Clean Water: Nonpoint Source
5.10	Drinking water: Treatment
5.11	Drinking water: Transmission & Distribution
5.12	Drinking water: Transmission & Distribution: Lead Remediation
5.13	Drinking water: Source
5.14	Drinking water: Storage
5.15	Drinking water: Other water infrastructure
5.16	Broadband: “Last Mile” projects
5.17	Broadband: Other projects
6: Revenue Replacement	
6.1	Provision of Government Services
7: Administrative	
7.1	Administrative Expenses
7.2	Evaluation and Data Analysis
7.3	Transfers to Other Units of Government
7.4	Transfers to Non-entitlement Units (States and territories only)

*Denotes areas where recipients must identify the amount of the total funds that are allocated to evidence-based interventions (see Use of Evidence section above for details)

^Denotes areas where recipients must report on whether projects are primarily serving disadvantaged communities (see Project Demographic Distribution section above for details)

²⁷ Definitions for water and sewer Expenditure Categories can be found in the EPA’s handbooks. For “clean water” expenditure category definitions, please see: <https://www.epa.gov/sites/production/files/2018-03/documents/cwdefinitions.pdf>. For “drinking water” expenditure category definitions, please see: <https://www.epa.gov/dwsrf/drinking-water-state-revolving-fund-national-information-management-system-reports>.



Appendix 2: Evidenced-Based Intervention Additional Information

What is evidence-based?

For the purposes of the SLFRF, evidence-based refers to interventions with strong or moderate evidence as defined below:

Strong evidence means the evidence base that can support causal conclusions for the specific program proposed by the applicant with the highest level of confidence. This consists of one or more well-designed and well-implemented experimental studies conducted on the proposed program with positive findings on one or more intended outcomes.

Moderate evidence means that there is a reasonably developed evidence base that can support causal conclusions. The evidence base consists of one or more quasi-experimental studies with positive findings on one or more intended outcomes OR two or more non-experimental studies with positive findings on one or more intended outcomes. Examples of research that meet the standards include: well-designed and well-implemented quasi-experimental studies that compare outcomes between the group receiving the intervention and a matched comparison group (i.e., a similar population that does not receive the intervention).

Preliminary evidence means that the evidence base can support conclusions about the program's contribution to observed outcomes. The evidence base consists of at least one non-experimental study. A study that demonstrates improvement in program beneficiaries over time on one or more intended outcomes OR an implementation (process evaluation) study used to learn and improve program operations would constitute preliminary evidence. Examples of research that meet the standards include: (1) outcome studies that track program beneficiaries through a service pipeline and measure beneficiaries' responses at the end of the program; and (2) pre- and post-test research that determines whether beneficiaries have improved on an intended outcome.

**Revision Log**

Version	Date Published	Summary of changes
1.0	June 17, 2021	Initial publication
1.1	June 24, 2021	• Pg. 12, removed references to “summary” level with respect to reporting by Expenditure Categories in the Interim Report to avoid confusion. • Pg. 13, revised the coverage period end date for the Interim Report from June 30, 2021 to July 31, 2021 to align with the IFR. • Pg. 13, removed references to “summary” level with respect to reporting by Expenditure Categories in the Interim Report to avoid confusion. • Pg. 31, removed references to “summary level” with respect to Expenditure Categories in Appendix 1 to avoid confusion.



CERTIFICATION OF CORONAVIRUS LOCAL FISCAL RECOVERY FUND
ALLOCATION ACCEPTANCE (42 U.S.C. section 603)

I, Kenneth H. Rosenfield, am the chief executive or authorized designee of
City of Laguna Hills, and I certify that:

1. Check one:

☒ In my role as an authorized representative, I am accepting the
City of Laguna Hills allocation from the Coronavirus
Local Fiscal Recovery Fund.

☐ In my role as an authorized representative, I am declining the
[Insert city or town name here] allocation from the Coronavirus Local
Fiscal Recovery Fund, and authorize this allocation to be transferred to the
State of California. An additional U.S. Treasury form will likely be required
and subsequent information may be requested.

If you are accepting funds, proceed to questions 2 through 5. If you are
declining funds, skip to question 6 and sign and submit the form.

2. I have the authority on behalf of **City of Laguna Hills** to
report the following information:

☒ Entity's Taxpayer Identification Number

☒ DUNS number

☒ Address

☒ Total budget or top-line expenditure total as of January 27, 2020

3. I certify that my city or town is in compliance with 2 CFR Part 180 and that I
have the authority on behalf of **City of Laguna Hills** to
submit the following U.S. Treasury documents:

☒ Award Terms and Conditions agreement

☒ Assurances of Compliance with Title VI of the Civil Rights Act of 1964

4. I certify that the total budget amount provided is supported by an approved
budget document, as of January 27, 2020. If my city or town does not have an
approved budget, I certify that the total annual expenditure amount
provided is supported by accounting documents. I agree to retain copies of
financial records and supporting documentation for five years after all funds
have been expended and the documents in item 3 of this certification and
submit them to U.S. Treasury as required, no later than October 31, 2021

5. I agree to submit a project and expenditures report annually to U.S. Treasury.

6. I understand the State will rely on this certification as a material representation in
distributing Coronavirus Local Fiscal Recovery Relief Funds to
City of Laguna Hills

Authorized Representative

Signature: Kenneth H. Rosenfield Date: 6/15/21

Name (Print): Kenneth H. Rosenfield Title: Interim City Manager

OMB Approved No. 1505-0271
 Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address: City of Laguna Hills 24035 El Toro Road Laguna Hills CA 92653	DUNS Number: Taxpayer Identification Number: 798794947 Assistance Listing Number: 21.027
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Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient:



Authorized Representative: Kenneth H. Rosenfield

Title: Interim City Manager

Date signed:

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. **Remedial Actions.** In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
11. **Hatch Act.** Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. **False Statements.** Recipient understands that making false statements or claims in connection with this award is a violation of federal law and 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.
13. **Publications.** Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. **Debts Owed the Federal Government.**
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by

Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

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4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

City of Laguna Hills

Recipient

6/15/21

Date



Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

American Rescue Plan
Coronavirus State and Local Fiscal Recovery Funds
Public Revenue Loss Calculator - for California Cities
v1.0



Agency Name:	Ciy of Laguna Hills
Agency Contact Info:	Janice Reyes, Finance Director
Date:	Monday, June 21, 2021

Base Year Revenue: *The amount of revenues collected in the most recent fiscal year prior to the public health emergency (i.e., the last fiscal year before January 27, 3030), called the base year value.*

\$24,914,496

from "ActualRevenues" worksheet cell F10.

Growth Adjustment: *The average percent revenue growth in the three full fiscal years prior to the COVID-19 public health emergency -or- 4.1 percent, whichever is greater.*

4.1%

from "ActualRevenues" worksheet cell F12 or 4.1% whichever is greater.

Fiscal Year End Date: *The date for the most recent full fiscal year prior to the declaration of public health emergency on January 27, 2020.*

June 30, 2019

Revenue Loss Summary				
Reporting Period	Months Elapsed	Counterfactual Revenue	Actual Revenue	Revenue Loss
January 1, 2020 - December 31, 2020	18	\$ 26,462,337	\$25,025,607	-\$1,436,730
January 1, 2021 - December 31, 2021	30	\$ 27,547,293	\$25,815,842	-\$1,731,451
January 1, 2022 - December 31, 2022	42	\$ 28,676,732	\$26,408,908	-\$2,267,825
January 1, 2023 - December 31, 2023	54	\$ 29,852,478	\$26,505,123	-\$3,347,355
			Total	-\$8,783,361

computed from "ActualRevenues" worksheet.

Fund basis of accounting (modified accrual)

Summary of Actual Revenues - Governmental and Proprietary Funds

Note: "General Revenue" as used by the US Census Bureau and by US Treasury's Interim Final Rule regarding the Coronavirus State and Local Fiscal Recovery Funds under the American Recovery Plan (ARP) refers to the general nature of the SOURCE of the revenue not the PURPOSE. That is, "general revenue" includes revenues regardless of the level of discretion over the use of the funds, including fees, charges, special taxes, assessments, etc. and regardless of whether the funds are accounted for in the general fund or not. Include all governmental funds (general and special), proprietary funds. Do not include trust, fiduciary or internal service funds .

	<u>FY2015-2016</u> <u>Year Ending</u> <u>June 30, 2016</u>	<u>FY2016-2017</u> <u>Year Ending</u> <u>June 30, 2017</u>	<u>FY2017-2018</u> <u>Year Ending</u> <u>June 30, 2018</u>	<u>FY2018-2019</u> <u>Year Ending</u> <u>June 30, 2019</u>	<u>July 1, 2019 -</u> <u>Dec 31, 2019</u>	<u>Jan 1, 2020 -</u> <u>June 30, 2020</u>	<u>FY2019-2020</u> <u>Year Ending</u> <u>June 30, 2020</u>	<u>July 1, 2020 -</u> <u>Dec 31, 2020</u>	<u>Jan 1, 2021 -</u> <u>June 30, 2021</u>	<u>FY2020-2021</u> <u>Year Ending</u> <u>June 30, 2021</u>	<u>July 1, 2021 -</u> <u>Dec 31, 2021</u>	<u>Jan 1, 2022 -</u> <u>June 30, 2022</u>	<u>FY2021-2022</u> <u>Year Ending</u> <u>June 30, 2022</u>	<u>July 1, 2022 -</u> <u>Dec 31, 2022</u>	<u>Jan 1, 2023 -</u> <u>June 30, 2023</u>	<u>FY2022-2023</u> <u>Year Ending</u> <u>June 30, 2023</u>	<u>July 1, 2023 -</u> <u>Dec 31, 2023</u>
Governmental Funds - Total	22,710,716	23,586,861	23,126,859	24,577,860	9,144,238	15,478,886	24,623,124	9,660,069	15,642,777	25,302,846	9,410,504	16,023,291	25,433,795	9,455,912	16,100,606	25,556,518	9,455,912
Governmental Funds - Exclusions	-	(60,000)	-	(257,453)	(21,851)	(35,777)	(57,628)	(681,260)	(6,293)	(687,553)	(11,100)	(18,900)	(30,000)	-	-	-	-
Proprietary Funds - Total	579,349	650,189	658,459	594,089	296,427	301,183	597,610	302,506	316,017	618,523	463,937	484,668	948,605	463,937	484,668	948,605	463,937
Proprietary Funds - Exclusions	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net Total Revenue	23,290,065	24,177,050	23,785,318	24,914,496	9,418,814	15,744,292	25,163,106	9,281,315	15,952,501	25,233,816	9,863,341	16,489,059	26,352,400	9,919,849	16,585,274	26,505,123	9,919,849
Revenue Change Percent from Prior Year		3.8%	-1.6%	4.7%													
Average Prior Three Year Revenue Change Percent ==>>				2.3%													



City of Laguna Hills

City Council/Planning Agency

Staff Report

DATE: August 24, 2021
TO: Mayor and Council Members
FROM: Melissa Au-Yeung
Deputy City Manager
ISSUE: Honoring Former City Council Member and Mayor Dore J. Gilbert, M.D.

RECOMMENDATION: That the City Council adjourn the August 24, 2021, City Council meeting in the memory of former City Council Member and Mayor Dore J. Gilbert, M.D.

SUMMARY:

Long time community member, City Council Member, and Mayor Dore J. Gilbert, M.D., recently passed away. The City has lost a great asset, a consummate professional and a friend. City Council Policy No. 110, attached, provides that the City Council may honor an individual by adjourning a City Council meeting in their memory followed by a card or letter of condolence sent to the family. The City Council may desire to discuss further acknowledgements of Dr. Gilbert's significance to the City.

BACKGROUND:

Former two-term City Council Member and two-time Mayor, Dore J. Gilbert, M.D., recently passed away. He began his term on the City Council on December 11, 2012 and completed his term on December 8, 2020. His eight years of service to the Community was one part of a life of service including 29 years on the Saddleback Valley Unified School District Board and his service in the United States Army, including a deployment to Afghanistan in 2011.

The Resolution of Commendation issued to Dr. Gilbert upon completion of his term on the Laguna Hills City Council included the following.

Honoring Dore Gilbert MD

August 24, 2021

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Dore J. Gilbert, M.D., has been and continues to be a strong advocate for transparency and openness in local government, has displayed outstanding leadership throughout his term on the City Council, particularly regarding his efforts to work with the Saddleback Valley Unified School District in spearheading the installation of synthetic turf on the athletic fields at Laguna Hills High School; completion of the La Paz Open Space Improvements; redevelopment of the Oakbrook Village Shopping Center; renovation of the Village at Nellie Gail Ranch; approving the entitlements and start of construction of the ActivCare Residential Care Facility at the former Phillips Mazda site; contributing positively to the general business environment and climate of the community; various public projects including roads and parks to improve the quality of life for residents increasing property values; commitment to preserve Laguna Hills history with an emphasis on providing exceptional recreation, athletic, and community services programs; and finally continued support of our adopted Marine Battalion.

The passing of Dore Gilbert, M.D., is a loss to the community of a consummate professional, a statesperson and a friend. City Council Policy No. 110, attached, provides that the City Council may honor an individual by adjourning a City Council meeting in their memory followed by a card or letter of condolence sent to the family.

The City Council may desire to discuss further acknowledgements and ways to honor Dr. Gilbert's significance to the City.

ATTACHMENTS:

- Policy 110 City Recognition Policy

CITY OF LAGUNA HILLS



CITY COUNCIL POLICY
SUBJECT: CITY RECOGNITION POLICY
POLICY No. 110

Effective Date: December 14, 2016
Last Revision: December 14, 2016

PURPOSE:

The purpose of this policy is to establish guidelines for official City recognition of groups, individuals, events, Council Members, Commissioners, employees, and other City-appointed officials.

POLICY:

METHODS OF RECOGNITION

RESOLUTIONS

The City may utilize a Resolution as a means of recognition. A Resolution is a formal, written action of the City Council and must be agendaized for a vote. All Resolutions adopted by the City Council are numbered and placed in the official book of Resolutions. Resolutions should only be used in the most significant cases.

Adoption of a Resolution requires a staff report with a recommendation and justification for issuing the Resolution.

CERTIFICATES AND PROCLAMATIONS

Certificates and Proclamations are prepared in response to the type of recognition desired. Certificates are prepared for Commendations, Recognitions, and Appointments. Proclamations are prepared when the request is to proclaim something.

The City Council must provide direction to staff with regard to issuing a Certificate or a Proclamation. Presentations will not be agendaized if the recipient cannot be present at a City Council meeting to receive the Certificate or Proclamation. A Certificate or a Proclamation may also be presented at an event by the Mayor or the Mayor's designee.

**City Council Policy
No. 110
City Recognition Policy**

PLAQUES

Plaques are an appropriate means of recognition for service to the City and will be used at the City Council's discretion.

CITY TILE

The City Tile is a significant way of recognizing the service of City Council Members, and full-time City Employees. A City Tile may also be appropriate for dignitaries visiting from other states or countries.

MEETING DEDICATION

There are times when it is appropriate to dedicate a City Council meeting in memory of an individual. The Mayor initiates this action. When the City Council meeting is dedicated, a notation may appear on the agenda, and the Mayor announces that the meeting is in memory of an individual. After the meeting, an appropriate card or letter is sent to the family acknowledging the dedication, and the dedication is noted in the minutes.

COUNCIL MEMBER RECOGNITION

A plaque and Resolution of Commendation may be presented as recognition for an outgoing Mayor.

A City Tile and Dais name plate may be presented to outgoing Council Members who complete at least one term of office. A Resolution or Certificate of Recognition will also be presented by the Mayor at a City Council meeting to the outgoing Council Member.

Upon retirement from City service, any Council Member who has served at least two full-terms of office will be eligible for retirement recognition. The City Manager is authorized to incur a reasonable expense to pay for a retirement celebration event in honor of the Council Member. The determined expenditure shall take into consideration years of service, availability of a City facility, and the Council Member's desire for such an event. A City Tile and a Resolution or Certificate of Recognition will also be presented by the Mayor at a City Council meeting to the retiring Council Member.

**City Council Policy
No. 110
City Recognition Policy**

COMMISSIONER/APPOINTED REPRESENTATIVE RECOGNITION

Newly appointed Commissioners and Appointed Representatives are recognized with a Certificate of Appointment at a City Council Meeting.

If a Commissioner or Appointed Representative finds it necessary to resign from office prior to completion of his/her term, a Certificate of Appreciation will be presented at a City Council Meeting.

A City plaque may be presented to outgoing Commissioners and Appointed Representatives who complete at least one full term of office.

FULL-TIME EMPLOYEE RECOGNITION

FIVE YEAR SERVICE RECOGNITION

Employees shall be recognized on the fifth year anniversary of full-time employment with the City of Laguna Hills. The employee shall receive a Certificate of Recognition presented by the City Manager and will also receive a pen and pencil set.

TEN YEAR SERVICE RECOGNITION

On the tenth year anniversary of full-time employment with the City of Laguna Hills, the employee shall receive a Certificate of Recognition presented by the Mayor at a City Council Meeting. The employee will also receive an engraved clock. For management employees, upon completion of ten years of full-time employment with the City, the City shall make a one-time allotment of 40 hours of vacation leave to the employee's vacation leave balance.

In addition, a full-time employee who separates from employment with the City after ten years of service may receive a City Tile.

FIFTEEN YEAR SERVICE RECOGNITION

Upon the employee's fifteenth year anniversary of full-time employment, the employee shall receive a Certificate of Recognition presented by the Mayor at a City Council meeting and a one-hundred dollar (\$100.00) gift certificate to a Laguna Hills business establishment in commemoration of his/her anniversary with the City.

**City Council Policy
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City Recognition Policy**

TWENTY YEAR SERVICE RECOGNITION

Upon the employee's twentieth year anniversary of employment, the employee shall receive a Certificate of Recognition presented by the Mayor at a City Council meeting and a watch in commemoration of his/her anniversary with the City. The watch will have a not-to-exceed cost of \$300.00. This not-to-exceed cost may be increased by the City Manager over time to account for inflation.

For non-management employees, upon completion of twenty years of full-time employment with the City, the employee shall receive a one-time allotment of 40-hours of discretionary holiday leave which must be used in the twelve month period after it is received. Such discretionary holiday leave hours do not have any cash value.

TWENTY-FIVE YEAR SERVICE RECOGNITION

On the twenty-fifth year anniversary of full-time employment with the City, the employee will receive a Resolution presented by the Mayor at a City Council Meeting and a two hundred and fifty dollar (\$250.00) gift certificate to a Laguna Hills business establishment in commemoration of his/her silver anniversary with the City.

For management employees, upon completion of twenty-five years of full-time employment with the City, the employee shall receive a one-time allotment of 40-hours of discretionary holiday leave which must be used in the twelve month period after it is received. Such discretionary holiday leave hours do not have any cash value.

RETIREMENT RECOGNITION

Upon retirement, any regular full-time employee with at least five years of continuous full-time employment with the City of Laguna Hills, who has reached at least the PERS minimum age requirement of fifty years, and has met the PERS conditions for service retirement, will be eligible for retirement recognition. The City Manager is authorized to incur a reasonable expense to pay for a retirement celebration event in honor of the employee. The determined expenditure shall take into consideration years of service, availability of a City facility, and employee's and employer's desire for such an event. A City Tile and/or a Certificate of Recognition may also be presented by the Mayor at a City Council meeting to the retiring employee.

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City Recognition Policy**

MISCELLANEOUS RECOGNITIONS

COMMUNITY EVENTS/COMMUNITY ORGANIZATIONS

There are many events that occur in the community and at times the City is asked to make official recognition. The City Council will provide direction to staff regarding if and how the recognition should occur. In making that determination, the City Council should consider the significance of the event to the entire community.

ATHLETIC/ACADEMIC ACCOMPLISHMENTS

Recognition may be provided when an individual or a team reaches a significant level of competition. Recognition of athletic or academic achievement may be given for a Championship at the CIF/County level or higher. If the individual or team continues to compete at the State and/or National level, recognition should occur when the individual or team has completed the highest level of competition.

Athletic and academic accomplishments should be limited to those made by persons competing in school-related or publicly conducted and sanctioned competitions. Adults residing in the community may also be recognized for their athletic achievements in well-recognized sporting events.

The determination of when recognition is appropriate shall be made by the City Council.

ACTS OF HEROISM

Recognition can be given to those individuals who are residents of Laguna Hills who perform heroic acts. The significance and infrequency of these acts would indicate that this type of commendation should be framed and should be presented at a City Council meeting. The City Council may recognize an act of heroism by a person who is not a resident of Laguna Hills if the person saved is a resident of Laguna Hills. Recognition of those who perform heroic acts will typically be made at the recommendation of the Chief of Police Services, Orange County Fire Authority, or Hospital Administrators.

EAGLE SCOUTS AND GOLDEN ARROW SCOUTS

Young men and women who are residents of Laguna Hills and become Eagle Scouts or Golden Arrow Scouts should be recognized by the City. A Certificate of Commendation will be prepared and presented by the Mayor, either at the

**City Council Policy
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City Recognition Policy**

Court of Honor where the Eagle Scout or Golden Arrow Scout Award is presented or at a City Council meeting.

REGIONAL EVENTS AND RECOGNITION FOR OTHER CITIES

Appropriate Certificates or Proclamations will be prepared for regional events or in response to requests from other cities. The City Council will provide direction to staff with regard to preparing the recognition.

ATTACHMENTS:

- None